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SENATE—*Tuesday, September 26, 2006*

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our father and our king, we thank You for the gift of this day. We need Your grace, for we cannot offer anything to merit Your favor or gain Your love. Cover our mistakes and failures with Your merciful love and give us Your peace.

In the beginning of time You created the Heavens and laid the Earth's foundation. Now create in our lawmakers a passion to accomplish Your purposes. May they seek Your wisdom and acknowledge Your precepts. Help them to use Your time-honored principles as the litmus test for good decisions. Give them the desire to so honor You that future generations will praise Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 26, 2006.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM DEMINT, a Senator from the State of South Carolina, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. DEMINT thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will begin the session with a 1-hour period of morning business. At the conclusion of the morning business period, we will address the pending bill, H.R. 6061, the secure fence legislation.

I filed cloture on the pending amendment and the underlying bill last night, and I will speak to that process in a moment. I do want to remind everyone that the consent agreement now provides that all first-degree amendments to the secure fence bill must be filed at the desk no later than 2:30 today in order to qualify under rule XXII.

Today we will recess from 12:30 to 2:15 in order to accommodate one of our weekly policy meetings.

To further explain, last night I filed an amendment to the secure fence bill, and that amendment included language to establish the military tribunals, the legislation that is in response to the Hamdan legislation from several months ago which the Supreme Court has handed down, which reflects the agreement announced last week between the President and Senate Republicans. I also filed cloture on this amendment last night, as well as cloture on the secure fence bill. There will be a cloture vote Wednesday on the Hamdan amendment. If that cloture on the amendment is invoked, there would be time for postcloture debate on the amendment. Once all postcloture time is expired, there would then be a vote on the adoption of the amendment, followed immediately by a cloture vote on the secure fence legislation. All those votes would be Thursday.

I explained that last night, and I explain it again now because it illustrates the procedural moves that have to be made in order to finish this bill with certainty before we depart on Friday or Saturday. It is critical that we do so. The very important, critical, high-value interrogation programs cannot continue until we legislate, and indeed the military tribunals, military commissions cannot take place in terms of trying these enemy combatants until we act.

It is important with regard to what I said for people to understand that the Democratic leader and I and our caucuses are working very hard to get a unanimous consent agreement to consider the Hamdan legislation freestanding. However, last night we did not reach that agreement, or early this morning, but I am very hopeful that we can do so shortly.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Georgia is recognized

HOMELAND SECURITY

Mr. CHAMBLISS. Mr. President, I rise today to speak on the importance

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

of national and homeland security and specifically to ensure that we enact the key legislation that we have under consideration necessary to protect our great Nation.

While we have achieved a great deal since 9/11 in the area of homeland security, and we need to acknowledge what we have accomplished, and while we are making great strides, there is still more left to do. The terrorists we are dealing with are not going to cease planning attacks against our country, which is why we are working hard to continually improve the national security of the United States. The fact that there has not been another terrorist attack on domestic soil since September 11, 2001, shows that we have been successful to this point.

To date, we have implemented 37 of the 39 9/11 Commission findings. We have enacted 71 laws on homeland security. We have increased the terrorist watch list to 400,000 persons. We have disrupted at least 15 major terrorist plots or potential plots against America. We have required that every visa holder be fingerprinted before entering the United States. We have frozen nearly $1.5 billion in terrorist assets. We have convicted 261 accused defendants in terrorism-related cases, and we have killed or taken prisoner a number of al-Qaida leaders around the world, particularly in Iraq, including Al Zarqawi, who was the No. 1 al-Qaida leader in Iraq; including Khalid Sheikh Mohammed, whom we have captured and from whom we have received very valuable information. We have to remember that he was the mastermind of the 9/11 plot.

In the area of port security, Georgia has three ports and is one of the top five States in the handling of some 11 million containers that reach our Nation's shores every year. Georgia plays an important role in the commerce of this country, and that is why I am pleased that Congress has completed a comprehensive port security conference report, which will continue to improve the security of our seaports all around America.

This bill improves a layered security approach to cargo screening and scanning. In Georgia, we will begin augmenting the existing cargo security detection equipment with radiation portal monitors next month to ensure the screening of high-risk containers to stop the illicit import of nuclear and radiological materials. This important piece of legislation also provides for the development of a plan to ensure the successful resumption of shipping in the event of a terrorist attack. In addition, it mandates a plan to determine when it is feasible to scan containers prior to their reaching the United States. With our national security at stake, we will continue the necessary steps to protect our citizens and, at the same time, balance the flow of commerce.

In the closing weeks of this session, I think it is especially important to ensure that we have the opportunity to take final action on the Defense appropriations bill and the Defense authorization conference report. These vital pieces of legislation will continue to ensure that our military personnel involved in the global war on terrorism, as well as our National Guard personnel at home, have the necessary equipment and resources to do their jobs. We need to ensure that our Guard personnel stationed on the U.S. border can continue in their homeland security and defense roles, enhance the efforts of Border Patrol agents, and be available to support Governors in the case of any natural disaster that may arise.

The Defense appropriations conference report which we will be considering later this week provides $86 billion for military personnel, $120 billion for operations and maintenance, $80 billion for procurement, and $75 billion for research and development, all to ensure that our Nation's military has the resources they need to carry out the responsibilities that we as a nation have asked of them.

I would also like to ask the leadership in both the House and the Senate to make every effort to take final action on the national Defense authorization conference report this week. It would be a shame on our part not to provide these urgent policies and funding for our troops who so valiantly are defending our Nation today.

In closing, I would like to remind my colleagues what is at stake as we consider these bills and urge them to work to pass legislation this week in support of our Armed Forces. In Iraq, the combined coalition on Iraqi operations continues to target and eliminate al-Qaida operations. Since August 30, over 150 operations have been conducted, resulting in 66 terrorists being killed and over 830 suspected terrorists being detained. On September 12 alone, there was a series of 25 raids in and around Baghdad targeting al-Qaida and Iraqi activities. These raids resulted in the capture of over 70 suspected terrorists, including an associate of Abu Ayyub al-Masri, the new head of al-Qaida in Iraq. The associate was a leader of assassination, kidnapping, and I.E.D cells in Baghdad. Iraqi and coalition forces continue to make tremendous progress in clearing suspect buildings, seizing weapons, moving trash out of neighborhoods, improving electricity, wastewater disposal, and educational opportunities for the Iraqi people.

On the military front, by the end of this month the Iraqi Ground Forces Command, which recently became operational, will assume control of a second Iraqi Army division. And later this month, the Government of Iraq plans to assume control of the Dhi Qar Province. These are the activities that we are funding and supporting by doing our job in the Senate. I commend the work of our military personnel, the Appropriations Committee, and the Armed Services Committee for completing these bills, and I urge my colleagues to adopt them expeditiously.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

HOMELAND SECURITY APPROPRIATIONS

Mr. GREGG. Mr. President, first I want to commend the Senator from Georgia for his excellent statement and discussion on what we are doing on the border and what we are doing generally in the area of fighting terrorism. I simply wanted to bring the Senate up to speed, and to the extent people are observing the Senate operations, the country up to speed—the listeners, anyway, up to speed on what we are doing on the border.

Last night we completed the conference between the House and the Senate on the Homeland Security bill, with Congressman ROGERS chairing the committee for the House and myself chairing it for the Senate. This is a bipartisan bill. It is a bill that passed the Senate 100 to nothing. It is a continuum of a lot of effort that we have made as a Congress to try to upgrade and significantly improve and make much more robust our efforts in order to secure our borders.

I think we all understand that the threat to America comes from many different directions. But as we prioritize threats, the No. 1 issue we have to worry about is someone coming into this country with a weapon of mass destruction.

The No. 2 thing we need to worry about is who is coming into the country and what products are coming into the country. What do those people intend? Hopefully, they are coming in legally. And what are the purposes of the products coming in? Hopefully, the purpose of the products is general commerce. But it is, first, to protect yourself from weapons of mass destruction and, second, to make sure our borders are secure.

In order to accomplish both of those goals, we need to put significant resources into those agencies and efforts which are responsible for addressing those two major issues. This bill, the Homeland Security bill, does exactly that. It puts significant new energy and dollars into detecting and being able to manage a potential weapon of mass destruction that will come into this country. Equally important, it continues a 2-year effort that began in 2005 when we reorganized the flow of dollars within the Department of Homeland Security. It continues an effort to dramatically increase the boots on the ground and the physical and capital support efforts necessary to support the individuals who are protecting our borders and managing our borders.

This chart reflects the dramatic increase, using a baseline of when President Clinton left office to today. In the area of border agents specifically, over 6,000 agents have been added, 4,000 just in the last 2 years. That is a 40-percent increase in border agents in the last 2 years.

In addition, the bill we passed last night, while continuing the effort in the area of adding border agents, continues an aggressive effort to add detention beds. We understand, if you have agents on the ground who are hopefully catching people who are coming across our borders illegally, it does no good to catch those people unless you have some way to hold them. Up until this month, in fact, we had a policy known as catch and release because we simply did not have enough holding space for people who came into this country illegally.

This bill continues the effort in the area of adding detention beds. Over the last 2 years, we will have added over 9,000 beds, almost 10,000 beds. The practical effect of this is we are getting real results. Beginning next month, the Department of Homeland Security will no longer have a policy of catch and release. They will be able to hold the people they catch and detain them, which is exactly what should be happening. In addition, we have dramatically increased the number of Customs agents, we have increased the number of detention personnel, and we have significantly increased our commitment to fencing along the border.

This bill, as it was worked out last night, has $1.2 billion in it for putting up either physical fencing, vehicle barriers, or what is known as a virtual fence, which is the Secure Border Initiative where in some parts of the southwest border, where a physical fence doesn't make any sense, there will be significant electronic monitoring of the border, which will allow us to see who is coming across the border. Once they come across the border, because we have added all these new border security personnel—the totals of which are here, 14,000 border security personnel, almost 15,000—we will be able to catch them if they are coming across illegally.

In addition, we have dramatically increased our efforts to recapitalize and support the Coast Guard. I think everyone understands the Coast Guard is one of the premier agencies in our Government. Their efforts during Katrina were exemplary. They have the primary responsibility for making sure people coming toward the United States over the seas are coming here as part of reasonable commerce or simply as tourists and are not coming here to harm us. In order to accomplish that, they have dramatically increased the review of shipping as it comes toward the United States at the port of embarkation—whether that is in Asia or somewhere else—and they have increased their interdiction capabilities should there be a suspicious cargo on a ship headed toward the United States. To accomplish this, we have significantly increased the commitment to the Coast Guard in the area of purchasing more cutters, fast boats, arming their helicopters, and just generally upgrading their capacity to do their job well, as they do it well. Over $7.5 billion has been put into the Coast Guard as a result of this effort.

The practical result of all this new funding, all these new agents, new commitment to detention beds, is that we are moving toward a secure border. In the very foreseeable future, short term rather than long term, we will be able to manage this border in a way that is appropriate, making sure people do not cross it illegally. We will also manage our ports, making sure they are secure. We have a way to go there, but we are making significant progress.

At the same time, in this bill we have made a commitment to reorganize the Department in some areas where it has not been functioning all that well, specifically in FEMA. congratulate Senator COLLINS for her leadership. She orchestrated a bipartisan, bicameral effort to reach an agreement on how FEMA should be reorganized. The language of that reorganization is in this bill.

In addition, we have put in this bill significant language in the area of chemical plant security. The Department of Homeland Security today does not have adequate authority to secure our chemical plants. It simply cannot do it because it doesn't have the legal authority necessary to force our chemical plants to undertake policies which will secure them. With this new language—again, this language was brokered by Senator COLLINS working with Congressman BARTON and Congressman KING—we have put in place a regime which will allow the Homeland Security agency to monitor and to require that high-risk chemical plants now have a decent security plan in place.

There are other ideas out there for chemical security, some good ones. Senator BYRD has a significant number of good ideas in this area. Therefore, Senator COLLINS looked on this language, basically, more as a stop-gap language, to get things going, to make sure there was at least some initial authority for the Homeland Security Department, and thus this language sunsets in 3 years, so the Congress will have to reauthorize, and other thoughts and ideas in the area of chemical security can be pursued.

This bill is a comprehensive, broad, and extraordinarily robust effort to tightening up and making a stronger commitment to securing our country and especially our borders and to make sure we have a Department of Homeland Security which has the resources it needs in order to accomplish that goal. There is a dramatic increase in the number of agents, dramatic increase in the number of detention beds, dramatic increase in the commitment to the Coast Guard, dramatic increase in the commitment to the monitoring and the capacity to handle a nuclear threat, and a dramatic increase to the issue of building a fence along the southwest border.

We still have a have a long way to go. Nobody is going to argue about that. But in this debate, while we constantly hear this constant rumbling of negativism out there about border security—we aren't doing this, we aren't doing that—it should be acknowledged that significant progress is being made and a dramatic amount of resources is being focused on this effort by this administration and this Congress.

In addition, as an aside, this bill had one item I would like to point out which I think is important, especially to people who live along the northern border. There is language in this bill which was worked out between myself and Congressman ROGERS but primarily between Congresswoman EMERSON and Senator VITTER. The purpose of this language will be to allow American citizens to cross into Canada and purchase drugs at a Canadian drugstore—Senator DEMINT was also involved in this—purchase drugs at a Canadian pharmacy and bring them back to the United States without being subject to legal prosecution.

There are a lot of people who believe they can go into Canada and buy American-made drugs which are being sold through Canada at a much higher discount than they can get those drugs in America. It may not be the case any longer because of what Wal-Mart is doing because Wal-Mart is putting in place a very robust, low-cost drug program. In any event, if Wal-Mart doesn't underprice Canada, people will be able now to go to Canada and purchase those drugs. I see Senator DORGAN here, and he has been a major player in this effort, also. They can purchase those drugs and not be subject to prosecution.

This language took a long time to work out. It has the safeguards in it that I believe always were necessary before we could take this language and move it forward, and I am glad we were finally able to resolve this part of that puzzle. It is a bigger issue, but at least relative to people crossing the borders and purchasing drugs, which happens fairly regularly in New Hampshire and I know North Dakota and other places along the northern border, this is a step in the right direction. I congratulate all the people who have worked so hard to make this come to fruition.

On balance, this is a truly excellent bill. We will be voting on it here, hopefully before the week is over. Absolutely I hope that is the case. It is very important we get these funds in place. As a result of that, we will continue this rather significant—I would call it dramatic—progress toward putting in place the capital, the resources, and the people necessary to secure our borders.

But I would point out this caveat. No matter how many people we put on the border and no matter how much capital resources we put behind this—and we are going to do whatever it takes on those two counts—you still have the issue of human nature to deal with, which is, if a Mexican is making $5 a day and he can come to the United States and make $50 a day and he has a family to support, he is going to come to the United States. We have to figure out a comprehensive approach which will allow somebody to come to the United States, work a job that Americans are not willing to work or we don't have enough Americans to work, and be able to do that under a guest worker program that is responsible and allow employers the capacity to be able to verify that the individual is in this country legally. That is a critical element to securing our borders and making sure we do this right.

So comprehensive reform should not be ignored. It has to be part of this whole package. But pending comprehensive reform, this bill, which we will vote on, the Homeland Security appropriations bill, is a significant, robust—actually, you could even call it dramatic—step forward in making sure our borders are secure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Mr. President, how much time do we have remaining on our side of the aisle in morning business?

The ACTING PRESIDENT pro tempore. The majority has 9½ minutes.

HELPING THE AMERICAN PEOPLE

Mr. LOTT. Mr. President, I wish to say, while he is still on the Senate floor, what an outstanding job the Senator from New Hampshire, Mr. GREGG, has done in this area of homeland security and border security. I doubt there is any other Member of the Congress, House or Senate, who has done more to actually produce results.

There is very little we could be doing in the Congress, now and in the foreseeable future, more important than security for our homeland. It is an integral part of the War on Terror. It is a part of why we have not had another major attack since 9/11.

Once again, the Senator from New Hampshire has shown real leadership. He has produced a bill we have to have this year, to provide the appropriations for this important Department and the agencies within it and to put funding in it for border security. This is a major achievement. No matter what else we get accomplished this week, this will probably be, overall, the most important. I thank him for it.

I have been very involved in the reform of FEMA because I have seen how FEMA did not always have the authority and didn't have the power, if you will, didn't have the people or the money to do the job after Hurricane Katrina. This reform will help make FEMA stronger, and I believe it will be a benefit to the Department of Homeland Security.

There are a lot of those saying we should be accomplishing more. I am hoping before this week is out we will pass a major border security bill. I am hoping we will pass the Outer Continental Shelf energy package. I believe we will get Defense authorization and Defense appropriations and hopefully several other good bills.

I have never seen a Senate more paralyzed than I have seen over the past few months. There is no doubt in my mind that a conscious decision was made by the Democratic leadership January a year ago to slow-roll, obstruct, delay everything. Every time you take a week or two on a bill that should be done in a day or two, that is that many days you cannot use to do other things which need to be accomplished. But I think, rather than trying to have a list with a whole lot of things on it—little things, in many instances—it is more important to keep a focus on the big issues.

What have we done to really help the American people?

Quite often some people say, please don't pass more laws. Leave me alone; allow the private sector, allow the markets, allow us to do our job, and let the States and localities do their jobs.

I think we overemphasis sheer numbers. But I think it is important that we look at the list of what this Senate has passed this year. When you add to that the other things which we hope we will complete this week—the most effective week of a session is always right before the end of the year. I remember one night when we passed something like 67 bills after almost everybody had gone home. The Democratic and Republican leadership had a blast. We passed a lot of good legislation.

Look at what we have already done. The Patriot Act. Under the title of Homeland Security, we have taken major actions and they have made a difference in securing our country and have been a critical part of the War on Terrorism. The Patriot Act, border security, and we have funded the war on terror.

On taxes and in the budget area, once again Senator JUDD GREGG did a great job as chairman of the Budget Committee. We cut entitlements somewhat. We cut taxes by $70 billion. Other than Homeland Security and Defense, we have basically held the line on appropriations. A lot of the credit goes to my colleague from Mississippi, Senator COCHRAN.

We passed a comprehensive energy policy bill last week. It is having a positive effect. It takes time for legislation in that area to have an effect.

We passed the Pell grants in the area of math and science competitiveness in education.

We passed lawsuit abuse reform.

In the area of health for the benefit of Americans, health information technology, it sounds as though it wouldn't make that much difference, but it is going to control costs and make information more available to the patients so they can make the right decisions for their health needs.

We have tremendous fights over judges. We have confirmed two Supreme Court judges—outstanding judges. We have confirmed 14 circuit court judges and 34 district court judges. Hopefully, we will confirm more this week. But there again, the Democrats chose to filibuster on judges—in my opinion, clearly unconstitutional. In fact, the majority leader now on almost every bill has to file cloture. Why? Because otherwise you can't get to the substance of a bill.

When you spend 30 hours on a motion to proceed to a bill which has major consequences for border security, then you know there is something wrong with the institution. Instead of us finding ways to work together, we find ways to expound and put out more hot air instead of taking action.

We have done some other things in protecting families, and also moving toward sound government.

We passed the Voting Rights Act.

I am here today for some reasons and for efforts that are not listed on this board. One year ago, I was standing on this floor pleading with my colleagues to help us in dealing with the aftermath of the biggest natural disaster to ever hit this country. We tend to forget about it. But most of last fall we spent on passing in a bipartisan, bicameral way Katrina relief legislation. We passed major appropriations. I am not talking about a few millions. I am talking about well over $100 billion.

When we came back from the August recess, instead of going to some of the things that were scheduled—such as repeal of the death tax—we went immediately to Katrina legislation. But in providing appropriations, in providing tax incentives for businesses and industries to rebuild, to stay in the area, or come to the area to help us recover, we did that.

Medicaid changes—we allowed the States of Louisiana and Mississippi to cope with the great increase in the number of people who needed Medicaid assistance; assistance through that bill to help many of our hospitals that were primary care hospitals. They treated everybody who showed up. It ran into hundreds of millions of dollars.

And right across the board, we have Stafford Act changes in the law, help for our schools and colleges. All of our schools in Mississippi were back and open by November 7. In many instances, they were in pretty dilapidated facilities, without air conditioning, or temporary buildings. But every one of them opened by November 7, partially because Congress made a commitment to help them with the costs of what they had lost, to deal with the gap between what their insurance provided and what they were going to need to recover.

I am here to thank the Congress for helping us.

Have we had continued problems? Yes. Have we been disappointed in FEMA and the Department of Homeland Security and the Corps of Engineers? Yes, even though a lot of good people have done good work.

I have to admit that at the State level and the local level, we have had problems sometimes in making decisions dealing with elevation requirements, dealing with national flood insurance, and actually even distributing the money.

When you are trying to distribute $3 billion to 17,000 people, you do not throw it out the window. You have to have a process to make sure these people actually lost their homes, or had damaged homes, and that they are going to deal fairly with their mortgage holders, that they would have a way to get their homes back in place. That process is still underway. It has been a very difficult one.

So you can be critical of what happened after Katrina, but there are a few places where a lot of credit should be given and it has not been adequately done.

The Congress did the job after Hurricane Katrina. Every committee chairman and ranking member came to our aid. The Mississippians, the Louisianians, the Texans, the Alabamians told you what our problems were. We poured our hearts out, and the Senate did its job.

Senator COCHRAN, my colleague from Mississippi, deserves enormous credit for the very calm, cool, and determined way he handled that legislation.

I am here to say thank you. When you make this list of Senate accomplishments, you must add to this list the things we did after Hurricane Katrina. The system worked. Congress did its part. For that I will be eternally grateful.

By the way, we ate up the major part of 3 months trying to make sure we were doing it right, appropriately, to help the people who needed it and to make sure it was done in an honest way.

Sure, I complained we didn't do more. I complain about the way we do things. I don't like the totally partisan political seasons we get into. We all do it and I do it. But I think that while we are doing that, we ought to take a little credit for what we did do and what we did right.

I wanted to make that point this morning.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The minority controls 30 minutes

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THE 109TH CONGRESS

Mr. DORGAN. Mr. President, this is an interesting time as we end the 109th Congress, at least in that portion that will start with the recess apparently this weekend, according to the majority leader and the Speaker of the House, only to return and reconvene sometime in November to do a lot of work that was not done earlier this year. Most of the appropriations bills have not been passed, and perhaps one, maybe two, will be done this week, but the rest will be done after the election.

I know my colleague who just spoke—and others will come to the floor of the Senate and talk about how fruitful and how productive the 109th Congress has been. I wish I could say the same. I serve in this Congress. I am a Member of this Congress and I hope and wish we could end a year and say we did an unbelievably good job for the American people; that we addressed the things that needed to be addressed; that we strengthened this country; and that we helped people in many ways. I wish I could say that. But as Peggy Lee's song says, Is that all there is? Is that an appropriate response to the chart that we see trumpeting the 109th Congress accomplishments? Is that all there is? Yes, that is all there is.

Let me describe a few of the things we ought to be dealing with and especially describe the things we are not dealing with.

On health care and the issues related to health care, every business in this country and virtually every family in this country—and especially our Government—bears the cost of these dramatically increasing prices in health care. No one seems to be addressing it very much. We passed a prescription drug plan a while back for senior citizens on Medicare, and that actually had a little provision in it which prevents the negotiation of lower prices on prescription drugs. That is almost unbelievable to me. Health care costs are on the rise, led, incidentally, by prescription drug prices. This Congress seems to stand with the pharmaceutical industry. It wants to prevent the negotiation for lower prices.

I have stood on the floor of the Senate holding up two identical bottles of the same pill made by the same company, both FDA approved, one sent to Canada, one sent to the United States. The difference is the one sent to Canada is half the price of the one sent to the United States.

My colleague said there is a provision in Homeland Security—and indeed there is—dealing with prescription drug reimportation. It is much to do about nothing. I regret to tell you, because it will allow people to bring a 90-day supply as they cross over the Canadian border and come back. Very few Americans have the capability of driving to the Canadian border to access that lower cost FDA-approved drug. We are charged the highest prices in the world for FDA-approved prescription drugs. That is unfair to the American people.

The provision in Homeland Security is going to do very little. In fact, we have almost always allowed exactly what that provision says we should allow. We have always allowed a personal supply of 90 days to come across the border from Canada when American consumers buy that prescription drug. This is nothing new. It doesn't address the issue.

We have been blocked on the floor of this Senate for 2 years now with a bipartisan piece of legislation cosponsored by over 30—myself, Senators SNOWE, MCCAIN, KENNEDY, and many others—a big bipartisan bill. We have been blocked from getting a vote on the floor for this legislation which would allow the reimportation of lower cost, FDA-approved prescription drugs.

Why is that the case? Because on this subject the pharmaceutical industry has more influence here, regrettably, than the American people do.

We are not addressing the health care costs, and we are not addressing the issue of prescription drug costs—and we should.

Trade and jobs, think of that. Are we addressing trade issues? The only thing we are doing on trade issues is to pass more incompetent trade agreements. We just did the Oman Trade Agreement, a country that by sultanic decree has said there will not be an organization of workers; it is illegal to form a labor union in the country of Oman by sultanic decree. We do a trade agreement with a country that basically prohibits organized workers.

We have a $68 billion a month trade deficit, $800 billion a year. We are choking on red ink in international trade. Nearly 4 million jobs have been shipped from this country overseas in search of cheap labor, in search of 20-cent and 30-cent-an-hour workers working 7 days a week, 12 to 14 hours a day. Does anybody care much about that?

We not only have this running up and dramatic increase in the trade deficit, but we see the potential loss of another 40 million to 50 million American jobs, according to some leading economists.

And even those that do not leave are tradeable or outsourceable jobs and competing with others in the world who are willing to work for much less, causing downward pressure on wages in this country.

Some say we see the world as it is, that it is a global economy, and there is nothing we can do about it. I see the world as it is and decide we ought to change it to what it should be—standing up for good jobs in this country, for American workers. Yet this Congress doesn't do that.

As to deficits and fiscal policy, the President made great fanfare in talking about the fact that the deficit is reduced. Interestingly enough, take a look at what we are going to borrow in the next year—close to $600 billion in the next fiscal year. That is the off-the-rail fiscal policy of red ink, up to $600 billion in budget borrowing, and $800 billion in trade deficits. That is $1.4 trillion in red ink on a $13 trillion economy. That won't last very long.

We are going to bring additional war spending to the floor of the Senate. We are all going to vote for additional war spending. Some of us believe we ought to pay for it. This will make it, I think, somewhere around $400 billion in total—none of it paid for, not a penny paid for, all added to the debt.

We send our soldiers to Afghanistan and Iraq and say, Please serve your country, fight for your country, risk your lives, and when you come back, by the way, we will have this debt waiting for you because we have chosen not to be involved in fighting to pay our bills.

That doesn't make any sense to me. That can't seriously be called an accomplishment.

We have been holding some hearings on oversight with respect to contractors. It is controversial. I see in the newspaper today a member of the majority said, well, we may take the rooms away so they cannot hold hearings. That is an interesting response to the question of oversight. The reason we have held oversight hearings in the policy committee room is because the majority party decided not to hold serious oversight hearings.

The highest ranking civilian official in the Corps of Engineers at the Pentagon in charge of major contracts, the sole-source, no-bid contracts to Halliburton and KBR that were given, has said this is the most blatant abuse of contracting authority she has witnessed in all of her career. This is a woman who is viewed as a top contracting official in this country in the Pentagon for these contracts. She said it is the most blatant abuse she has ever seen. Guess what happened to her for being honest. She was demoted.

I had her twice testify. Was there any other committee in Congress interested in her testimony to find out how the tens of billions of dollars were contracted? Nobody.

Yesterday we had an oversight hearing on the conduct of the war. We had a couple of generals and a colonel, all three of whom were distinguished folks who served in Iraq, served a combined 90 years for this country. General Batiste started by saying, I am a Republican, a lifelong Republican. It was not partisan. We invited Republicans to come to the hearing to talk about the conduct of the war. There have been no oversight hearings on that.

All of us want the same thing, it seems to me. We want us to prevail and do well. We want to protect our country. We want to defeat terrorism. All of us want those things. But it seems to me we are moving in the wrong direction in some of these areas. Incidentally, much of the information that ought to be available is classified in order not to embarrass anybody.

Let me mention that General Batiste and others who testified yesterday said this country is not mobilized. We send our men and women to war, but the country is not mobilized. They made a point I thought was very interesting. I read a book that was written a long while ago, a brilliant book called "The Glory and The Dream," written by Manchester. He described in the Second World War what this country did to mobilize. This country mobilized to beat back the oppressive armies of Hitler, the Germans and the Japanese. We mobilized. Manchester, in "The Glory and The Dream," described what happened with American manufacturing capacity and what they did. At the end of the war we were building 50,000 airplanes a year to fight that war.

Colonel Hammes yesterday testified there is a new armored vehicle to carry personnel that is much safer than the humvee. Are we producing those? Are we mobilizing to produce those to provide them to our troops? No. We built 50,000 airplanes a year at the end of the Second World War. This war has now lasted longer than the Second World War. Yet we have built a total of 1,000 of these stronger, better armored security vehicles in which to haul American troops. Why? Because we are not mobilized.

The majority says to the American people, not only don't you have to pay for this war, we want you to have a big tax cut—not to everyone, just a few, at the top. We want to repeal the death tax. At a time when we are at war and we are borrowing money to prosecute that war—$400 billion—not a penny of which has been paid for, the majority says our highest priority is to repeal the so-called death tax, which does not exist? No, there is no tax on death. That may come as news to some in this Chamber because they have used the moniker often. There is no tax on death. When someone dies, their spouse, if they are married, owns everything taxfree. There is a 100-percent spousal exemption. So there is no tax on death.

There is, in fact, a tax on inherited wealth and the majority party is intent on relieving the tax burden of the wealthiest Americans at a time when we are at war. We are at war, we are spending hundreds of billions of dollars and we are not paying for any of it. It is, in my judgment, a Byzantine set of priorities.

No, when people say they have a chart that shows the accomplishments of the 109th Congress, they might listen to what Harry Truman said to Steven Douglas in one of their debates. He described the Douglas argument:

> As thin as the homeopathic soup made by boiling a shadow of a pigeon that had been starved to death.

Bring those charts out with the accomplishments of the 109th Congress. Those accomplishments are as thin as the homeopathic soup made by boiling the shadow of a pigeon that has been starved to death.

I wish it weren't so. I wish we could stand here and describe a set of accomplishments that makes all of us proud, but the priorities here can hardly be called accomplishments for the American people. The American people deserve, finally, to be getting what both political parties have t offer. Instead of getting the best of both, we are getting the worst of each.

This Congress needs to come together to address these issues. We do not control the Congress. The majority party does. It is the way it works. The majority party describes what the issues are that will be brought to the floor of the Senate.

Go almost any place around the world, the President says and others say, we will go and help. But they forget at home when people are in difficulty. Somehow we do not seem to find ways to say, let us help our citizens at home—health care costs, prescription drug prices.

I have not mentioned energy. Energy obviously is a very important issue. In the year 2004, the average price of oil was $40 a barrel. At that price, the largest integrated oil companies had the highest profits in their entire history. Now the price of oil has gone from that level to $70, $75 a barrel. Now it is down to $60 and just under, and everyone thinks, Isn't that wonderful? The fact is, it is still 50 percent higher than it was at which point the major integrated companies had the highest profits in history. As the money is shoveled into their company, it is taken from the consumers, from the farmer who loads the fuel, the people paying at the gas pump.

We need to deal with energy prices. It will not last for this country to be a country that consumes a quarter of the oil every single day. We have this little planet of ours and we stick straws in this Earth; from those straws we suck out the oil. We suck out 84 million barrels a day from this Earth, and 21 million barrels a day is used in this spot of the planet called the United States of America.

We use it predominantly for transportation, among other things. We have done nothing to change the basis of fuel use in transportation in nearly 100 years. We put gasoline in a 2006 Ford the same way we put gasoline in a 1924 Model T. I know that because I restored an old Model T when I was a kid. Nothing has changed. Everything else has changed. There is more computing power on a new car than there was on the lunar lander that landed Neil Armstrong and Buzz Aldrin on the Moon. Everything has changed about automobiles, except we have never changed how we fuel or power that car; just drive to the pump, stick a hose in and pump some gasoline.

We need to move aggressively toward a different future—renewables, wind energy, biofuels, especially hydrogen and fuel cells. There are so many opportunities, yet so little time, and seemingly so little appetite on the part of this Senate and others to do something meaningful for the long term.

I wish I were part of a Congress I could say has been an enormously productive Congress for the country. We are not. We need to get busy and find a way to solve this. This President, this Congress, chart the agenda. They describe what is going to come to the Senate floor. We need to begin zeroing in on things that are important.

First, we need to win this war in Iraq in a way that satisfies our objectives. We need to fight the war on terrorism in a manner that allows us to prevail. Incidentally, this issue of cutting and running, we are going to leave Iraq at some point. That is not the issue. This country is going to leave Iraq. Our military is going to be withdrawn. The question is, When? When and under what conditions? It is appropriate to say at some point to the Iraqi people, this is your country, not ours. This country belongs to you, not to us. Saddam Hussein was found in a rat hole. He is on trial. He is not part of the government. Iraqis have their own government. And the question for those in Iraq is, do you want your country back? If so, you have to provide for your security. We are attempting to train and provide security at this point, but we are not going to provide security forever in the country of Iraq. We cannot do that. We must expect the Iraqi people to decide to take back their country, at which point we will be able to bring the American troops home. That, I hope, is sooner rather than later.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to speak for 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOMELAND SECURITY AND HEALTH CARE

Mr. BINGAMAN. Mr. President, I want to speak on three issues this morning. First, I will talk about two amendments I have filed to the Secure Fence Act which is the legislation the Senate is debating once we get through morning business. I will talk about the merits of those amendments and the reasons I believe Senators should support those amendments, that we should be allowed an opportunity to offer those amendments. There is some question as to whether we will be allowed that opportunity. After that, I will say a few words about health care and health care issues in this 109th Congress.

First, as to the Secure Fence Act, H.R. 6061, I represent, as all of my colleagues know, a border State. I understand the frustration communities are facing due to the inability of the Federal Government to secure our Nation's borders. Illegal immigration is a serious problem, and we do need to do a much better job in addressing this problem. The Senate has passed a comprehensive immigration bill. It is not a perfect bill by any means, but it is aimed at improving security along our borders and at also reforming our immigration laws. I believe that the bill passed through the Senate was a step in the right direction. I was disappointed that the leadership of the House of Representatives refused to appoint conferees to meet with Senate conferees and instead decided to hold hearings around the country to concentrate on differences of opinion and to stir up discontent rather than to seek some common solutions to our substantial immigration problems. The Senate has passed a bipartisan bill. The House passed what I would characterize as a different bill. We should have convened a conference committee. We should have tried to work out differences between those bills. The failure to at least have made a good faith effort in that regard I think is very unfortunate.

Mr. President, with regard to the specifics of this Secure Fence Act—and the Secure Fence Act is a piece of the House-passed immigration bill from about a year ago—I do believe there are locations along our border where fencing makes sense and additional fencing is required. However, we need to be smart about our security. Walls may make good sound bites in political ads, but the reality is that individuals charged with securing our borders have consistently stated that walls and fences are only part of the solution and that there are better and more cost-effective ways to provide for greater border security.

Ralph Basham, who is the Commissioner of Customs and Border Protection, stated earlier this year in response to a question about the proposal to build 700 miles of double-layered fencing:

> It doesn't make sense, it's not practical.

He went on to say that what we need is an appropriate mix of technology and infrastructure and additional personnel.

Let me take a moment to also read some remarks delivered by Secretary Chertoff, the Secretary of Homeland Security. These were delivered on March 20 of this year in a speech he gave at the Heritage Foundation. In describing the Secure Border Initiative, also known as SBInet, Secretary Chertoff stated:

> We are going to build ourselves what I call a virtual fence, not a fence of barbed wire and bricks and mortar, which I will tell you simply doesn't work, because people can go over that kind of fence but rather a smart fence, a fence that makes use of physical tools but also tools about information sharing and information management that let us identify people coming across the border and let us plan the interception and apprehension in a way that serves our purposes and maximizes our resources thereby giving our border patrol the best leverage they can have in order to make sure that they are apprehending the most people.

This week, the Department of Homeland Security selected Boeing as its contractor for this Secure Border Initiative. Under Boeing's proposal, it will build a network of approximately 1,800 towers along the southern border. It is unclear how mandating 700 miles of fencing as is proposed in this pending bill will fit into the proposal which Boeing has made and which has been selected by the Department of Homeland Security and whether the two together make sense. Unfortunately, the bill as currently drafted does not provide the Department of Homeland Security with the discretion that Department needs in order to determine the most appropriate means to secure the border. It also ties their hands with regard to the use and the placement of fencing. I do not think we should be mandating over 700 miles of fencing at specific locations. I do not think this Senate and those of us here in the Congress have enough detailed knowledge of the various areas along the border to be making the decision as to the specific areas where fencing needs to be built.

It is also clear that the cost per mile is something we do not have a good handle on at this time in our debate. According to the Department of Homeland Security, it costs approximately

$4.4 million for a single layer of fencing per mile. The bill we are debating today mandates double-layer fencing, which would add up to about $6.6 billion for the 730 miles of fencing required under this bill.

In discussions with local law enforcement, local, State, and Federal law enforcement along the border in the southern part of New Mexico, we have meetings with what we call the Southwest New Mexico Border Security Task Force, and at some of those meetings I have attended the point has been raised by local security officials that the location of the proposed double-layer fencing in this bill is, in their view, at least, at the wrong place.

The bill also mandates fencing in some areas where we just spent millions of dollars per mile to build vehicle barriers rather than fencing because it was the judgment of the Border Patrol that vehicle barriers were more appropriate in those areas.

If we are going to spend billions of dollars to place a fence along over one-third of our southern border, we should at least ensure that it is in the right location and that the Department of Homeland Security can make necessary adjustments in the interest of securing our borders. To this end, I hope to offer an amendment that would ensure that the Secretary of Homeland Security has the ability to modify the placement and the use of fencing that is mandated in this bill; that is, he has that discretion to make those modifications if the Secretary determines that such use or placement of the fencing is not the best way to achieve and to maintain operational control of the border. I believe this is a reasonable amendment. I believe it will help ensure that DHS has the flexibility it needs to alter this proposal if the proposal is determined not to advance our overall security strategy.

I hope that the majority party will allow a vote on this important measure and that they will support this important measure. Let me be clear. I believe we need to do whatever it takes to secure our borders. You cannot have a nation without secure borders. I have consistently worked to secure increased funding for vehicle barriers, for surveillance equipment, and for additional Border Patrol agents, but I also believe we need to pursue that secure border in the most effective way both from a security standpoint and in terms of the overall cost of the security.

Mr. President, that is my description of the first amendment I do hope to offer. Let me also speak briefly about an amendment I hope to offer to this legislation This is regarding the Border Law Enforcement Relief Act of 2006. This is an amendment which is cosponsored by Senator DOMENICI of my State. It will provide local law enforcement in border communities with much needed assistance in combating border-related criminal activity.

During our debate on the immigration bill, this legislation was adopted by a vote of 84 to 6. It was also adopted by unanimous consent as part of the Senate's Homeland Security appropriations bill.

For far too long, law enforcement agencies operating along the border have had to incur significant costs due to the inability of the Federal Government to provide adequate security of the border. It is time that the Federal Government recognize that border communities should not have to bear that burden alone. This amendment would establish a competitive grant program within the Department of Homeland Security. These grants would help local law enforcement situated along the border to cover some of the costs they incur as a result of dealing with illegal immigration, with drug trafficking, with stolen vehicles, and with other border-related crimes.

The amendment authorizes $50 million a year to enable law enforcement within 100 miles of the border to hire additional personnel, to obtain necessary equipment, to cover the cost of overtime, and to cover additional transportation costs. Law enforcement outside of this 100-mile geographical limit would be eligible if the Secretary of Homeland Security certified that they are located in what we call a high-impact area.

The United States shares 5,525 miles of border with Canada and 1,989 miles of border with Mexico. Many of the local law enforcement agencies that are located along the border are small rural departments charged with patrolling very large areas of land with very few officers and with very limited resources. According to a 2001 study by the United States-Mexico Border Counties Coalition, criminal justice costs associated with illegal immigration exceeded $89 million in each and every year. Counties along the southwest border are some of the poorest in our country, and they are not in a good position to cover these initial costs. The States of Arizona and New Mexico have declared states of emergency in order to provide local law enforcement with immediate assistance in addressing criminal activity along the border, and it is time that the Federal Government step up and share some of this burden.

I urge my colleagues to support this amendment again as they have in the past. Let me make it clear to my colleagues I am offering this because, although it was adopted as part of the immigration bill, we need to once again adopt this amendment and attach it to this bill if this bill in fact winds up going to the President for signature.

Mr. President, let me now change subjects once more and speak not about the Secure Fence Act, which is the legislation the Senate is dealing with today, but to speak about a subject that has been given very short shrift here on the Senate floor in recent weeks and months; that is, Congress's failure to enact any serious legislation with respect to the major health care problems facing our Nation. While problems such as the fact that 47 million uninsured Americans continue to be ignored by this Congress, by this administration, what is equally disappointing to me is that there are a number of Federal health programs that we are failing to reauthorize each year, and that number continues to grow. These are programs which are public, they are well-known, and I believe the failure of the Congress to reauthorize these is a major neglect of our responsibilities.

Although the Appropriations Committee continues to provide resources for a number of these expired Federal programs, Congress has increasingly failed to provide the roadmap to the executive branch for how these funds are expected to be spent. In fact, in each of the last several years, the Congress has ceded more of its legislative and its oversight roles in regard to health care to the executive branch in what one head of a national physician organization referred to as "inexcusable inaction." The result is that Congress is increasingly acting more like a trade association in trying to lobby the executive branch of Government to do things related to health care than it is acting as a legislative branch actually considering and passing legislation on these important issues.

I find myself being asked by colleagues to cosign letters to the administration urging them to use their discretion, their administrative discretion, their administrative authority to essentially sidestep the law, ignore the law, take unilateral action to address some of these health care issues that we in the Congress seem unable or unwilling to deal with in legislation.

That is, I fear, the sad legacy of this 109th Congress on health care policy. When the question is raised: What did the 109th Congress do to improve health care for Americans, I think the answer almost certainly will be very little, if anything.

First, let's take the Medicare physician payment formula. As part of the Balanced Budget Act of 1997, Congress enacted a provision that attempted to save Medicare money, and it did so by placing physician payments on an automatically adjusting formula called the sustainable growth rate or SGR. During the economic boom of the 1990s, this SGR formula worked well for physicians, and physicians did receive positive updates year after year during that period.

Without getting into great details about the formula that we enacted back in 1997, there are four factors that have caused the formula to result in cuts in payments to physicians in recent years. Let me mention those four factors: First was the economic downturn in the first term of the Bush administration; second, the changes in the composition of managed-care enrollment; third, the addition of more preventive care services; and, fourth, the inclusion of prescription drugs in the calculation of the formula.

Congress created a mess with a poorly devised formula and, in 2001, more than two-thirds of the Members of Congress—both Democrats and Republicans—cosponsored legislation to halt the cuts and to change the manner in which this SGR formula was to be calculated. That legislation, unfortunately, died when the congressional leadership declined to schedule a vote. As a result, physician payments were cut by 5.4 percent in 2002.

In 2002, there were more than 80 percent of the Congress who signed on to cosponsor legislation to fix the physician payment formula, but some deal was brokered that year, 2002, by one of the committee chairs and one physician group to impose a freeze in the payment and backloading the cuts in a budget-neutral manner in later years.

So rather than fixing the problem, that has become the new mode in Congress: we go for year after year patchwork. Physician groups face an impending cut year after year. Congress pushes back the need to truly fix the problem, and the problem grows bigger and bigger, to a point where some would argue it is virtually unfixable at this point.

What do I mean by "virtually unfixable"? According to a new Congressional Budget Office analysis of the Medicare physician payment formula, one solution to fix the problem would cost $200 billion over the next 10 years. The sham of these annual 1-year adjustments to the Medicare physician payment formula masks the true size of our Nation's budget deficit, as we all know very well that the Congress is not going to allow scheduled cuts to physician payment rates of more than 40 percent in the coming years, as is provided for in the law that is now built into the Congressional Budget Office baseline projections.

So this SGR formula is clearly broken, but the hole that has been created is so deep that the problem is largely unsolvable at this point. The problem is made worse, of course, by the very fact that Congress has failed to pass a budget this year. In its next budget—hopefully, next year—Congress needs to enact, in my view, a "truth in budgeting" amendment for Medicare physician payments so that we can admit the true level of our Nation's deficit by revising the payment formula baseline, and through that device address the problem with the SGR formula in a forthright manner.

It is, sadly, too late to hope that we can solve all of this problem this year in this 109th Congress. I urge congressional leadership and organizations that represent physicians groups to push to resolve this annual crisis in the next Congress—early in the next Congress—in what would be a far more honest and open manner that would lead to a permanent fix with respect to this physician payment formula.

Unfortunately, the Medicare physician payment formula is just one example of the much larger institutional problem facing the Congress in coming to grips with health care issues. Just a year ago Congress failed to restore more than $1 billion in expiring funding for the State Children's Health Insurance Program, or SCHIP. While there is not a single Member of Congress who would admit to not supporting the State Children's Health Insurance Program, congressional leadership has failed to find a way to ensure that $1 billion in dedicated resources to SCHIP was actually available to spend on the program.

Now SCHIP faces a larger problem because the States are estimating a $900 million shortfall in fiscal year 2007 in order to provide current levels of health insurance coverage for children. According to the American Academy of Pediatrics and 85 other national organizations in a letter to Congress dated September 18:

> Without additional federal funding to avert these shortfalls, states may have to reduce their SCHIP enrollment, placing health care insurance coverage for over 500,000 low-income children at risk. States may also be forced to enact harmful changes to their SCHIP programs, such as curtailing benefits, increasing beneficiary cost-sharing or reducing provider payments.

Just a few years ago, Congress and the administration provided what is now estimated to be a $700 billion Medicare prescription drug benefit to our Nation's seniors. Yet somehow we cannot find our way to provide 1 percent of that amount for our Nation's children to avert a shortfall in funding in order to ensure that not only prescription drugs but comprehensive health care is provided to those low-income children.

Four days before that, the Institute of Medicine issued a report noting that despite a profound epidemic confronting our Nation with respect to childhood obesity, the Federal Government, the food industry, schools, and others have made little progress in stemming this growing tide of childhood obesity.

In 2 straight years, the Senate has passed amendments to the Agriculture appropriations bill by overwhelming majorities to increase funding for programs such as TEAM Nutrition, only to see that money disappear once we got into conference with the House. What is needed, in my view, is national leadership, both by the administration and by the Congress. We have failed to deal with this extremely important issue affecting the long-term health of many of our children.

In addition to confronting expiring provisions with programs such as Medicare and SCHIP and major problems through the appropriations process in getting adequate funds to deal with childhood obesity, I also want to raise the issue of Congress' failure to enact reauthorizations of numerous Federal programs. According to the Congressional Budget Office, in its annual report entitled "Unauthorized Appropriations and Expiring Authorizations":

> The Congress has appropriated about $159 billion for fiscal year 2006 for programs and activities whose authorizations of appropriations have expired.

Some of the major health care programs whose authorizations have expired include the National Institutes of Health, the Ryan White CARE grant programs, the veterans' medical care, the Indian Health Service, and the Administration on Aging.

Considering all the Congress must consider on an annual basis, it is not surprising that some programs are not reauthorized in a timely fashion. What has become disappointing is that there appears to be a lack of effort in some instances to even try or to bring these issues to closure despite the vast need.

For example, the Indian Health Care Improvement Act expired in 2001, and for 6 long years American Indians and Alaska Natives have tried repeatedly to reauthorize the programs administered by the Indian Health Service. Moreover, the U.S. Commission on Civil Rights issued a report in 2003 entitled, "A Quite Crisis: Federal Funding and Unmet Need in Indian Country," that called for immediate passage of the Indian Health Care Improvement Act and for the Federal Government to "act immediately to reverse this shameful and unjust treatment" that is the Indian health care system and funding levels.

And yet, here we are 3 years later and the Committee on Indian Affairs has reported a reauthorization bill to the Senate floor over 6 months ago, but this bill has not yet been bought up for debate.

Failure with respect to the Medicare physician payment formula, the State Children's Health Insurance Program shortfalls, childhood obesity, and the Indian Health Service are just examples of a larger problem that has grown over the years.

Other programs, such as the Health Professions Act, so desperately need to be reauthorized and improved that both the administration and Appropriations Committee recognize are not working well, so they continue to get dramatically cut or even zeroed out. Meanwhile, as a Nation, there are areas in the country with terrible health profession shortages, and we are now importing 25 percent of our physician workforce from foreign nations, which is not a good result either for our Nation or for the country from which we have taken their doctors.

Mr. President, our Nation's health care system is in a mess, and yet the Congress is not addressing rather critical and fundamental issues due to inaction, neglect, or inattention.

In the coming days and during the lameduck session, I urge the leadership of the Congress to begin the work of addressing these important health care problems facing our country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from South Carolina.

Is the Senator seeking consent to proceed in morning business?

Mr. DEMINT. Mr. President, I ask unanimous consent to speak for 30 minutes in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

FAMILY PROSPERITY ACT

Mr. DEMINT. Mr. President, earlier this year Republicans put together one of the most important bills we have considered, and Republicans asked for a vote on that important bill we call the Family Prosperity Act. Indeed, it does deal with the prosperity, the economic well-being, the cost of living for every American family. It contains three very important measures and all enjoy majority support in the Senate. One was permanent death tax relief, another was the extension of very important expiring tax provisions, and a minimum wage increase of more than 40 percent.

The bill represents a true bipartisan compromise. Yet it met unified Democratic obstruction that prevented it from receiving an up-or-down vote. I do not think I have ever seen a vote that has so clearly demonstrated Democrats' willingness to turn their backs on American families in order to score political points. I believe Americans understand that Republicans worked hard to reach a true compromise that would raise the standard of living for all American families. I think they will remember that after years of rhetoric, Democrats proved they were all talk and no action.

For years Republicans, along with many Democrats, have worked for permanent death tax relief because it is an immoral double-tax that punishes death and savings. As the Senator from New York, Mrs. CLINTON, said when she was running for office in the year 2000:

> [Y]ou ought to be able to leave your land and the bulk of your fortunes to your children and not the government.

Other Democrats have supported death tax relief in the past, including Senators WYDEN, BAYH, PRYOR, LANDRIEU, and CANTWELL. Even the minority leader, Senator REID, has said he is for "fixing the estate tax." Yet when it came time to vote, they joined their fellow Democrats to block death tax relief.

The Family Prosperity Act also extends several important tax relief provisions that are set to expire in October to extend several critical relief measures, including State and local sales tax deductions, research and development tax credits, college tuition deductions, work opportunity tax credits, welfare-to-work tax credit, depreciation for restaurants, timber capital gains, teacher classroom expense deductions.

These tax relief provisions enjoyed broad bipartisan support and need to be renewed to keep our economy growing. Instead, in August, Democrats obstructed these items and essentially voted to raise the cost of living for American families.

Additionally, the Family Prosperity Act contained a longtime priority for Senate Democrats, a 40-percent increase in the minimum wage.

I must make it clear that I personally oppose a minimum wage increase, as do many of my Republican colleagues. Economists agree that raising the minimum wage prices people with low skills out of the job market and keeps them from getting a job that ultimately pays higher wages. Yet Republicans such as myself are willing to vote for this true compromise bill. Unfortunately, Democrats chose election-year partisan obstruction instead of lowering the cost of living for American families.

However, today we can change this. We are nearing the end of the 109th Congress, and we have debated these issues over and over. We now have one final opportunity to get this right and pass this bill to secure America's prosperity. In fact, I understand that some Democrats just gave a press conference earlier today urging the passage of the tax relief extensions in this Family Prosperity Act. Well, they are about to have their chance. The Democrats now have one final opportunity to either do what is right for American families and lower the cost of living or they can choose to continue their partisan political games of blocking American priorities so they can try to blame Republicans as a do-nothing Congress.

Mr. CORNYN. Will the Senator yield for a question?

Mr. DEMINT. Yes.

Mr. CORNYN. Mr. President, I would inquire of the distinguished Senator from South Carolina—he has just described the blocking of the Family Prosperity Act, which, as I recall, combines the death tax, an increase in the minimum wage, and so-called extension of the tax relief, including the teacher classroom deduction, the State and local tax deduction, and the R&D—research and development—tax credit. But I believe he also referenced a press conference that was held at 10 o'clock this morning here at the Capitol where Republicans were charged with raising taxes against the middle class for failing to extend the very tax extenders that they blocked just in August. Is that the Senator's understanding?

Mr. DEMINT. The Senator from Texas knows as well as I do that this has become the pattern of our Democratic colleagues: to purposely block important legislation and then attempt to come down and blame Republicans or blame the President when it doesn't actually get done.

I am excited, as the election nears, that the American people are much smarter than that. They are going to clearly see through those attempts. These important things which need to be done, many of which we have been able to accomplish despite Democratic obstruction, are still being blocked by our Democratic colleagues.

Mr. CORNYN. Mr. President, will the Senator yield for an additional question?

Mr. DEMINT. Yes.

Mr. CORNYN. Is the Senator aware that in addition to blocking the Family Prosperity Act, which would have achieved the No. 1 item on the Democratic agenda, which is raising the minimum wage, in addition to reducing the death tax and providing additional tax relief, which we discussed, that there have been other efforts to block and then blame Republicans for being a do-nothing Congress?

I would just like to read a short list—I know the Senator has some other prepared remarks he is going to focus on just to cover sort of a survey of the field, of areas which our friends on the other side of the aisle have sought to block and blame the majority while, at the same time, being the ones responsible for blocking important legislation.

For example, is the Senator aware that there is now an attempt on the Democratic side to block the Child Custody Protection Act—and we mentioned the estate tax and Extension of Tax Relief Act, the Gulf of Mexico Energy Security Act, which would help us become less dependent on imported energy and oil, the Arctic Coastal Plain Domestic Energy Security Act, the Health Insurance Marketplace Modernization and Affordability Act, the Legislative Line Item Veto Act, the Federal Election Integrity Act, and the Social Security Guarantee Act? Is the Senator aware that in each of those instances, but for blocking by our friends on the other side of the aisle, we would actually be able to make bipartisan reforms and actually advance the agenda of the American people in very positive and constructive ways?

Mr. DEMINT. Yes, I am aware. And I am aware that all of the bills and legislation that my colleague mentioned have majority support in the Senate. But by using procedural blocking techniques, the Democrats have kept these from coming to a vote, or even debated in some cases. But, again, I am confident the American people, as they focus on what we have been doing—and I realize our Democratic colleagues produced their commercials to call us a do-nothing Congress several months ago, so it has become very important for them in the last days of this Congress to block everything that they can. But we have several important pieces of legislation this week related to the security of this country that we need to pass, and we are going to have the opportunity in a few minutes to hopefully get unanimous consent to pass the Family Prosperity Act, to give people a raise in the minimum wage, to pass these tax extenders, and to create a compromise on this death tax, which is so immoral and hurts so many families.

Mr. CORNYN. Mr. President, if the Senator would yield for one last question.

Mr. DEMINT. Yes.

Mr. CORNYN. Mr. President, I know the Senator's focus is on the Family Prosperity Act. But one of the bills that I mentioned, just as a final example of this tactic of blocking and then blaming the majority for being a do-nothing Congress, is the Health Insurance Marketplace Modernization and Affordability Act. As I recall, this is sometimes called the small business health insurance bill, which would be designed to allow small businesses and other associations to pool together to buy health insurance for their employees at about 12 percent lower rates than are otherwise available.

Is the Senator aware that while we attempted to close off debate, 55 Senators voted to be able to close off debate and go to that important small business health reform legislation, and 43 Senators voted against closing off debate, thus preventing us—again, blocking us—from passing this important health care legislation which appears to otherwise have broad bipartisan support?

Mr. DEMINT. I am glad the Senator from Texas brought that up because this morning our distinguished colleague from New Mexico was talking about how Republicans have done nothing significant to lower health insurance costs when, in fact, the small business health plan would have done just that. I was a small businessman for many years. Health care is one of the highest expenses we had. The chance to pool together with small businesses all over the country to buy insurance, just like large companies can do, is a commonsense measure that should have been passed in the Senate, yet was blocked by our colleagues.

Mr. CORNYN. I thank the Senator.

UNANIMOUS CONSENT—H.R. 5970

Mr. DEMINT. Mr. President, we have the opportunity to correct a wrong. An important bill was blocked. I would like, as we consider this Family Prosperity Act this morning, to ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 562, H.R. 5970, which is the Death Tax Repeal Act, which we call the Family Prosperity Act. I ask unanimous consent that the bill be read the third time and passed, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, we see again a bill that has been debated and considered for many months, a bill on which a press conference was held this very day saying we need to pass a major portion of it. Yet at every turn there is blocking.

I would like to take a few minutes—and if the Presiding Officer would let me know when I have 5 minutes left—to talk about one of the provisions of the Family Prosperity Act. My friends on the other side of the aisle are holding up legislation that would prevent an enormous increase in the death tax on everyday Americans. I will talk more about this chart, but Democrats widely claim that the death tax impacts only a few of the wealthiest Americans. The truth is, the only reason the death tax doesn't affect more hard-working Americans today is that it currently—the Republicans have passed temporary legislation that is phasing out the death tax, as we can se on this chart through 2010. And we have done this despite Democratic obstruction. But as you can see from this chart, if the Democrats have their way, a huge number of American families will be in the death tax death grip in 2011.

Minority Whip DURBIN, my colleague from Illinois, said this about the death tax:

> How many families will benefit if the estate tax is repealed? Each year in America, a Nation of 300 million: only 8,200 families. You have to search long and hard to find them. These families are so well off, who have done so well in this great Nation, who have benefited from this democracy and the blessings of liberty, who have enjoyed a comfortable life because of their prosperity, who now have taken millions of dollars to hire the most effective lobbyists in Washington, DC to push this outrageous special interest legislation, the fattest of cats in America will get a great bowl of tax cuts, tax cuts on the estate tax.

Senator DURBIN argues against full repeal of the death tax, but we are not arguing for full repeal of the death tax. Our legislation would simply prevent an enormous increase in the death tax, while Senator DURBIN is arguing that we should let the death tax increase in 2011 to a top rate of 60 percent. That is not taxing, it is taking. No, in fact, it is stealing.

Senator DURBIN also argues that the death tax only affects 8,200 families. The truth is, the death tax doesn't affect 8,200 family members who may die; it affects millions of family members still living who are left to deal with Uncle Sam's sticky fingers.

Let's take a look for a minute at homes in Senator DURBIN's State. Keep in mind, in 2011, if Senator DURBIN has his way, all estates of $1 million or more will be taxed at a very high rate.

He says: You will have to search long and hard for these families.

But look at these homes in Chicago that he says are owned by the fattest cats. These are very modest and some would consider lower scale homes, all valued at over $1 million today. Are these the wealthiest Americans? If you look at Chicago, right now over 36,000 homes in urban areas would be affected by the 2011 death tax. But if you move ahead to 2011 and look at the number of homes in the Chicago area that will be affected by the death tax, the Democratic death tax increase, you are looking at more than 143,000 homes. You don't have to look long and hard to find that many houses.

What about other cities? By 2011, when the death tax is raised to the Democrats' level that they want, if you look around the country, over 500,000 in New York City, over 200,000 in Boston, over 250,000 in Newark. If you go to Atlanta, 26,000; Chicago, as I said, 143,000; San Francisco, over a quarter of a million; Los Angeles, 812,000. You don't have to look long and hard to find these homes.

The Census reports that just over 1 million homes in 2004 were subject to the death tax at the Democrats' level of 2011. In 2005, that number reached 1.4 million, over a 40-percent increase. As properties continue to appreciate, that number will continue to increase year after year, subjecting more and more Americans to the Democratic death tax. If you look at 2005, under the levels that will happen in 2011, there has been a 143-percent increase in the number of homes that will be affected, just in 2 years, based on the Democratic death tax.

Let's talk about some farms. Let's look at who these families are who Senator DURBIN claims have enjoyed a comfortable life—the "fat cats" as he calls them. There are nearly 30,000 farms in Illinois alone, many of them owned by families whose comfortable life has made them a target of Senator DURBIN's death tax should we not vote to block the impending tax increase. Based on 2002 Illinois Farm Bureau figures, over one-fourth—26.7 percent—of all Illinois farms would currently be subject to the death tax at Senator DURBIN's rate of taxes in 2011. In 2011, you will have about 30,000 Illinois farms, or over 40 percent of all farms will likely be subject to the death tax. When we fail to prevent the 2011 Durbin death tax increase, it will not be hard to find almost one-half of Illinois' farms. If you take the USDA figures, the Department of Agriculture, they say that over half of the farms in Illinois will be subject to the death tax in 2011 if Senator DURBIN gets his way.

How many farms will be eligible if hit by the Democratic death tax increase in 2011? Well, again, the fat cats we are talking about, if you look at Arkansas, you have nearly 5,000; Missouri, 9,200; Iowa, nearly 20,000 farms; South Dakota, 5,500; in California, 20,000. Lots of family farms are going to be affected by the Democratic tax increase.

Let's talk about small businesses, really the backbone of the American economy. Who are these—to quote Senator DURBIN—"the fattest of cats who have taken millions of dollars to hire the most effective lobbyists in Washington, DC to push this"—as he calls it—"outrageous special interest legislation."

Again, his numbers are somewhat questionable. The National Federation of Independent Business reports that 1.4 million small businesses would currently be subject to DURBIN's tax increase in 2011 if the Democrats get their way. And by 2011, an additional 1.2 million will be eligible for the tax. A vote against the Republican legislation to reform the death tax is a vote to increase the death tax on 2.6 million small businesses.

Are these 2.6 million hard-working small business owners and employers the fattest of cats? Small businesses that we all use every day will be affected.

Let's take a closer look at some of the specific examples of these family farms, family homes, and family-owned businesses if the death tax is implemented the way the Democrats want. I will use one. The Greens, the Green family—Greens Printers. For 97 years, Janet Green and her family have owned and operated Greens Printers, Inc., in Long Beach, CA. Her company operates a sheet-fed, four-color printing plant with full bindery and electronic capabilities. The family wants to remain in business for many years to come. The fact that they have to pay a ridiculous insurance premium for the sole purpose of paying a tax when they die is not only absurd, it is antibusiness. However, the future of Greens Printers is being threatened by the death tax. Janet's company cannot afford to pay an enormous life insurance cost that would help pay for the death tax when her parents need to pass on the business.

Janet says:

> Because we are a third generation printing facility, we have already paid the estate tax in the early 1970's. Both of my parents are well into their seventies and not insurable because of ill health and the astronomical cost associated to do so. At roughly $100,000 a year [for this insurance policy], we cannot afford it.

She says:

> Let my employees keep their jobs and let us maintain the risk of owning the business to keep them employed.

She is reminding us it is not just the family that is affected, but it is everyone who works for these businesses who are ruined by this death tax.

Over the years, Green has tried not only to be successful in generating profits, but also successful at being a good neighbor. She does this by supplying 20 people in the community with good jobs and benefits, and by building lasting relationships with employees that allow the company to plan for future growth and the workers to enjoy a stable income and fulfilling livelihood.

Her family wants to keep Greens Printers even after she is gone.

> We have 16 grandchildren who would love to take over the company and see it grow someday.

She asked us in Congress:

> Does Congress really think that we small, family-owned businesses out here have hundreds of thousands of dollars tucked away for estate taxes? Any money we make we put right back into the business by purchasing new equipment and hiring more employees.

Let's look at another business, the Barthle Brothers Ranch, in Florida. These are some more fat cats, as Senator DURBIN would call them. Larry, Mark, and Randy Barthle are brothers who share a similar story with many ranchers around the country. They are trying to maintain the family ranch their father built in the early 1930s so they can pass it on to future generations.

The ranch has received national recognition for its environmental stewardship practices that protect and promote the environment and wildlife. The family is dedicated to youth development to encourage future generations of ranchers to care for resources responsibly.

Larry Barthle says:

> Our family was first struck by the Death Tax in the early 1970s when both my grandfather and uncle passed away within a short period of each other. We had to sell 1,200 acres of the ranch. Every penny went to pay taxes assessed to us and we still had to take out a loan for the balance. Not one cent was used for anything except taxes. After such a devastating blow, it was my father's lifelong goal to be able to pass along the ranch to his kids without being hit by the Death Tax. He was successful at the time of his death because he was able to make the transfers to my mother. We currently have our ranch set up [in all kinds of legal frameworks in order to try to get it through the death of another owner.]

This is not fair to American families and businesses.

Just one more quick example here, Mt. Pulaski Products. Scott and Kathryn Steinfort operate the family-owned Mt. Pulaski Products, Inc., in a small town in Illinois that bears the company name. It has been in business since 1951. They sell products that are absorbents and abrasives. For decades, the family has worked to build a successful business, which employs over 44 citizens there in Mt. Pulaski.

The Steinforts also are known for their community service, dedicated to serving the community. They have two sons. Both are serving in Iraq, both with engineering degrees. While many other engineering graduates are making big salaries, they serve our country. Someday they would like to join the company business, but the death tax looms over the family business. Without wealth, the Steinforts may be forced to sell the business to pay for the death tax, not only taking from future generations but possibly putting 40 families out of work. The say:

> My wife and I have life insurance to cover these taxes, but as we age our premiums are marching steadily higher. Combined with not knowing how much we need to plan for in taxes and fees, the potential costs ultimately point to only one path: sale or liquidation of our plants to pay our tax burdens.

I have a lot more here that we could talk about, but I will put up one more chart. The Senator from Illinois, Senator DURBIN, has told the American people that only 8,200 American families are affected by the death tax. The only reason that is today is because the Republicans have overcome Democratic obstruction and at least temporarily reduced the death tax. If the Democrats get their way, the tax on the American family will reach over 3.3 million children and grandchildren of those who die in the 10 years after 2011. Over the next generation, millions of children and grandchildren and workers in small businesses and farms will be affected.

I ask all my colleagues, what is the difference between these numbers? The difference is the truth. We have been misled, that this tax is about the wealthiest of Americans. Whereas, as we have seen today, in the homes and the farms, the small businesses, this tax is immoral. It steals from the American people, the hard-working families who put together some savings to pass along to the next generation. It is not to the fat cats and their lobbyists. It is to the average Americans, who are doing what we expect them to do, and that is to work and to save and to build a better future.

Today we have seen again that the opportunity to compromise and at least reduce these taxes was blocked again by our Democratic colleagues. Yet they come to this floor every day and ask why we are not doing something for the cost of living of the American people, to help improve their future. I think the reason for this is obvious. Senator CORNYN brought it up a minute ago. The Democratic strategy is to block what needs to be done and then try to blame someone else when it does not get done. The American people are smarter than that and they will see the difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak up to 15 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? The Senator from Louisiana.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Ms. LANDRIEU. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that I be recognized as soon as the distinguished Senator from Louisiana has finished.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

There is agreement to both requests.

Ms. LANDRIEU. Mr. President, I am sure there is going to be a very vigorous response to the charges that were made by my good friend, the Senator from South Carolina. Those will come later. I am sure that will be a very heated debate as we go on through these next few days and next few months.

The PRESIDING OFFICER. The Senator from Louisiana is recognized as in morning business for up to 15 minutes.

Ms. LANDRIEU. I thank the Chair.

(The remarks of Ms. LANDRIEU pertaining to the submission of S. Res. 585 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

OIL AND GAS DRILLING IN THE GULF OF MEXICO

Ms. LANDRIEU. Mr. President, I would like to turn my attention to one issue we have to resolve before we leave on this Friday or Saturday.

The Senators from Mississippi and Texas and Alabama and Louisiana and the Senators from Florida have stepped forward to come up with a plan that will do more than just talk about the recovery of the gulf coast but will actually put money behind that promise. We will put real money behind that promise.

We have been working for months and months through an extremely difficult negotiation and have come up with a way to open more drilling in the Gulf of Mexico, drilling for oil and drilling for gas—particularly natural gas—as our region struggles to come back, to stay competitive as industries large and small struggle to come back. The price of natural gas remains too high. One way to drive it down is to open more gas reserves in this Nation, to open the supply.

In the last Energy bill we passed, there were any number of ideas and new initiatives for energy conservation. But what we didn't do in the last Energy bill—please hear me—was open new production. We spent the whole time debating ANWR as if it were the only place in America we could drill. We have debated it for 40 years, and maybe we will continue to debate it, but it ended in a no advance-no retreat status—basically a draw—in the last Energy bill because all the energy was spent in a discussion of ANWR, which is a very important subject, but it is not the only place that has oil and has gas. We have a lot of it in the gulf. We are willing to drill.

This is the extraordinary find just off the coast of Louisiana—actually an outside distance of over 200 miles—most extraordinarily, 28,000 feet deep, 20,000 feet of water and 8,000 feet below the floor. This well in this small, little square will double the size of the reserves in the entire Gulf of Mexico. There is plenty of oil and gas in the gulf, and the great news is that Texas, Louisiana, Mississippi, and Alabama will do the drilling. We will be host for the industry. We respect the rights of other States that might choose other ways. Your State, Mr. President, has chosen a different way, other States look at the Atlantic coast and have chosen a different way, and Florida has chosen a different way. That debate is for another day.

Right now, the American people need this leadership team to act, to open 9 million new acres of land in the Gulf of Mexico. This has been agreed to by Democrats, by Republicans, by Florida, by Alabama, by Mississippi, by Louisiana, and by Texas, by all the Governors, starting with Governor Bush, to Governor Perry, to Governor Blanco, to Governor Riley, to Governor Barbour. You would think we could get this done before we leave.

This is a jack well, one little square. This is lease sale 181 and 181 south, which PETE DOMENICI has led in an extraordinary bipartisan effort with 72 votes on the floor to open this drilling. Many want to say it is not enough. It looks pretty big to me. We don't even know the oil and gas that is there because we haven't even tested it. Trust me, there is a lot of oil and gas. Check the industry, check the Web site about what must be there. And there is no fight about it. The only fight is we can't seem to get this bill passed when most everybody has agreed to it. Some people are holding out to drill off the coast of California or off the coast of New Hampshire or off the coast of New Jersey, which is not going to happen in the next week. It may not happen in the next year or two. But this can happen now. We need to make this happen now. The industry needs the oil and gas.

Why do I keep saying it is America's energy coast? Because this is the pipeline. I didn't make this up. This comes off of the Web site. It is from the Annual Florida Natural Gas Supplemental Gas Supply and Disposition from the Energy Administration. This is not from MARY LANDRIEU's office; this is from the Energy Administration. This is where the natural gas is. This is where it comes from. The infrastructure is here, and our country desperately needs it.

Here is another chart that shows it in a more colorful fashion. This is the pipeline coverage. You can see the contributions of Texas, Louisiana, and Mississippi. This is the Superdome. It sits right here. There is Mississippi, Louisiana, and Texas. Right here is the heart of America's energy coast. We are proud of it.

There is not a whole lot of drilling going on up here, not a whole lot up here in the northwest, but the infrastructure is here.

We need to open up lease sale 181. The steady stream of revenue to restore this coast and to build these levees—$8 billion—is produced off of this coast every year, and getting a portion of these revenues back to these States, opening additional reserves, and sharing these revenues to build this coast and to restore this coast is something we can get done

In the spirit of the leadership and the spirit of the great victory last night, let this team in Washington get this victory for the country before we leave.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I certainly enjoyed the remarks of my friend from Louisiana.

MARKING THE 20TH ANNIVERSARY OF THE APPOINTMENT OF SUPREME COURT ASSOCIATE JUSTICE ANTONIN SCALIA

Mr. HATCH. Mr. President, I proudly rise to mark the 20th anniversary of a great event.

Twenty years ago today, Antonin Scalia took the oath of office to become an Associate Justice of the Supreme Court of the United States.

Through his dogged commitment to the fundamental principles of liberty, and the brilliance and passion with which he expresses that commitment, Justice Scalia is having a profoundly positive impact on our nation.

In the time I have this morning, I would like to offer a few general remarks about Justice Scalia's judicial philosophy, his judicial personality, and his judicial impact.

Antonin Scalia was born on March 11, 1936, in Trenton, New Jersey, the only child of immigrant parents.

After graduating first in his high school class, summa cum laude and valedictorian from Georgetown, and magna cum laude from Harvard Law School, he embarked on a legal career that would include stints in private practice, government service, the legal academy, and the judiciary.

President Reagan appointed Antonin Scalia in 1982 to the U.S. Court of Appeals for the D.C. Circuit, and then in 1986 to his current post on the Supreme Court.

President Reagan did not choose Justice Scalia simply because he is smart and talented.

With all due respect to the good Justice, there are many smart and talented people around.

No, President Reagan chose Justice Scalia because his smarts and talents are connected to a deeply considered and deliberately framed judicial philosophy rooted in the principles of America's founding.

Indeed, as Pepperdine law professor Douglas Kmiec has said, Justice Scalia "is the justice who works the hardest to construct a coherent theory of constitutional interpretation that does not change from case to case."

When the Judiciary Committee hearing on Justice Scalia's nomination opened on August 5, 1986, I quoted from the Chicago Tribune's evaluation that the nominee before us was "determined to read the law as it has been enacted by the people's representatives rather than to impose his own preference upon it."

Consider for a moment the vital importance of this simple principle.

Since the people and their elected representatives alone have the authority to enact law, the way they have enacted it is the only sense in which the law is the law.

The way they have enacted it, then, is the only legitimate way for judges to read it.

This fundamental principle is at the heart of Justice Scalia's judicial philosophy.

This principle springs directly from the separation of powers, which America's founders said was perhaps the most important principle for limiting government and preserving liberty.

Alexander Hamilton wrote in The Federalist No. 78 that there is no liberty if the judiciary's power to interpret the law is not separated from the legislature's power to make the law.

In his dissenting opinion in Morrison v. Olson, Justice Scalia highlighted the Massachusetts Constitution of 1780 which, to this day, contains what Justice Scalia called the proud boast of democracy, that this is a government of laws and not of men.

The Massachusetts charter, however, also states what is required for this boast to be realized.

It requires the separation of powers, including that the judiciary shall never exercise the power to make law.

Today, only 42 percent of Americans know the number of branches in the federal government and fewer than 60 percent can name even a single one.

But America's founders insisted that identifying them, defining them, and separating them is essential for liberty itself.

In Marbury v. Madison, the great Chief Justice John Marshall wrote that it is the duty of the judicial branch to say what the law is.

Not what the law says, but what the law is.

The law is more than simply ink blots formed into words on a page.

Saying what the law is requires saying what the law means, for that meaning is the essence of the law itself.

But here is the crux of the matter, Mr. President.

The meaning of the words in our laws comes from those who made them, not from those who interpret them.

Those who chose the words in our laws gave them life by giving them meaning, and the judicial task of saying what the law is requires discovering the meaning they provided.

The separation of powers, therefore, excludes from the judiciary the power to change the words or meaning of the law and secures to it the power to interpret and apply that law to decide cases.

As President Reagan put it when swearing in Justice Scalia 20 years ago today, America's founders intended that the judiciary be independent and strong, but also confined within the boundaries of a written Constitution and laws.

No one believes that principle more deeply, and insists on implementing it more consistently, than Justice Scalia.

President Reagan often used the general label judicial restraint for this notion of judges restrained by law they did not make and cannot change.

A speech last year at the Woodrow Wilson International Center for Scholars here in Washington was one of many instances in which Justice Scalia used the more specific label originalism for his judicial philosophy.

When judges interpret the law, he said, they must "give that text the meaning that it bore when it was adopted by the people."

Whether that simple statement elicits growls or cheers today, Justice Scalia was merely echoing America's founders.

James Madison said that the only sense in which the Constitution is legitimate is if it retains the meaning given it by those who alone have the authority to make it law.

This body unanimously confirmed Justice Scalia on September 17, 1986, the 199th anniversary of the Constitution's ratification.

I see that as having more than coincidental significance, for it is Justice Scalia's judicial philosophy that gives the most substance and power to the Constitution.

The Constitution cannot govern government if government defines the Constitution.

That includes the judiciary, which is as much part of the Government as the legislative or executive branch.

To once again cite Chief Justice Marshall from Marbury v. Madison, America's Founders intended the Constitution to govern courts as well as legislatures.

It cannot do so if, as Chief Justice Charles Evans Hughes famously claimed, the Constitution is whatever the judges say it is.

If the Constitution is little more than an empty linguistic glass that judges may fill or a checkbook full of blank checks that judges may write, it is not much of anything at all. We all know better.

I am not sure what such a collection of words without meaning might be called, but it is not a Constitution.

Thankfully, Justice Scalia rejects such an anemic and shape-shifting view of the Constitution, insisting that even judges must be the servants rather than the masters of the law.

Justice Scalia insists that judges stick to judging so the Constitution can indeed be the Constitution.

Analyzing Justice Scalia's jurisprudential approach in the Arkansas Law Review, one scholar described what he called the justice's meticulous, almost obsessive, attention to language.

Let us remember that the epicenter of the remarkable system of government America's founders crafted is indeed a written Constitution.

They, too, were obsessed with language.

President George Washington warned in his 1796 farewell address against changing the Constitution through what he called usurpation rather than the formal amendment process.

George Mason actually opposed ratification of the Constitution, in part because giving the Supreme Court too much power to construe the laws would let them substitute their own pleasure for the law of the land.

President Thomas Jefferson said that "our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction."

Justice Scalia appears to be in some good obsessive company.

No one should assume that while originalism is relatively straight-forward to describe, it is either perfect or easy.

Writing in the University of Cincinnati Law Review just a few years into his Supreme Court service, Justice Scalia himself acknowledged that originalism is, in his words, not without its warts.

But it is consistent with, I would say compelled by, the principles underlying our form of Government.

And it is certainly better than the alternative, which puts judges rather than the people in charge of the law's meaning and the nation's values.

Let me emphasize that Justice Scalia's judicial philosophy is about the process of interpreting and applying the law, to whatever ends the law requires.

That process can produce results in individual cases that political conservatives or liberals will support or oppose.

But when the law, and not the judge, decides the outcome of cases, those who do not like the outcome can work to change the law.

When, however, the judge and not the law decides the outcome of cases, the people are nearly always left with no voice at all.

Justice Scalia's critics attack his judicial philosophy for the same reason he embraces it.

Originalism limits a judge's ability to make law.

The famed Senator and Supreme Court orator Daniel Webster once said that "there are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters."

Justice Scalia has often said that judges are no better suited to govern than anyone else, and certainly have no authority to do so.

Unelected judges, no matter how well-intentioned, do not have the power to be our masters.

The temptation and danger of judges making law reminds me of a scene in The Fellowship of the Ring, the first installment of the Lord of the Rings trilogy.

Gandalf the wizard has discovered that Bilbo's ring is indeed the One Ring of power and Frodo insists that he take it.

Gandalf wisely says: Understand Frodo, I would use this ring from the desire to do good. But through me, it would wield a power too great and terrible to imagine.

In that same spirit, Justice Scalia declines the power to make law.

As Hamilton put it, the great and terrible cost of judges rather than the people making law would be liberty itself.

Thomas Jefferson warned that by playing with the meaning of the Constitution's words, the judiciary would turn the charter into a mere thing of wax that they would twist and shape into any form they chose.

In the last 70 years or so, the judiciary has been doing a lot of twisting and shaping.

One of Justice Scalia's predecessors on the Supreme Court, Justice George Sutherland, was also one of my predecessors as a Senator from Utah.

Justice Sutherland wrote this in 1937:

> The judicial function is that of interpretation; it does not include the power of amendment under the guise of interpretation. To miss the point of difference between the two is to . . . convert what was intended as inescapable and enduring mandates into mere moral reflections.

In 1953, Justice Robert Jackson lamented what had become a widely held belief that the Supreme Court decides cases by personal impressions rather than impersonal rules of law.

Many people, conservatives as well as liberals, do not seem to mind this trend so long as it is their moral reflections and their personal impressions that are twisting and shaping the Constitution.

Many people, conservatives as well as liberals, applaud or criticize the Supreme Court when it amends the Constitution, depending on whether they like the Court's amendments.

Yet I ask my fellow citizens, both conservatives and liberals: would you rather have your liberty secured by moral reflections and personal impressions or enduring mandates and impersonal rules of law?

If you cede to judges the power to make law when you support the law they make, what will you say when judges—and they will—make law you oppose?

Liberty requires separating judges from lawmaking.

Liberty requires that judges take the law as they find it, with the meaning it already has, apply it to decide concrete cases and controversies, and leave the rest to the people.

Professor John Jeffries of the University of Virginia Law School writes that Justice Scalia "is the most nearly consistent of our judges. He cares more about methodology than is usual among judges, worries more about fidelity to the law laid down, feels himself more closely bound by external sources, and is more dedicated to a vision of constitutional law as something distinct and apart from constitutional politics."

That is precisely the kind of judge America needs on the bench.

The second thing I want briefly to describe, is what has been called Justice Scalia's judicial personality.

It animates, communicates, and gives practical force to his judicial philosophy.

It turns up the volume, making people sit up and take notice of what, from someone else, might be little more than some quiet ramblings at a seminar somewhere.

One way to describe Justice Scalia's judicial personality would be simply to read from his opinions.

Even while enjoying his powerful prose, however, this might miss the real point.

Justice Scalia's piercing logic, witty and provocative writing, verbal jousting in speeches and debates, and aggressive questions in oral argument are but means to an end.

He uses wit, humor, logic, sarcasm, and the rest to expose the premises and implications of arguments, to assert and defend important principles, and to make the necessary application of those principles absolutely inescapable.

Justice Scalia does not suffer fools gladly, nor will he ignore the man behind the jurisprudential curtain.

His judicial personality makes his judicial philosophy more potent and, quite frankly, impossible to ignore.

As a result, the adjectives attached to his name by media, political activists, and commentators seem to be multiplying, as if a single descriptive—or even two or three—just will not do.

Some call him outspoken, provocative, or fiery; others say he is aggressive, engaging, and articulate.

One profile said he is colorful, controversial, and combative; another said he is testy, witty, and sarcastic.

If adjectives are a measure of one's presence, Justice Scalia is very present indeed.

Justice Scalia is also a funny man.

What is not to like about a judge who uses words such as pizzazzy when talking about constitutional interpretation?

I had no idea how to spell pizzazzy until I read it in one of Justice Scalia's speeches.

Following our modern penchant for everything statistical, we also have empirical evidence that Justice Scalia is indeed the funniest member of the highest court in the land.

Professor Jay Wexler at Boston University Law School examined transcripts of Supreme Court oral arguments, noting when they identified laughter.

During the October 2004 term, Justice Scalia was way ahead of the laugh pack, good for slightly more than one laugh per session.

Finally, I want to address Justice Scalia's judicial impact in two respects.

The first is the impact that comes directly from him, from his judicial personality propelling his judicial philosophy.

One biography cites an unnamed Supreme Court observer noting that if the mind were muscle, Justice Scalia would be the Arnold Schwarzenegger of American jurisprudence.

The inherent power of the principles on which Justice Scalia stands, propelled by the way in which he asserts and defends them, force us confront, whether we like it or not, the issues most basic to a system of self-government based on the rule of law.

As a result, Harvard law professor John Manning writes, Justice Scalia has had a palpable effect on the way we talk and think about the issues of judicial power and practice.

In addition to the immediate work of judges, which is to decide cases, Justice Scalia has prompted, poked, and prodded us to grapple more seriously with these fundamental issues.

But he is not simply a judicial provocateur. When he enrages, he also engages. If Justice Scalia had no impact, he would get no attention. Even the commentators that call him a bully, or worse, feel they have to call him something. His harshest critics know they cannot ignore him.

Scholars or political activists can no longer simply describe the political goods they want judges to deliver, they must defend why judges have the authority to deliver those goods.

Justice Scalia has helped lead this transformation by so powerfully and consistently arguing that the political ends do not justify the judicial means.

As a result, the left-wing groups that today fight President Bush's judicial nominees often use Justice Scalia as the bogey-man, the model they say America must avoid.

To borrow an image from one of Justice Scalia's many famous dissenting opinions, he is used by some as the proverbial ghoul in the night, used to scare citizens and small children.

Somehow, I think, that is fine with Justice Scalia because, even as a foil, his judicial philosophy must be reckoned with.

He is indeed a happy warrior.

His speech at Harvard in September 2004 was typical.

According to news reports, nearly three times as many sought tickets as obtained them and he held the rapt attention of a standing-room-only crowd.

Legal scholars from across the political spectrum concede Justice Scalia's impact.

Professor Michael Dorf of Columbia Law School, for example, says that because of Justice Scalia's influence, we start more often with text rather than its history when looking at written law.

America's founders, it seems to me, assumed that judges would always start with the text and be kept in check because the meaning of that text already exists.

This is why America's founders could call the judiciary the weakest and least dangerous branch.

Putting statutory text ahead of statutory history would be a judicial no-brainer to them.

If Professor Dorf is correct, we should first lament that the courts had gotten so far off course and then cheer Justice Scalia for helping point the way back.

The second, more general, way of looking at Justice Scalia's impact has a human face.

Like every Federal judge, Justice Scalia each year has the assistance of law clerks, those super-brainy, hyperkinetic workhorses who seem able to leap a courthouse in a single bound after virtually no sleep.

As his Judiciary Committee hearing opened 20 years ago, Justice Scalia introduced his law clerk Patrick Schiltz who had helped him prepare and who would go on to clerk for him on the Supreme Court.

Several months ago, this body confirmed Patrick Schiltz to be a U.S. District Judge in Minnesota.

In 2004, we confirmed Mark Filip, who clerked for Justice Scalia during the October 1993 term, to be a U.S. District Judge in Illinois.

In 2003, we confirmed Jeffrey Sutton, who clerked for Justice Scalia during the October 1991 term, to the U.S. Court of Appeals for the Sixth Circuit.

Justice Scalia must be proud of these former clerks who now sit on the Federal bench, and the many who have argued cases before him, even when he might vote against their position or reverse one of their decisions.

Justice Scalia's former clerks are now serving in many significant positions throughout the country.

They are partners at the Nation's leading law firms, on the faculty of the Nation's leading law schools, and heading legal teams at the Nation's major corporations.

Some, such as Solicitor General Paul Clement, serve in the top tier of the executive branch.

Ed Whelan, who clerked for Justice Scalia during the October 1991 term, served as my counsel when I chaired the Judiciary Committee and is now president of the Ethics and Public Policy Center here in Washington.

Through these talented and dedicated men and women who have served in his chambers, Justice Scalia's impact extends far beyond the halls of the Supreme Court.

Mr. President, I have received letters from some of Justice Scalia's former law clerks offering their own thoughts, reflections, and congratulations on this important anniversary.

I ask unanimous consent that they be made part of the record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. While I have just scratched surface, my time is almost gone.

Justice Antonin Scalia is the kind of judge America needs and the kind of man Americans would want living next door.

He considers aggressively and defends passionately the principles responsible for the ordered liberty that makes America the envy of the world.

He refuses to let politics supplant principle and with a confident humility, or perhaps a humble confidence, submits himself to the rule of law and the collective judgment of his fellow citizens.

In the process, by the force of the principles in which he believes and the personality with which God has blessed him, Justice Antonin Scalia has made our liberty more secure, our citizenry and leaders more responsible, and given us all plenty to ponder, and chuckle about, along the way.

Mr. President, I have such respect for the Federal judiciary. I have such respect for those who interpret the laws rather than make them. Justice Scalia is at the head of the pack.

Justice Scalia, congratulations on your first 20 years on the Supreme Court. Thank you for all you continue to do for our Nation

EXHIBIT 1

SEPTEMBER 21, 2006.

Senator ORRIN HATCH.
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I am writing you on the occasion of Justice Antonin Scalia's twentieth anniversary as a member of the United States Supreme Court to reflect on some of the enormous contributions the justice has made to our public life during his service on the Supreme Court. I first met the justice almost twenty-five years ago at the very first Federalist Society conference ever held which was at Yale Law School. I was struck then and am struck now by his vivacious intellectual manner, his tremendous enthusiasm and energy, and by his sharp wit. Justice Scalia is a brilliant man of many talents, and he is in my view the intellectual leader of the Court. I thought I would write you this letter to describe some of the many ways in which Justice Scalia has distinguished himself on the Supreme Court.

First, the justice is one of the most gifted writers ever to serve on the Supreme Court of the United States. Not since Justice Robert Jackson has anyone served on the Court with such a gift and flair for writing. Since his appointment to the Court on September 26, 1986, Justice Scalia has emerged as a brilliant, outgoing, and very outspoken Justice. His sharp and pointed opinions, which all too often are dissents, include many memorable lines. From the beginning, Justice Scalia has also been a very active participant in the Court's oral arguments where he asks probing and effective questions.

While serving on the Supreme Court, Justice Scalia became the most active proponent of originalism among the justices, and it is fair to say he is the leading proponent of originalism in American law today. Originalism is, of course, the theory that constitutional language should be interpreted according to the original meaning the relevant words had when they were enacted into law. Justice Scalia defended this theory in an important public lecture which was published under the title Originalism: The Lesser Evil and then in a book called A Matter of Intepretation: Federal Courts and the Law. Justice Scalia's originalism is evident in many of the most important decisions he has written or joined including his opinions rejecting the use of substantive due process in abortion, homosexual rights, or assisted suicide cases. On criminal law and procedure cases, Justice Scalia's originalism has sometimes led him to favor criminal defendants claims with respect to issues such as the right to jury trial in sentencing, in determining the scope of the Confrontation Clause, and in evaluating whether the President has power to detain citizens who are enemy combatants without a court hearing.

Justice Scalia has qualified his support for originalism in two important ways which illustrate his intellectual depth and contribution to legal theory. First, he has made it clear in constitutional cases that it is the original meaning of the text which controls and not the original intentions of those who wrote the text. Justice Scalia applies this approach as well in statutory interpretation cases where he has led a campaign for formalism and against any reliance on legislative history. Justice Scalia's formalism has had a big effect on the Court, and the justices make much less use now of legislative history than they did when Justice Scalia was first appointed. The revival of formalism is thus another major accomplishment of the Justice's during his twenty year tenure on the Supreme Court.

Second, Justice Scalia has also argued that when the original meaning of the constitutional text would enmesh judges in balancing judges ought in those cases to announce a minimalist rule to further judicial restraint. As a result, Justice Scalia rejects on judicial restraint grounds allowing judges to assess the proportionality of punishments under the Eighth Amendment or the necessariness of federal laws under the Necessary and Proper Clause or the unconstitutionality of broad delegations of power to the executive under the non-delegation doctrine. Justice Scalia has defended his approach in an important law review article called The Rule of Law as a Law of Rules. In this article, Justice Scalia makes it clear that when the original meaning of the text would enmesh judges in balancing he thinks they should abstain from acting instead. This too is a major contribution to the theory of judicial restraint in judging.

Justice Scalia's most important opinions on the Court include: his dissent in Planned Parenthood of Pennsylvania v. Casey, where the Court reaffirmed Roe v. Wade and his dissent in Morrison v. Olsen, where the court upheld the constitutionality of court appointed special prosecutors. The Morrison dissent amusingly came to be hailed by liberals as prophetic during the Clinton impeachment proceedings, and it helped lead to a situation where the political branches jointly decided to junk the special prosecutor law in 1999. Other very important Scalia opinions include: his majority opinion in Printz v. United States; his concurrence in Bush v. Gore; and his dissents in Romer v. Evans and in Lawrence v. Texas. Justice Scalia was also a critical fifth member of the majority which found that flag burning was protected speech under the first Amendment. In recent years, Justice Scalia has led a campaign to preclude the Court from relying on foreign law in many constitutional cases. But most important of all, no other justice who has served on the Court since Justice Scalia's appointment in 1986 has ever been able to match him in his intellectual leadership of the Court or in writing ability. A brilliant mind and a sharp pen have guaranteed Justice Scalia a place in American history as one of our most influential justices.

Best wishes,

STEVEN G. CALABRESI,
Professor of Law.

NEW YORK UNIVERSITY
SCHOOL OF LAW,
New York, NY, September 24, 2006.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I am pleased to join the celebration of the 20th anniversary of Justice Scalia's swearing in as a Supreme Court Justice by submitting this letter to the Congressional Record. Although it is somewhat ironic that this tribute to Justice Scalia will be contained in pages of legislative history that he so often derides, I think even he will be convinced that, in this instance, the legislative history is authoritative. After all, if, as he has noted, the use of legislative history is "the equivalent of entering a crowded cocktail party and looking over the heads of the guests for one's friends," he will see many friends and admirers today. I proudly include myself in that group. Justice Scalia has been a valued mentor and serving as his law clerk was an honor I will always treasure.

All of the Justices play a significant role during their time on the Supreme Court by virtue of their votes in the important cases of the day. But most Justices fail to leave a lasting imprint on the law that goes beyond those votes. Justice Scalia's jurisprudence, in contrast, will long outlast his time on the bench. For he has spent his twenty years on the Court not merely voting in important cases; he has been articulating his vision of the Court's place in the constitutional order. Anyone interested in the Supreme Court—from legal scholars to litigants, politicians to pundits—must reckon with his impassioned and intelligent defenses of originalism and textualism. These methodologies have never had a more brilliant advocate on the bench, and generations of law students will wrestle with the arguments he has developed in his opinions. Whether you agree or disagree with Justice Scalia's jurisprudence, there is no denying the brilliance or coherence of his vision of the Supreme Court.

It is important to note that this clarity has not come without costs to the Justice. It takes courage for a judge to stake out a clear position on what methodology he or she will follow in constitutional and statutory cases. For this transparency allows outside observers to assess the judge's performance by a clear metric. It is so much easier for a judge to take each case as it comes without declaring an overarching method or approach. This flexibility allows the judge to change positions from case to case and vote his or her preferences without much constraint. Justice Scalia has not allowed himself that indulgence. Even if we cannot predict his vote in a given case, we know how to judge his performance, for he has told us in no uncertain terms the values he seeks to uphold and the approach he is committed to follow.

I will let history assess how each of the Justice's votes has measured up to the standards he has set for himself. But two things are clear. First, there are countless examples that prove the Justice's fealty to his methodolpgical commitments. The Justice has not shied away from the consequences of his chosen methodologies, even when it has meant overturning an anti-flag burning law in Texas v. Johnson, 491 U.S. 397 (1989), or rejecting the government's attempt to deprive an American citizen accused of terrorism of his procedural rights in Hamdi v. Rumsfeld, 542 U.S. 507 (2004). There are numerous other illustrations of his commitment, including a multitude of criminal law cases where the Justice has protected the rights of defendants. These cases demonstrate that the Justice is not merely a great intellect; he has the courage of his convictions.

Second, and more importantly, regardless of how Justice Scalia himself has performed under the standards he has set for himself, we must thank the Justice for articulating those standards brilliantly, cogently, and colorfully for twenty years. His opinions are not only educational, they are engaging. They make us think about the role of the Court in our democracy, the nature of rights, and the balance of power in government. His opinions are also beautifully written; he is a master artisan of the craft of judicial opinion writing. Whether his opinions prompt howls of delight or screams of disgust, they are full of life, just like the Justice himself.

I hope we can look forward to at least twenty more years of Justice Scalia's service. But even if he served not a day more, his place in history is both assured and well-deserved.

Sincerely,

RACHEL E. BARKOW,
Associate Professor of Law.

BOSTON UNIVERSITY
SCHOOL OF LAW,
Boston, MA, September 25, 2006.

Senator ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: One of the greatest privileges of my life was the opportunity to clerk for Justice Antonin Scalia, who has now reached his twentieth year on the Supreme Court. He taught me lessons about law, writing, and life that I will always value. I am particularly fond of two of his favorite sayings that he would trot out when pointing out to law clerks some deep complexity that they had missed: "Nothing is easy" and "It's hard to get it right." Right answers, in law and elsewhere, do not come from slogans, party platforms, or warm feelings. They come from hard work, intellectual rigor and honesty, and a willingness to check premises and follow arguments where they lead. Justice Scalia's example in this regard was, and still is, inspiring.

I also recall—more fondly with distance—Justice Scalia's practice of checking every citation that his clerks put into a draft. Justice Scalia's meticulous concern for accuracy is truly remarkable, and the world would be a better place if more people shared it.

It has been a pleasure and an honor for me to watch this man and this mind in action. I am grateful for the opportunity to recognize one of the finest people ever to sit on the United States Supreme Court.

Sincerely,

GARY LAWSON,
Professor of Law.

SEPTEMBER 26, 2006.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I write to join you in extending congratulations to Justice Scalia on the occasion of his twentieth anniversary on the Supreme Court of the United States. I had the great privilege to clerk for Justice Scalia during his third term on the Supreme Court, October Term 1988. As a teacher of various separation of powers courses, first at Columbia and now at Harvard Law School, it has been a happy part of my job to follow his career closely. Although it is impossible to capture Justice Scalia's many achievements in a brief tribute, it is worth noting just one of the ways he has managed to change not only the law, but also the way we think about the law.

I refer to the rules of the game by which judges read legislation. When I graduated from law school one year before President Reagan (with the Senate's advice and consent) appointed Justice Scalia to the Court, the question of legitimacy lay deep in the background of the way federal judges approached Congress's handiwork. Although the dominant way of thinking about the law was known as the Legal Process school, little was said about the relationship between the legislative process and its output. The central precept of the time was that judges should be guided by notions of "reasonableness." If legislation was awkward in relation to its apparent purpose, judges should make it more coherent and smooth out its rough edges. Who could be against that? Surely, no one could object to reasonableness in the abstract.

The difficulty is this: Those in your line of work know all too well that in the popularly elected bodies to which our Constitution wisely assigns the task, lawmaking requires compromise. Although sometimes the word "compromise" is used pejoratively as the opposite of "principle," the fact is that compromise represents the way that a society as large and diverse as ours works out the inevitable disagreements that people of good faith have about the way we should solve the most pressing problems that we face. Sometimes compromises—good, socially valuable, even life-saving compromises—are awkward, rough-hewn, and uneven. The Court's former impulse to smooth out the rough edges of legislation—to make it always "reasonable," no matter what the text required—ignored that reality.

No one drove this lesson home more forcefully than Justice Scalia. Twenty years ago, he began to try to persuade his colleagues on the bench and at the bar that the clear import of the enacted text best captures the lines of compromise that legislators work so hard to reach. In the old days, the Court was prone to say that even the clearest text had to yield to some often ill-defined "spirit" or "purpose" that judges perceived to lie behind a statute. See Holy Trinity Church v. United States, 143 U.S. 457, 459 (1892). Today, the Court is much more likely to emphasize that "[t]he best evidence of [statutory] purpose is the statutory text adopted by both Houses of Congress and submitted to the President." West Virginia Univ. Hosps., Inc. v. Casey, 499 U.S. 83, 98-99 (1991). Or it might explain that judges "are bound, not only by the ultimate purposes Congress has selected, but by the means it has deemed appropriate, and prescribed, for the pursuit of those purposes." MCI Telecomms. Corp. v Am. Tel. & Tel. Co., 512 U.S. 218, 231 n.4 (1994). In short, the Court now recognizes that the compromises brokered in a complex, untidy, but ultimately democratic process of passing legislation are not for federal courts to second-guess.

That change in judicial practice, I submit, is a healthy one. It is much more respectful of the kind of democracy our Constitution adopts. It is much more respectful of the wise process by which you and your colleagues make law—a process whose rules of procedure and whose practices quite obviously stress the importance of compromise. Greater judicial respect for that legislative reality has grown during, and because of, Justice Scalia's tenure on the Supreme Court. It is one of the many things for which Justice Scalia—and the Senate, which confirmed him without dissent—have reason to be proud.

Thank you for the opportunity to join you in celebrating Justice Scalia's first twenty years on the Court.

Very truly yours,

JOHN F. MANNING.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH)

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. I ask unanimous consent to proceed as in morning business for up to 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S SECURITY

Mr. BOND. Mr. President, today we are speaking about security. The major topic of discussion has been, are we safer today? Well, we are safer because of the actions this administration and the Congress have taken, backed up by our brave Americans in the military, intelligence, and law enforcement agencies.

But recently, there has been another politically motivated selected leak of classified information. Regrettably, I am talking about the National Intelligence Estimate, a fraction of which was reported on in the New York Times and, I believe, misinterpreted.

Beside the fact that leaks of this nature, 6 weeks before elections, are clearly politically inspired, these leaks are also illegal and they make the job of our intelligence agency operatives even more difficult. For example, how can intelligence operatives report on the strengths and weaknesses of our allies when those conclusions will be spread on the record? Our policymakers need to know, but what good is it to tell the world what we think about the people we depend upon?

With that said, I have read the NIE in question. It is not what the paper and some on the other side and the media say it is. Some of our Democratic colleagues would like Americans to believe that the document confirms what the Democrats believe—that the war in Iraq is simply a distraction from and has nothing to do with the war on terror, and that is the reason for the growth of radical Islam. This is simply a pitiful election year misinterpretation of a serious document.

It is clear that critics want Americans to have only a portion of the truth. That is unfortunate, but that is what happens when some people simply see intelligence matters as another tool to aid them in the fall elections.

As I said, I have seen the NIE, which is a lengthy 35-page document. It remains classified, so we cannot discuss its contents, although the President announced that some of it will soon be declassified.

Although it is a shame that dishonorable leakers have put us in this position, I believe declassifying the relevant portions of the document so that the American people will have a more balanced perspective on what the document truly says is necessary.

The fact is the war on Iraq is a central front in the struggle against radical Islamists. Our successes in Afghanistan and Iraq have made us much safer in our homeland. There have been no attacks since 9/11. We have destroyed their safe havens, interrogated detainees, tracked terrorist financing, and listened in on al-Qaida calls in the U.S., followed up by agency, law enforcement, and military personnel.

Iraq is not a distraction from the war on terror; it is now central to the war on terror. You don't have to take my word for it; that is the word of Osama bin Laden's primary deputy, Ayman al-Zawahiri. He wrote this to the late head of al-Qaida in Iraq, Zarqawi. We intercepted that in a raid months ago. So their deputies echoed the sentiments.

They believe the war in Iraq is their best chance in the war on terror, and I believe that once you see more of the NIE, you will see it conveys that message with a warning that if we lose in Iraq, terror threats from radical Islamists will dramatically increase.

There is no greater motivation than success. If the radicals are able to claim success in Iraq, I believe we will see a geometric increase in radical recruitment as we have never seen before.

At first, Democrats argued that Iraq had nothing to do with the global war on terror. Now they are grasping at a selectively leaked portion of an NIE, claiming that Iraq is central to terrorism because of our efforts there. You cannot have it both ways. Does Iraq or does it not have something to do with the war on terror? It is clear it does.

Iraq supported terrorists before the war, and terrorists are there now. Iraq was a state sponsor of terrorism and paid the families of suicide bombers. Was Iraq the primary backer of al-Qaida? No, but Saddam Hussein supported terrorism, and that is what this is about—all groups who use terror to attack America. And they must be dislodged.

In April, about the same time the NIE was produced, current CIA Director Michael Hayden, then the Deputy Director of National Intelligence, best summarized why Iraq is crucial to winning the global war on terror. In his speech in Texas, he addressed the subject we focus on today. He said that while the war in Iraq may inspire or motivate terrorists now, the failure of the terrorists in Iraq would weaken the movement elsewhere.

He continued saying that, should jihadists leaving Iraq perceive themselves, and be perceived, to have failed, fewer fighters would step forward to carry the fight.

He went on to explain the terrorists' greatest vulnerability—the fact that the terrorists' ultimate goal of establishing an ultraconservative religious state spanning the Muslim world is unpopular with a vast majority of Muslims.

General Hayden stated that the emergence of a Muslim mainstream, such as the one we are building in Iraq, could emerge as the "most powerful weapon in the war on terror."

Whatever one believes about how we got where we are now, one thing is clear: The war in Iraq and the global war on terror are part and parcel of the same thing.

Some on the other side of the aisle, and some in the media, may try to use selected leaks and political spin and half truths to cynically win votes in the election, but their efforts grossly distort reality.

If we win in Iraq, moderate Islam wins and bin Laden and other extremists will have been handed a sound defeat that will have profound repercussions.

The terrorists realize this. That is why they are there, and that is why we are fighting them on their turf before they have the opportunity to regroup and assault us on our turf.

There is no way the United States can afford to let the terrorists have their way in Iraq. That means we cannot cut and run, or establish a politically driven withdrawal date, before Iraq's security forces can control the country. Were we to do that and were the place to fall into chaos, not only would sectarian strife arise, but it would become a training ground and feeding ground for terrorists once again, and they would be emboldened, as they were after we pulled out of Somalia. That sign of weakness would be a sign for terrorists to get mobilized and get working on it.

Success in Iraq is essential. Sure, people are motivated on both sides by the war, but the only answer to that is to win, make sure that we prevail and protect freedom, democracy, and integrity throughout the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I ask unanimous consent for 30 minutes, to be equally divided into 10-minute parcels, to the Senator from New Mexico, the junior Senator from New Mexico, and the Senator from Tennessee, Senator ALEXANDER, and that we speak in that order for 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL COMPETITIVENESS INVESTMENT ACT

Mr. DOMENICI. Mr. President, while we in the Senate have been busy doing many things and our minds have been all over the world, literally, with the war in Iraq and all kinds of things that have come before us and to us for consideration, we have been confronted with a very exciting opportunity for America and America's future.

We have been listening to and acting on a rather remarkable effort involving three Senate committees, with valuable contributions from a number of other committees and a number of Senators from many committees. All of these Senators and all of these committees have worked to write this legislation and are deeply concerned about maintaining our Nation's ability to compete in the high-tech global marketplace.

Today I join a bipartisan group of Senators in speaking about legislation that will be introduced later tonight by the distinguished majority leader and the minority leader. They will introduce the legislation later this evening. Its name will be the National Competitiveness Investment Act, and its number is S. 3936.

All of us worked on this legislation because we are deeply concerned about America maintaining it's ability to compete in the high-tech global marketplace.

One year ago, the National Academy of Sciences released a report that highlighted the urgency of the challenge. It was called "Rising Above the Gathering Storm" report, which was written by a distinguished committee chaired by Norm Augustine, former chairman of Lockheed Martin. His committee included three Nobel laureates, presidents of leading universities, and chief executive officers of multinational corporations.

The charge to Mr. Augustine and his committee was to develop a specific list of policy recommendations to bolster U.S. competitiveness. After an intensive 10 weeks of effort, the committee produced and recommended an impressive report with a list of 20 recommendations.

The recommendations all address a central problem; that is, we are not doing enough to harness and develop our national brainpower. The report recommends significant increases in our investments in science and mathematics education at all levels—kindergarten through high school, college and graduate school.

The bill that will be introduced later tonight, as I have indicated, contains provisions to address nearly every one of the recommendations of the Augustine report. Many of these provisions were included in the Protecting America's Competitiveness Edge, or PACE, legislation, which I introduced in January along with Senators BINGAMAN, ALEXANDER, MIKULSKI, and an additional 61 cosponsors.

Through this new legislation, we are going to put the Augustine report's recommendations into action. We will authorize a doubling of research dollars to each research agency, including the Department of Energy, Office of Science, National Science Foundation, and the National Institute of Standards and Technology.

As chairman of the Energy and Water Appropriations Committee, I was pleased I was able to slightly exceed the President's request for a 14-percent increase in the Office of Science in fiscal year 2007, putting it on a track to double in a decade, which is the goal and objective of the Norm Augustine report. The NCIA, which it will be called, also includes provisions that will build on the educational program sponsored by the Department of Energy, by engaging the facilities and scientific workforce of the national laboratories, and these educational programs will help ensure that we are preparing today's young people for the demands of tomorrow's high-tech workplace. The NCIA is a good partner to the President's initiative. I applaud the President for his bold vision which he expressed to us in his State of the Union Address, and which we have built upon in the legislation we are talking about today.

I applaud the President for his bold vision and leadership in the issue of U.S. competitiveness, which is so serious and about which many of us worry, because we know that without our remaining competitive, America has no chance in a world which is built on competitiveness. We need to take action to support our standard of living and to ensure that we continue to grow and prosper. If we do not, we can expect other nations to rival our global competitiveness and one day to surpass us without a doubt.

I ask unanimous consent to have printed in the RECORD a chart I have prepared which examines and compares side by side the National Competitiveness Investment Act to the Augustine National Academies report and the administration's American Competitive Initiative to show how this bill compares with each of those.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIPARTISAN SENATE, NATIONAL COMPETITIVENESS INVESTMENT ACT, COMPARISON TO THE AUGUSTINE NATIONAL ACADEMIES REPORT AND ADMINISTRATION'S AMERICAN COMPETITIVENESS INITIATIVE, SEPTEMBER 2006

Category	Rising above the gathering storm	National Competitiveness Investment Act	Administration ACI
Increase talent pool by improving K-12 science/math Education.	Recruit 10,000 science & math teachers w/4 year scholarships.	√ Robert Noyce Scholarship Program to recruit and train math/science teachers $700 million/5 years.	
	Train 250,000 teachers via summer institutes, masters programs to teach AP/IB.	√ NSF Teachers Institutes, DOE Lab Teacher Institutes, $400 million/5 years. Noyce Scholarship Teacher Masters Program (DoEd), $165 million/5 years NSF Graduate Research Fellowship, $180 million/5 years	
	Increase # of students who take AP and IB science and math courses.	√ AP and IP Grants $58 million/2 years	"Math Now" $147 million/year FY 2007 and 2008
Strengthen the nation's traditional commitment to research.	Increase Federal investment in fundamental research by 10% a year for 7 years.	√ DOE/NIST/NSF NASA/NOAA, 9.8%/year over 5 years	8%/year over 10 years DOE/NIST/NSF only
	Provide $500K/year over 5 years to each of 200 top early-career researchers.	√ $100 K/year	X
	Create Coordination Office to manage $500m research-infrastructure fund.	X	X
	Allocate 8% of the budgets of Federal research agencies to discretionary funds.	√	X
	Create within DOE an organization like DARPA	√	X
	Institute a Presidential Innovation Award program	√	X
Increase talent pool by improving higher education	Provide 25,000, 4-year competitive undergraduate scholarships.	X	
	Fund 5,000 graduate fellowships for U.S. citizens in "areas of national need".	√ PACE Fellows, $98 million/5 years Fellows + IGERT, $91 million/year	
	Provide tax credit to employers for employee S&T continuing education.	Not Applicable, Finance Committee jurisdiction	
	Continue improving visa processing for international students and scholars.	Passed as part of Senate Immigration Bill	
	Extend stay of intl. students with PhDs in science/math to remain and seek employment.	Passed as part of Senate Immigration Bill	
	Institute a new skills-based, preferential immigration option.	Passed as part of Senate Immigration Bill	
	Reform current system of "deemed exports" so foreign researchers have same access as non-cleared U.S. citizens.	Issue has been resolved through administrative procedures in consultation with Committees.	
Improve incentives and infrastructure for innovation	Enhance and reform intellectual-property protection system.	X	
	Enact a stronger R&D tax credit	Not Applicable. Finance Committee jurisdiction	
	Provide tax incentives for U.S. based-innovation	Not Applicable. Finance Committee jurisdiction	
	Ensure ubiquitous broadband Internet access	X	
Five Total Authorizations		$72.8 billion	$71.4 billion [2]
Five Year Net additional authorizations		$20.3 billion [3]	NA

[1] Unofficial CBO draft bill estimate, September 15, 2006.

[2] OMB "Comparison of PACE Administration's Budget," July 2006.

[3] Majority Staff estimate—assumes no inflation adjustment to FY 2007 authorizations.

Mr. DOMENICI. Mr. President, I think it is good to summarize by saying that S. 3936 contains all but one of the provisions that are contained in the 20 suggestions made to us by the Augustine report, which has been heralded by so many to be such a vital piece of legislation which we ought to adopt and implement so as to keep our country free and competitive in a very changing world.

Mr. President, I yield the floor to Senator BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank my colleague, Senator DOMENICI, for his comments, and I join him and Senator ALEXANDER and many other colleagues who have cosponsored this legislation and congratulate our majority leader, Senator FRIST, and our minority leader, Senator REID, for their leadership in getting this issue introduced into the Senate. I hope very much this bipartisan effort can succeed and that before the end of the 109th Congress, we can see this legislation on the President's desk for signature.

This bill is the result, as Senator DOMENICI said, of a close, cooperative effort by three of our Senate committees: the Energy and Natural Resources Committee, which Senator DOMENICI chairs and of which I am the ranking member, and Senator ALEXANDER is on that committee as well; the Commerce, Science, and Transportation Committee; and the Health, Education, Labor, and Pensions Committee. I commend the staffs of those committees for their hard work in producing this legislation, as well as the personal staffs of all Senators involved.

As Senator DOMENICI pointed out, this is a major piece of legislation which arises out of the good work that was done by the National Academies. This report which was done there made a series of recommendations which are clearly specific which will intend to put the country on a track to reverse some of the unfortunate trends we have seen in connection with our ability to compete with other countries in the world.

Senator DOMENICI, Senator ALEXANDER, Senator MIKULSKI, and I introduced three bills in January of this year in order to put into legislative form the recommendations of the National Academies report. Each of these bills went to a different committee.

Since all three of us on the Senate floor today are members of the Energy Committee and since Senator DOMENICI chairs that committee, we were able to move more quickly in the Senate Energy and Natural Resources Committee with the legislation that was assigned to that committee, S. 2197, which authorizes a number of programs to strengthen the Department of Energy's role in promoting stronger math and science education from kindergarten through graduate school. It creates a Director for Math and Science Education in the Department of Energy. The bill strengthens the role of our national laboratories in this K-12 math and science education. It authorizes a program whereby national laboratories adopt a nearby school to increase its math and science proficiency.

The bill goes on and on with other initiatives which are taken directly from the recommendations of the Augustine commission that was referred to earlier. These provisions that are in S. 2197 have remained largely intact in the legislation that is being introduced today. In some cases, we had to reduce the authorization levels so that the increases to particular programs were ramped up over a period of time instead of suddenly doubling existing programs as had been recommended.

In the education area, the National Academies report assigned highest priorities to this need to strengthen K-12 math and science education, and this legislation does so in a variety of ways. Senator DOMENICI elaborated on some of those. I will not go into great detail about them, but they are directly taken from the National Academies report.

We are all aware here in the Senate that we operate on two different tracks: we operate on the track of authorizing legislation and the track of appropriating legislation. The legislation we are talking about today and introducing today is authorizing legislation, so it is only one of the steps needed in order to get action accomplished here in the Congress. But it is an important step, and it is particularly important when you are setting a long-term goal.

That is what this legislation attempts to do: It tries to look long term. It tries to say that we need to ramp up our investment in these critical areas of concern so that 5 years from now, 10 years from now, we will see a change in these trend lines which have so concerned the National Academy of Sciences as well as many of us here in the Congress.

This bill authorizes $73 billion to be spent over 5 years to maintain our Nation's competitive edge. Of that, about $20 billion is considered new funding; that is, it is funding above the 2006 level at which we are today. These are only authorizations. It is not an appropriation. It is going to be our job, and it is not an easy job, but it is going to be the job of the Congress not only to appropriate these new moneys we are here authorizing but also to make sure those moneys are not appropriated at the expense of other important programs in the Department of Education or in the National Science Foundation or in the Department of Energy. I think we are all aware that this has to be new money in a genuine sense of that term.

Again, I thank my colleagues for joining in this bipartisan effort. I believe this is a very good piece of legislation. It is an important piece of legislation. Often we allow the urgent to crowd out adequate consideration for the important items that ought to be on our agenda. This is an exception to that. This is a case where we are giving attention to the important issues.

Let me particularly single out for praise Senator ALEXANDER. He has, at every step in this process, been pushing to get this initiative one step closer to the goal line. I compliment him for doing that. I compliment him for the introduction of this legislation today, and I compliment all my other colleagues who have been so cooperative in seeing that happen as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the Senator from New Mexico and the senior Senator from New Mexico for their leadership and their comments. This is important legislation.

It is worth pausing today to notice that this is legislation which will be introduced tonight by the majority leader of the Senate, Senator FRIST, and by the Democratic leader of the Senate, Senator REID. There are not very many things this year in this Congress that have been introduced by our distinguished two leaders. They do that for a reason. They usually don't even cosponsor legislation. But they have decided that in this case, this issue is so important that they wanted to send a signal to our country, to the rest of us in the Senate, to the Members of the House of Representatives, to all of us.

The Presiding Officer and I deeply believe it is urgently important for our country to do what it takes to keep our edge in science and technology so we can keep our share of good-paying jobs in the United States of America and not see them go overseas to China and India and other places. This is the way to do that, and this is an important beginning. It would not have happened but for Senator DOMENICI and Senator BINGAMAN and a variety of other Senators—so many, it is hard to mention them all. In fact, the reason I think the bill is having such success as it moves through the Senate is that it has so many fathers and mothers, it is not possible to tell who they are because this is a subject matter which many Senators have been working on for a long time.

This bill is about growing our economy, creating as many good new jobs as we can, so that in 20 years we don't wake up and wonder how countries such as China and India passed us by. This is a pro-growth investment. This $20 billion of new spending over 5 years is as much a pro-growth investment as a tax cut is.

In my experience as a Governor of a State, we had low taxes, and that helped to create new jobs. But we also needed to make investments in centers of excellence and good teaching and distinguished scientists because we knew what most of the world now is learning: most of our good new jobs come from brainpower, from our advantage in science and technology. We are in a constant state of losing jobs every day as most healthy economies are. So the key to our success is how many good new jobs we can create, and the key to that is our brainpower advantage.

We are not the only ones in the world who understand this. We have a Democratic leader who understands it. We have a Republican leader who understands it. We have a President of the United States, President Bush, who understands it and who made it a central part of his State of the Union Address. But let me mention just one other President who understands it.

Just about a month ago, a group of Senators, led by Senator STEVENS and Senator INOUYE, traveled to China. We met with the President of China, President Hu Jintao. We also met with the Chairman of the National People's Congress, the No. 2 person in China, Mr. WU. Just 2 months earlier, in July, President Hu went to the Chinese Academy of Sciences and the Chinese Academy of Engineering to outline a new 15-year plan to make China the technology leader in the world. In his speech, the President of China said China must:

> Promote a huge leap forward of science and technology; we shall put strengthening independent innovation capability at the core of economic structure adjustment.

His plan included reforming China's universities and massively investing in new research.

The President of China concluded his speech this way:

> We all bear the time-honored mission to provide strong scientific support for the construction of a well-off society by improving our independent innovation capability and building an innovative country. I hope that our scientists and technicians will strive hard to make brilliant achievements and constantly contribute to our country and the people.

Mr. President, I ask unanimous consent that the complete remarks of President Hu to the Chinese Academies of Science and Engineering in July be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALEXANDER. We met with President Hu for about an hour, those of us from the Senate. We talked about a variety of issues with him: North Korea, Iran, Iraq. He was more animated about this subject than any other subject, which is why I suppose we had 70 Senators—35 Democrats, 35 Republicans—who cosponsored the Domenici-Bingaman bill that was the Augustine report. We all understand it is very important.

We have seen what is happening in India. India is another great country with a distinguished group of scientists, and they now recognize if they want a bigger share of the world's economic pie, the way to do that is through science and innovation.

The challenge America faces today is really a challenge about brain power and jobs. I appreciate the way the Augustine report especially put this into perspective. It didn't say the United States of America is about to fall off a cliff or that China and India are going to catch us tomorrow. It said we face a gathering storm.

We need to realize how fortunate we are in the United States of America when it comes to our standard of living. We constitute between 4 percent and 5 percent of the world's population. Last year we had 28 percent of the world's wealth. The International Monetary Fund says the gross domestic product of the United States last year was 28 percent of the global total for just 4 to 5 percent of the people.

The average Chinese person probably has a share of the gross domestic product that is one-twentieth of the average American. By some estimates, China may be moving fast enough to have a gross domestic product as big as that of the United States by the year 2040. But even then, the average American's share of that amount of wealth will be four to five times as much as that of the average Chinese person. So we are not about to fall off the cliff.

But at the same time, we know if we want to keep our high standard of living for all Americans, we have to constantly create a large number of good new jobs. And the way we do that is brain power. Our good fortune comes from that advantage in brain power. We have the finest system of colleges and universities. We attract 500,000 of the brightest foreign students. They come here because these are the best institutions. Many stay here, creating good new jobs for us. Many go home. Many are going back to China and India to help their countries succeed. No country has national research laboratories to match ours. Americans have won the most Nobel Prizes in science. We have registered the most patents. That innovation has been responsible for at least half of our good new jobs.

That is why we introduced this bill today. That is why we went, together, the Democratic side, the Republican side, to the National Academy of Sciences and said: We see this coming. Tell us what we should do. Tell us specifically what we should do, 1 through 10 in priority order. If you tell us, if you are specific about it, I bet we will do it.

Some who watch Congress might think that is a little bit naive because we disagree about a lot and there are a lot of politics here. But the National Academies came back with 20 recommendations. The Council on Competitiveness already had a very good report. The President made his own proposal, which was very substantial. Lo and behold, we have worked together for 18 months and came up with an even better piece of legislation than any of us introduced to begin with. And we have virtually a unanimous agreement about it, among three of the largest and most important committees here, and the majority leader and the Democratic leader are sponsoring the bill themselves.

We should pass this legislation this year. We should not go home without doing it. We can't do it this week. But by introducing the legislation today, Senator FRIST and Senator REID give our country a chance, while we all are at home in the next 4 weeks, to tell us what they think about it.

There are a lot of people running for the Senate. I hope in every single Senate race this year someone asks the question, Are you in favor of the Frist-Reid competitiveness legislation, and do you believe it ought to pass the Senate before the end of the year? I hope that question is asked. I believe the answer will be yes.

Our friends in the House of Representatives have been working hard on this issue, too. Again, it is not just a Republican initiative, not just a Democratic initiative, they have plenty of bipartisan effort there, too. It would be my hope that we can take what they have done and what we have done and do it before the end of the year. This is just the beginning of what we are able to do.

Senator DOMENICI and Senator BINGAMAN did a good job of suggesting what the bill includes, so I will not belabor that. But I would simply like to conclude my remarks to try to bring these lofty words down to Earth a little bit in terms of how this legislation might actually affect one State.

For example, if this legislation is enacted, many bright Tennesseans could receive 4-year scholarships to earn bachelor's degrees in science, technology, engineering, or math while concurrently earning teacher certification. The new teachers would be expected to teach in poorer schools for at least the first few years after graduation. That would be available in every State.

There could be summer academies for math and science teachers in Tennessee. In our case, it could be at the Oak Ridge National Laboratory, providing opportunities for those teachers to work with distinguished scientists and go back to the classrooms and inspire their students.

There would be more advanced placement training for 400 Tennessee math and science teachers so more students could learn math and science, we could have more home-grown scientists. There would be support for a proposed math and science specialty high school. Our Governor has recommended that. North Carolina has had one for 20 years. We never felt we could afford it in Tennessee, but this would give some help to our State in terms of having a specialty high school in math and science.

There would be high-tech internships for middle and high school students across our State, and there would be growing support Tennessee-based researchers that would lead to new high-tech jobs. This is in addition to the increases in funding for the physical sciences authorized in this legislation, which would especially affect our research universities and our National Laboratories.

So I am delighted to have had the opportunity to be a part of this. I look forward to advancing it. I certainly intend, as I go across Tennessee, to let our citizens know what the Frist-Reid competitiveness legislation offers our country. I intend to let them know that this is the way we keep our high standard of living and that we should be expected to act on it before the end of the year.

I congratulate all those Senators who have worked on it, and I invite every single Member of this body to be a cosponsor

EXHIBIT 1

ADDRESS BY HU JINTAO AT 13TH ACADEMICIAN CONFERENCE OF THE CHINESE ACADEMY OF SCIENCES (CAS) AND 8TH ACADEMICIAN CONFERENCE OF THE CHINESE ACADEMY OF ENGINEERING (CAE), BEIJING, JUNE 5, 2006

Dear academicians and comrades. Today witnesses the opening of 13th CAS academician conference and 8th CAE academician conference. First of all, on behalf of the CPC Central Committee and the State Council, I would like to extend my warm congratulations to the conferences, and my sincere greetings to the academicians of CAS and CAE and all scientists and technicians in China!

The conferences of CAS and CAE are held in this crucial moment of turning on the 11th Five-Year Plan. The success of the conferences will have great significance in giving play to the leading role of academicians of CAS and CAE in China's scientific and technological development, and encouraging scientists and technicians to build China into an innovative, well-off society in an all-around way.

Today I would like to talk about three issues.

I. CURRENT SITUATION AND SCIENCE AND TECHNOLOGY TASKS OF CHINA

China has maintained a sound momentum of economic growth in the 28 years since reform and opening up. The process of industrialization, urbanization, marketization and globalization has been accelerated, social productivity, technological strength and overall national strength have been significantly enhanced, and people's living standard has been improved. Socialist political and spiritual civilization construction has been fully strengthened. China's standing has been elevated and its international influence has expanded. We have successfully completed the 10th Five-Year Plan, and are striving for goals of the 11th Five-Year Plan on a new starting point. At the beginning of this year, the State Council issued China National Mid- and Long-Term Science and Technology Development Plan. Meanwhile, CPC Central Committee and the State Council decided to implement the Plan and enhance independent innovation capability, while holding a National Conference for Science and Technology, calling for building our country into an innovative country within 15 years. The scientists and technicians around the country are striving vigorously for the strategic task.

The more achievements we have made and the more promising outlook we are facing, the calmer shall we remain. While affirming the achievements, we shall analyze correctly the opportunities and challenges we are facing.

Seen from an international perspective, peace, development and cooperation is the irresistible trend of the times, world multipolarization and economic globalization are progressing, science and technology are advancing rapidly, international industry and technology transfer is accelerating, and there is a growing tendency of foreign countries to cooperate with China. Meanwhile, international situation is experiencing profound and complicated changes, instabilities and uncertainties that affect peace and development are increasing, international competition is being intensified, and our country is still pressed by economic and technological advantages of developed countries.

As for domestic development, our economic strength has been notably strengthened, and socialist market economic system is improving. Abundant labor resources, huge market and stable social politics lay solid foundation for the economic development of our country and promise us a bright future. However, China, the large developing country with over 1.3 billion people, is now in the primary stage of socialism and will remain so for a long time to come. For the time being, we are challenged by such acute problems: low productivity, unbalanced development, low living standard, weak agricultural foundation, extensive economic growth mode, growing limitation by energy resources, worsening environmental pollution and ecology contamination. We shall make long-term efforts to tackle such problems and achieve the goal of modernization.

Now turn our eyes to the world's scientific and technological development. Science and technology, especially strategic hi-tech has become an increasingly decisive factor of economic and social development, as well as the focus of overall national strength competition. Science and technology are advancing rapidly, creating many new cross-subject fields through overlapping and penetration between subjects, between science and technology, and between science and humanities. Scientific discoveries are providing more favorable conditions for technical innovation and productivity development, leading to shortened S&T result industrialization cycle, faster technological updating, and rapid development of hi-tech and industries represented by information technology and biotechnology. New scientific breakthroughs and economic growth points have been created to mark scientific innovation and advanced productivity, while driving economic and social development. A nation's core competition increasingly reflected in cultivation, configuration and controlling capability of intelligence resource and scientific results, as well as ownership and utilization of intellectual property. In the surging waves of world scientific development, it is clear that whoever masters the new features and trends, grasps opportunities and constantly improves scientific strength especially independent innovation capability will hold priority in overall national strength competition. Now, major countries are accelerating their steps of scientific R&D. Rapid scientific progress and its impelling influence have posed inevitable challenges before us. The only way out for us is to catch up with the developed countries with persistent spirit and independent innovation capability, enhancing our core competitiveness and boosting our productivity in order to win in the fierce international competition.

Through long-term efforts, we have made brilliant achievements in science and technology, formed a complete subject layout, and fostered a team of scientific scholars who are in scientific innovation. Our R&D ability in some crucial fields has ranked top in the world. However, compared with the world's advanced level, we still have a long way to go. There are problems that hamper economic and social development, including weak independent innovation capability, few invention patents, high dependence on key technologies abroad, low proportion of hi-tech industry, enterprises not truly becoming the mainbody of technological innovation, scientific results not industrialized yet, and lack of excellent talents etc. We have to make great efforts to tackle them.

In a word, seen from any angle, we are facing both opportunities and challenges. Under the circumstance of intensified international competition and complicated tasks on domestic reform, development and stability, we must be prepared for any eventualities, facing, meeting and defeating challenges while recognizing, seizing and taking opportunities. Furthermore, we should put more attention to varied challenges that may affect current or long-term development of our country, focus on vital contradictions and problems, and promote the better, swifter economic and social development based on technological development.

To build an innovative country is a strategic decision made by CPC Central Committee and the State Council based on the consideration of building a well-off society in an all-round way and creating a new situation in building socialism with Chinese characteristics. To realize this objective, we shall raise strengthening independent innovation capability to a strategic position, create a new way for independent innovation with Chinese characteristics, and promote a huge leap forward of science and technology; we shall put strengthening independent innovation capability at the core of economic structure adjustment and economic growth mode transformation, build a resource-efficient, environment-friendly society, and push forward swifter and better development of national economy; we shall take strengthening independent innovation capability to be our national strategy and implement the strategy throughout modernization construction; we shall inspire the nation's innovative spirit, cultivate high-level innovative talents, form a system or mechanism favorable for independent innovation, promote innovations in theory, system and technology, and continuously consolidate and develop socialism with Chinese characteristics. With strong sense of historical responsibility and worldwide vision, and under the guideline of "independent innovation, key breakthrough, sustainable development and leading the future", we shall persistently take science and technology as primary productive force, implement strategies of Invigorating China through Science and Education and Reinvigorating China through Human Resource Development, stick to the principle of "rely economic construction & social development on science & technology, and science & technology progress serves economic construction & social development"; develop major policies and relevant measures for scientific development, push forward national innovation system construction, strengthen studies on basic science, hi-tech field and sustainable development, quicken the transformation of knowledge and technology to actual productivity in order to provide strong technological support to economic and social development, and make science and technology modernization the true drive forces for rejuvenation of the Chinese nation.

II. BUILD A LARGE-SCALED TEAM OF INNOVATIVE TECHNICAL TALENTS

Talents, especially innovative technical talents, play a key role in building an innovative country. It is impossible to realize this goal without the support of a powerful team of innovative technical talents. The worldwide competition of overall national strength is actually a competition for talents especially for innovative talents. Only those who cultivate, attract, and make good use of the talents especially innovative talents can hold priority in the fierce international competition, and realize the development goals as well. Here, I would like to talk about how to intensify the cultivation of innovative talents.

The whole technical innovation history has proved that innovative technical talents are creators of new knowledge, inventors of new subjects, leaders of technical breakthroughs and development approaches, and strategic treasures for a nation's development. Cultivation of innovative technical talents with no hesitation is essential for improving independent innovation capability and building an innovative nation, and is also indispensable for realizing the state's development goals and rejuvenation of the Chinese nation. We should persist in the strategy that considers talents to be primary resources, take cultivation of innovative technical talents as a strategic measure to build an innovative nation, and quicken our steps of building a large-scaled team of innovative technical talents.

To cultivate innovative technical talents, we should thoroughly carry out the strategy of paying respect to labor, knowledge, talent and creation, follow the requirements of building an innovative nation and the rules of talent development. We should attract the talents with business, shape the talents with practices, spirit up the talents with our system and protect the talents with our laws so as to enlarge the team of the technical talents.

The cultivation of innovative technical talents is complex program that requires joint efforts from all party committees, governments, relevant departments, universities, scientific institutions and the whole society. We should highlight the following aspects in our work:

First, improve the cultivation system. The cultivation of innovative technical talents is a long comprehensive process, and we must begin from education. We should further enhance education reform and the education for all-round development according to China's economic and social development especially technological development, in order to establish an education system favoring for innovative technical talents. We should take systematic control of primary schools, middle schools, universities and employment in order to establish an effective mechanism to cultivate innovative technical talents. In addition, we should change the traditional indoctrinatory way of education into a new innovative manner, paying more attention to students' initiative and creative thinking mode while respecting the guiding role of teachers. We should reduce the homework burden of primary and middle school students, inspire their curiosity and exploration enthusiasm so that they will make all-round development based on their interest and potential. We should reform the course arrangement of colleges and universities, update teaching materials, and pay more attention to the combination of theory and practice, in order to cultivate the students' innovation spirit and capability. We should lay great emphasis on the cultivation of technical development and practice capability, and improve the ability to turn scientific achievements into project application. Moreover, we should provide continuing education for on-the-job technicians at different layers through multiple channels, and accelerate the establishment of an open, independent networking life-long education system, so that the technicians will learn new knowledge and skills continuously to improve their capabilities of technological innovation.

Second, use talents without prejudice. We should establish and complete a targeted management system and method to distinguish and cultivate talents on an equal competition basis. Instead of paying sole attention to one's educational background, qualification or status, we should provide more opportunities for excellent talents, especially young innovative technical talents. We should carry out the state's and industry's plan for technical talent cultivation, actively push the building of the innovation team, and create a good environment for cultivation and development of innovative technical talents under the support of the state's talent cultivation programs, important researches and projects, major industry projects, key subjects and research bases and international academic exchange projects. We should carry forward the innovation culture, build harmonic interrelationship, keep a free working environment, create a solidaric organization system, understand the personalities of the innovative talents, allow them to express their new academic thoughts and ideas, encourage and cultivate their innovation spirit, inspire their enthusiasm in innovation, and ensure that they make innovations dedicatedly. The technological innovation is risky, and unpredictable, which requires tolerance of failure during innovation. Therefore, we should take good care of the talents facing frustrations, and support their future work based on past experiences. In addition, the leaders and managers of the technical team should improve their leading and management capability, make every effort to be the talent scout, and make good use of the talents.

Third, improve the system and policy support. We should continue deepening the science & technology system reform to give full play to the leading role of the government and the fundamental role of market in the distribution of technological resources. A comprehensive system pertaining to talent training, utilization, appraisal, assignment and flow should be established. By changing attitudes, practices and systems that block the growth and accomplishment of talent, we should guarantee the successful implementation of systems and policies that encourage technological innovation in scientific research institutions. Considering one's moral character, performance, knowledge and capability, a comprehensive appraisal system should be established to realize management by objectives (MBO) for the innovative talent's contributions and further curb the usual practice of ignoring capability and performance while focusing on educational background and seniority during appraisal. Improve the mechanism of encouraging enterprises to increase scientific investment in order to give play to their leading role in technological innovation and diversify the pattern of scientific investment. Establish an enterprise-centered, market-oriented scientific innovation system that combines production, education and research; encourage innovative talents to gather in enterprises. Improve the intellectual property system to inspire people's zest for innovation, safeguard their rights and interests, and provide legal protection for technological innovation and utilization of innovative achievements. The title evaluation should be restructured to encourage all kinds of talents to engage in knowledge-based and technological innovation. More attention should be put on key industries and human resource-intensive organizations, technology extension in remote and poor areas, industrial and agricultural production bases, various enterprises and institutions that have brought significant social and economical benefits, as well as young and middle-aged technicians. Income distribution and incentive systems that encourage innovation should be established; priority shall be given to key positions and distinguished talents, and talents with remarkable contributions will get rewards. In this way, we can form a mechanism in which posts are obtained by competition, salaries depend on contributions, and eminent talents have enviable income. The talent flow system and talent information management system should be improved to wipe out institutional obstacles in talent flow, promote the orderly and rational flow of talents, let rare talents and professionals demonstrate their full capabilities, and ensure the reserve of talents for the state's major scientific and technological projects.

Fourth, adopt open cultivation. No innovative technical talent, especially the pioneers, can be cultivated without going deep into the reality. Under the critical situation that international scientific and technological level surpasses ours, it's hard to cultivate a group of innovative talents in a short time without adopting an open manner. Improving independent innovation capability based on introduction and assimilation is an effective way to catch up with international advanced level, while open cultivation is the right method of bringing up internationally recognized, top-notch talents and pioneers in science and technology. Having studied abroad and communicated with the foreign companions, most academicians in CAS and CAE and outstanding technical workers have demonstrated their talents in international exchange and cooperation, while learning advanced innovation concept and latest technologies. By sticking to the opening-up policy and communicating with international scientific institutions in various forms, we can benefit from global technological resources and learn from all civilizations that human beings have created. Scientific institutions and universities are encouraged to cooperate with overseas R&D institutions to build joint laboratories or R&D centers. International programs shall be promoted under the protocol of bilateral and multilateral scientific cooperation. National enterprises are encouraged to establish R&D institutions or industrial bases in foreign countries and multinationals are also encouraged to set up R&D institutions in China. We should actively participate in large international scientific projects and academic organizations. Chinese scientists and scientific institutions are encouraged to join or organize large international or regional scientific projects. Utilize human resources from both home and abroad by combining domestic talent cultivation with introducing overseas talents. While developing human resources at home and training talent independently, we should step up efforts to introduce foreign talents as well as new and high technologies. Various measures can be taken to attract talents studying abroad to come back and start their own business; highly-qualified overseas talents or talents urgently needed for our social and economic development are warmly welcomed.

Fifth, create a social environment that fosters technological innovation. Innovation culture and technological innovation promote and encourage the development of each other. The Chinese culture has long been advocating innovation and our ancestors emphasized, "A gentlemen shall strive along with perseverance". We shall encourage the spirit of innovation so as to provide a powerful cultural support to building an innovative talent team and an innovative nation. Innovation awareness should be raised in the whole society. We encourage people to think innovatively, act initiatively and take risks in the hope of creating a favorable social environment that supports talents to start business and succeed. Scientific knowledge, methods, ideas and spirit should be widely spread to equip more common people with scientific knowledge, which in turn will lead a trend of doing things scientifically, loving science, studying science and applying scientific findings. Publicize exemplary stories and figures in technological innovation to make people realize the role of innovation in driving economic and social development. The value that "innovation is glorious" should be emphasized, enabling technological innovation to be a kind of work and activity respected by the whole society. Science popularization should be strengthened to foster a notion of technological innovation in teenagers' minds and inspire them to become the main force in technological innovation and scientific development in the future.

It is proved that innovative technical talents, especially the pioneers, are all endowed with basic qualities and characteristics necessary for their development and technological innovation. In sum, there are six qualities to become an innovative scientific talent in China today. First, you must have high ideals for life, love the country, the people, and science and technology, be qualified in both ability and moral integrity, and realize your values of life in making scientific contributions. Second, you shall have enough aspiration and courage to seek truth, emancipate your mind, draw conclusions from facts, keep pace with the times, keep strong desire for innovation and exploration, have sharp eyes on new things and knowledge, dare to challenge authority and traditional concepts, and run forward without fear to seek truth and innovation. Third, you must be competent in precise and scientific thinking, master the thinking method of dialectic materialism, and keep lifelong studying by using scientific methods to constantly update your knowledge and theories, build a wide, profound knowledge structure, and foster comprehensive scientific and cultural quality. Fourth, you must have solid professional knowledge, international vision and keen insight to grasp the trend of scientific development and innovation, and be adept at providing key solutions for major scientific problems. Fifth, you must have strong team spirit to lead the innovative team in implementing major scientific programs or tackling front-line science difficulties by organizing multi-subject experts and collecting knowledge on all fronts. Sixth, you must be honest and serious about your work, indifferent to fame and wealth, have strong ambition and high ideals, hardbitten and determined, unafraid of hardships and frustration. You must have the courage to defeat difficulties in technological innovation in order to make great achievements continuously. These qualities can be found in successful scientists of any country, as well as our academicians, excellent scientists and technicians. We shall inherit and carry forward the fine traditions and styles of Chinese scientists and technicians, which will play a very important role in cultivating a large group of innovative scientific talents.

There is a Chinese saying, "It is easy to recruit thousands of soldiers, but it is not so easy to find a general." A leading scientific elite, an international scientific master or pioneer can lead a team of excellent innovative scientific talents to make world-leading scientific achievements, giving birth to competitive enterprises and new industries. There are many such leaders among our academicians, but there's shortage of such talents in our whole country. So our work of cultivating innovative talents shall focus on such talents esp. youth or middle-aged leaders. Meanwhile, we shall cultivate innovative talents at different levels, who will act as backbone of academic and technical innovation and form a talent structure suitable for scientific innovation, thus promoting innovation practices in each field and at different layers.

The scientific and technological development in China is now facing many opportunities for huge leap forward. Under the background of reform, opening up and modernization construction, it is urgent to develop science and technology, and the scientists and technicians are able to exhibit their brilliancy. The aspirant scientists or technicians shall seize the opportunity to contribute to the construction of an innovative country while realizing their own dream in this course.

III. ACADEMICIANS OF CAS AND CAE DISPLAY THEIR TALENTS IN BUILDING AN INNOVATIVE COUNTRY

Academicians of CAS and CAE represent our country's highest academic level in science and engineering technology. They enjoy highest honor and are respected by the whole society. As leaders of national science and technology, academicians of CAS and CAE has long been committed to our country's scientific and technological development as well as economic and social development. Thanks to their painstaking efforts, we have made all these achievements from drawing of The 1956–1967 Science and Technology Development Plan to successful development of "two bombs and one satellite" in hard times, from drawing and implementation of "863 Program" and "973 Program" that play a key role in our scientific development to the launch of manned spaceship of Shenzhou V and Shenzhou VI, from a series of discoveries including hybrid rice, nonmarine oilgeneration theory and application and high performance computer to the great projects of Three Gorges, south-to-north water diversion, west-to-east electricity and gas transmission, Qinghai-Tibet Railway, and high speed railway transportation. Mr. Wang Xuan who passed away recently is just one of the most outstanding academicians. He devoted all his life to science, and becomes the model of all scholars with the spirit of pioneering, earnest aid to young generation, and utter devotion. Academicians of CAS and CAE are truly the pride of our nation and people!

It has been proved that the academician system with Chinese characteristics fits the real situation of our country. It is very effective in gathering scientific elites to contribute their ideas and tackle difficulties in economic and social development, organizing innovative team for national major scientific projects, and stimulating the scientists and technicians to work for our country's flourishing and prosperity. But after all, academician system has existed in China for only decades. To give better play to its functions, we shall continue improving the system based on real situation and experiences.

The Central Committee of CCP, State Council and Chinese people have high expectations towards academicians of CAS and CAE. We hope that, with the advantages of cross-subject, cross-department and high academic level, CAS and CAE will carry out macroscopic, strategic, proactive and comprehensive decision consultancy on such major issues as promoting economic and social development, improving people's living standard and ensuring national defense. Meanwhile, they shall organize scientific research team to play a leading role in professional fields, provide the Party and government with valuable opinions, and make major decisions more scientific and democratic through real efforts.

We hope that academicians of CAS and CAE will endeavor to become pioneers standing at the frontier of scientific innovation with the patriotic spirit of love for our homeland and conscientious devotion, scientific spirit of being practical and innovative, exploration spirit of being unafraid of hardships, and team spirit of being cooperative and indifferent to fame and wealth. They shall bear in mind the major scientific problems in economic and social development, combine national demand and micro-deployment with free exploration, continue to drive original innovation and R&D of core technology and integrated technology, promote introduction, assimilation and re-innovation, industry-academy-research integration, and work hard for huge leaps of independent innovation capability as well as construction of an innovative country.

We also hope that academicians of CAS and CAE can take lead in all-out efforts of building an innovative country; carry forward the scientific spirit of seeking truth from facts, foster socialist concept of honor and disgrace—Eight Honors and Eight Disgraces; bear the responsibility of demonstrating innovative behavior and achievements to the public and promoting innovative culture; develop the people's interests in science and technology, deepen their knowledge about scientific innovation, and build innovative culture together, Meanwhile, I sincerely hope you will shoulder the heavy task of cultivating talents especially innovative scientific talents, develop academic echelon, and make every effort to support the innovation and rapid growth of youths.

Dear academicians and comrades!

We all bear the time-honored mission to provide strong scientific support for the construction of a well-off society by improving our independent innovation capability and building an innovative country. I hope that our scientists and technicians will strive hard to make brilliant achievements and constantly contribute to our country and the people.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I join Senators ALEXANDER, BINGAMAN, and others in talking about a topic that I personally have spent a great deal of time on over the past two years: how to improve the ability of the United States to compete in an increasingly global marketplace.

We have held many hearings in the Commerce Committee and in the Commerce Subcommittee that I chair on technology, innovation, and competitiveness issues. I know that both the HELP Committee and the Energy Committee have also examined related issues of competitiveness and innovation within the scope of their jurisdiction. A major focus of these hearings has been to consider how we keep America on the cutting edge.

We have learned some startling statistics. First of all, we find out that America will graduate somewhere around 60,000 to 70,000 engineers this year. China and India together will graduate a much larger number of engineers in that same time period.

In the 21st century, we need to encourage more people to go into the technology fields, into science, math, and engineering. We need more students to pursue advanced degrees in these fields. We need to inspire more of our young people to go into these fields.

One interesting fact that came out is that if our kids become disinterested in science and math in elementary school, the chances of them ever becoming interested in these fields later on in life are virtually nil. So we have to focus on inspiring our young kids to go into science, technology, engineering, and math from a very young age.

We had a fascinating hearing with the Director of the Museum of Science in Boston—Dr. Ioannis Miaoulis—who put it very simply. He said: When we started our curriculum in the United States for elementary school, we started it back in the late 1800s. Engineering was not a big field back then, so it didn't get a lot of attention then and that has carried over into our current curriculum. Now when we teach about science, we learn a lot about nature. Those are good things to learn. As a matter of fact, I have kids in school now, and one of the things we all learn about is how a volcano functions. Dr. Miaoulis talked about this when he testified before my Subcommittee. We all build our model volcanos with our kids and see how a volcano works.

Dr. Miaoulis posed this question. He said: Have you ever noticed how everybody in America learns how a volcano functions, but nobody really learns how a car functions?

Then he asked this question: Where do you spend more time, in a car or in a volcano?

As the story suggests, our children are not learning enough about engineering concepts in our schools, and as a result they are not becoming interested in those engineering concepts. The National Competitiveness Investment Act that I am happy to join with my colleagues in introducing today focuses on three primary areas of importance to maintaining and improving the innovation of the United States in the 21st century: research investment, increasing science and technology talent, and developing an innovation infrastructure.

A tremendous amount of bipartisan cooperation has gone into the development of the National Competitiveness Investment Act, going back well over a year to when Senator LIEBERMAN and I first started drafting legislation to address key concerns, identified in "Innovate America," a report from the Council on Competitiveness.

Subsequent reports such as the National Academies' "Rising Above the

Gathering Storm," have raised similar concerns and have led several Senate committees to look at programs related to basic research, education, and other areas of competitiveness within their respective areas of jurisdiction.

As a matter of fact, Senators ALEXANDER, BINGAMAN, and DOMENICI introduced what they called their PACE bills that addressed a lot of the problems that were identified in the National Academies, "Rising Above the Gathering Storm" report. During the past several weeks we have undertaken a bipartisan effort to combine the work products of the Senate Commerce Committee, the Senate Energy Committee, and the Senate HELP Committee. This effort has included the involvement of the chairmen and ranking members, both Republicans and Democrats, from all of these committees, as well as several other Members who have been involved. This has been under the direction of the two leaders' offices. This is the most bipartisan effort on any bill probably in the last several years in the Senate.

This was no easy task, especially when we need to be ever vigilant about growing deficits. We were forced to take a hard look at how to best address pressing needs related to science, technology, engineering, and math education, basic research and barriers that U.S. companies are facing as they compete in this global economy.

I believe the legislation before us today is a good compromise, and it reflects a good mix of spending on key priorities like basic research and education, while being sensitive to avoiding the duplication among various federal agencies. This legislation will ensure these programs are being evaluated and are being responsive to key needs, while at the same time being fiscally responsible.

Specifically, the National Competitiveness Investment Act would increase authorization for the National Science Foundation, or the NSF, from approximately $6 billion in fiscal year 2007 to more than $11 billion in 2011.

We doubled the funding for the National Institutes of Health, the life sciences, and it is now time to do the same for basic research in the physical sciences. This is an investment in our country.

I am a fiscal conservative. I am one of the most fiscally conservative Members of the Senate. But every dollar we spend on basic research is a dollar that will come back to us in spades in terms of stimulating economic activity and helping to keep the United States at the forefront of global innovation.

By the way, those who are concerned about tax revenues coming in, the better our economy does, the more tax revenues come into the Federal Government.

The bill also expands existing NSF graduate research fellowship and traineeship programs. It requires NSF to work with institutions of higher education to develop professional science master's degree programs and strengthens the NSF's technology talent program.

It also helps to prioritize activities in NSF's research and related activities account to meet critical national needs in the physical or natural sciences—technology, engineering, mathematics; or to enhance competitiveness or innovation in the United States. And there is language to authorize the National Institutes of Standards and Technology from approximately $640 million next year to $940 million 4 years later.

It would require the same agency to set aside no less than 8 percent of its annual funding for high-risk, high-reward innovation acceleration research.

This is very important because this is different than what people do today. We need to invest in high-risk, high-reward basic research and setting that 8 percent as a minimum is very important.

This bill also requires the National Academy of Sciences to conduct a study to identify the forms of risk that create barriers to innovation 1 year after enactment and 4 years after enactment. It establishes the Innovation Acceleration Research Program to direct Federal agencies funding research in science and technology to set a goal, once again, of dedicating approximately 8 percent of the research and development budget toward high-risk frontier research.

It also authorizes increased funding for the Department of Energy's Office of Science over the next 5 years. We all know how important it is for the Department of Energy to be involved in basic research.

There are other provisions to assist States in establishing specialty schools in math and science to benefit high-need districts. The bill also strengthens the skills of thousands of math and science teachers by establishing training and educational programs at summer institutes hosted at the National Laboratories.

The bill also establishes partnerships between the National Laboratories and local, high-need high schools to create centers of excellence in math and science education.

Finally, the bill authorizes competitive grants to States to promote better alignment of elementary and secondary education with the knowledge and skills that are needed to succeed at institutions of higher education and in our marketplaces in the 21st century.

This is a comprehensive piece of legislation to address the key recommendations in the two reports, "Innovate America" and "Rising Above the Gathering Storm."

While I am sure there are many other well-intentioned ideas of other provisions to add to this bill, I would plead with my colleagues to not overload this bill. We have worked diligently together in a bipartisan fashion over the last 2 years to remain absolutely disciplined and to confine this effort to enacting the key provisions that relate to innovation and competitiveness. We have worked hard to keep the cost of this bill within a responsible budgetary framework.

I believe we have a solid work product that will help the United States be competitive as we enter an increasingly difficult global marketplace where our students and our U.S. companies need to be prepared to meet an unprecedented global challenge.

I am pleased that Senators FRIST and REID have agreed to address an issue of this tremendous importance to the United States on a bipartisan basis.

I thank my colleagues from the Commerce Committee, Senator STEVENS and Senator INOUYE; from the HELP Committee, Senator ENZI, Senator KENNEDY, and Senator ALEXANDER; and, from the Energy Committee, Senators DOMENICI and BINGAMAN and their staff for great bipartisan work to pull this bill together.

I also would like to specifically recognize Senator HUTCHISON for her great work, and all of the staff—my staff and all of the Senators' staff—who have contributed a great deal of personal time and effort on many of the key provisions of this legislation.

Finally, I would like to acknowledge the work of my colleague, Senator LIEBERMAN, who started in this endeavor with me many months ago.

As Senator ALEXANDER said a few moments ago, we encourage all of our colleagues to join us in cosponsoring this important piece of legislation. Now is the time to act. We have a rare opportunity to put aside our party labels and to put our country first. In many other areas, we should be not Republican, not Democrat, not Independent—we should be Americans. This is such a bill. This piece of legislation is critical for the future competitiveness of our country.

I urge all of our colleagues to join us in this bipartisan effort

I thank the Chair. I yield the floor.

Mr. ALEXANDER. Mr. President, I would like to acknowledge the role of Senator ENSIGN in this competitiveness piece of legislation.

It would not have gotten started without him and the work he did with Senator LIEBERMAN in the Council on Competitiveness, and it would not have been finished without he and his staff taking a lead role in helping to bring the Senators together.

It is important the way he characterized this as a progrowth initiative. This is progrowth legislation. It is part of a progrowth agenda. Sometimes we forget that.

It is a great pleasure to work with him on this legislation. I wanted to acknowledge his leadership.

I want to say to the Senator from Massachusetts that I appreciate his leadership on this legislation. He was already a veteran when I was a Senate aide here many years ago. He has been deeply involved in these issues for a long time. He and his staff made it possible for us to bring this to a conclusion.

There are many ideas about how to do this. To have three committees basically unanimously agree that this is how we should begin—there are many other issues to be dealt with. Many of them may be dealt with in amendments after the recess. But without Senator KENNEDY's leadership and without Senator ENSIGN, nothing would have happened.

After Senator KENNEDY's remarks, I would like to say a word about Secretary Spellings' speech today. I appreciate him allowing me to speak now.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I just want to say a few words on the competitiveness legislation to which Senator ALEXANDER and Senator ENSIGN referred. My full statement will accompany the bill's introduction later today, but I do want to mention that I am a very strong supporter of the bill. As Senator ENSIGN and Senator ALEXANDER mentioned, it is the result of a strong bipartisan process.

Americans know how to rise to challenges and come out ahead. We've done it before and we can do it again. We were called into action in 1957 when the Soviet Union sent Sputnik into space. We rose to the challenge by passing the National Defense Education Act and inspiring the nation to ensure that the first footprint on the moon was by an American. We increased the commitment we made to math and science and doubled the federal investment in education.

Money in itself may not be the answer to everything, but it is a very clear indication of a nation's priorities.

Now we are faced with the challenges of globalization, and now we must decide—are we going to get consumed by it, or are we going to embrace the challenge and make sure that every individual, whether in Tennessee or in Massachusetts, is going to be prepared to respond to it; that our States are going to be prepared to respond to it; and that our country is going to be prepared to respond to it? This is critical not only for the sake of our economy, but for the sake of our national security.

We need the same bold commitment today that we made four decades ago, in order to help the current generation meet and master the global challenges of today and tomorrow. The National Competitiveness Investment Act is a strong first step in that effort.

I will not take the time here to review how America is slipping behind in technology and engineering compared to what is happening in India and in China and other countries. But one brutal fact is that the jobs of the future are going to go to the societies and the economies that are on the forefront of innovation. That is where the economic strength is going to be, and it will directly impact our national security. This legislative effort is a very important downpayment on ensuring that the United States is that society at the forefront of innovation. And the legislation is the result of a good deal of work.

The good work of the Senator from Tennessee, Mr. ALEXANDER, of Senator BINGAMAN from New Mexico, and the large bipartisan group the Senator from Nevada mentioned. It stems from the work of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine as well as some very important leaders in the private sector who have played an extremely important role in our efforts to keep America on the cutting edge.

We are also dealing with other important issues that are before the Senate today. But I agree with my colleagues that these issues related to America's competitiveness are issues that Congress needs to act on as soon as possible. It is extremely important.

At a time in Washington when the debate seems to be dominated by partisan politics, it should be reassuring to the American people that we are united in recognizing the importance of investing in America's competitiveness in the years to come. I look forward to working with my colleagues as the bill moves forward to ensure that Congress provides the new investments needed to fully support and build on these important proposals.

IMMIGRATION

Mr. KENNEDY. Mr. President, before the Senate tomorrow, we will be dealing with one of the provisions relating to immigration, the amendment dealing with the fence on the southern border of our country. I would like to address the Senate about this issue and about the general issues of immigration.

We face a clear choice on the bill between two fundamentally different approaches to immigration. We are talking about the underlying legislation on which the majority leader now has put forth a cloture motion, which we will be voting on tomorrow. We will be unable to have any kind of amendments to it. That opportunity has been foreclosed. I think that is regrettable. I think this would have given us an important opportunity for alternatives that have been debated and accepted in the Senate earlier this year. That is the way we have to deal with it in terms of Senate rules and procedures. That is where we are at the present time. We will vote on this tomorrow.

There is no debate about our immigration system being broken and in need of repair. All of us at this point understand that reform is essential. The choice we confront is whether we will answer that call with a decisive vote in favor of comprehensive reform or whether by failing to do so we will defer to the House of Representatives, which has an enforcement-only approach.

I listened to Dr. Land today, who is the President of the Southern Baptist Organization—not recognized as being either a Democrat or liberal figure—talk about the morality of this issue and also about the immorality of the House approach. He commented on a joint press conference he read with great particularity and with the language which is the approach of the House of Representatives included in terms of its immigration bill. He was pointing out that any person of the cloth who cares for the least among us, whether it is food, clothing, or a stranger, any act of general humanity, would be accused of aiding and abetting an undocumented and, under their language, he concluded could be both arrested, tried, and convicted.

He spoke enormously eloquently about the morality of that particular House legislative approach and its inappropriateness, and compared it to the fugitive slave law wherein innocents were helping free slaves in the mid-1800s.

The recent report of the Independent Task Force on Immigration calls immigration the oldest and newest story of the American experience.

Immigration has always been part of our history. It is in our blood and genes. In the beginning, immigrants helped to build our country, make it strong, loved America, and fought under our flag with great courage. Over 70,000 permanent residents have fought in Afghanistan and in Iraq. A number have won medals for bravery and courage. Generations of immigrants have settled here, found a nation that rewarded their hard work, respected their religious beliefs, and enabled them to raise their families.

Immigrants today are no different. They work hard, they practice their faith, they love their families, and they love America.

Today, more than 60,000 immigrants serve in the U.S. military. Many have made the ultimate sacrifice, giving their lives for America on the battlefields of Iraq and Afghanistan. That has always been the American story. It is what makes America a land of liberty and progress and opportunity.

Reform is a pressing issue today. It is a security issue, an economic issue, a moral issue. The question is, How do we secure our borders effectively to keep out criminals and terrorists who want to harm America and not obstruct the entry of many others who want to continue to benefit our country?

How do we deal with 12 million law-abiding, taxpaying, undocumented immigrants and their families in this country? They live beside us, worship in our churches, attend our schools, are part of our communities. They deserve a fair chance to come out of the shadows and contribute fully and legally to our country.

U.S. businesses that are unable to find the American workers they need must be able to draw upon workers from other nations. Both native-born and immigrant workers deserve to be free from exploitation, be paid fair wages, receive the protections of our labor and health and safety laws.

In May, the Senate met this challenge and passed a comprehensive immigration bill with effective enforcement measures. Enforcement alone and fencing alone will not work. Those who support enforcement only, anti-immigrant approach may think it is good politics, but security experts agree that cracking down harder on illegal immigrants won't result in our regaining control of our borders. Instead they believe the Senate had the right approach.

As Tom Ridge, the former Secretary of Homeland Security, recently noted:

> [T]rying to gain operational control of the borders is impossible unless our enhanced enforcement efforts are coupled with the robust temporary guest worker program and a means to entice those now working illegally out of the shadows in some type of legal status.

Instead of following the sound advice of these experts and focusing on solving real problems, the Senate is considering a House bill to order the Department of Homeland Security to build hundreds of miles of fencing along our border with Mexico—a country that is not our enemy, but a close friend, our second largest trading partner.

The House bill is unnecessary. Earlier this year, Secretary Chertoff told Judiciary Committee members that he needed about 370 miles of fencing and 461 miles of vehicle barriers and targeted urban areas along the southwest border. The Senate included a provision in our immigration reform bill to do that and on August 2 we agreed, by a vote of 94 to 2, to appropriate $1.8 billion for that purpose.

The much longer fence in the pending bill would be a waste of taxpayers' money. The Congressional Budget Office estimated it would cost roughly $3.2 million a mile, which may be the low end. The first 11 miles of the San Diego fence cost $3.8 million a mile and the final 3.5 mile section cost approximately $10 million a mile.

Under more recent estimates, which take into account the cost of roads, lighting, infrastructure, terrain, and other factors, the costs are even higher. The current estimate also ignores the annual maintenance costs which could be as high as $1 billion a year. The more than 700 miles in fencing that the House proposes but that Secretary Chertoff does not need will result in at least $1 billion in unnecessary spending.

Fences don't work. Undocumented inflows have increased by a factor of 10 since fencing was introduced. San Diego's wall has benefited the smuggling industry and increased the loss of immigrant lives by shifting entry to the desert. The track record of the four concentrated border enforcement operations in border States shows that tougher border controls only enrich smugglers, endanger the lives of migrants, and encourage those who overcome the obstacles to settle permanently here in the United States.

Testimony we had before our committee recently from some of those who have studied this issue pointed out that up to 60 percent or more of those who come here want to work for a while, make some money and be able to return to their families and to their community to be able to enjoy it. By putting the fence up, we are making sure they are locked in the United States illegally.

Recent testimony from the bipartisan Congressional Budget Office concluded that the sharp increase in border security funding over the past decade and the near doubling of the number of Border Patrol agents over that time have not kept sizable numbers of illegal migrants from entering the country illegally. The reason? Jobs were the magnet. As long as you have the magnet of jobs, people are going to find ways around the fence, under the fence, and over the fence. Until you have a comprehensive approach that will deal with that issue, as our comprehensive approach does, the idea of putting more fencing is basically going to be ineffective.

For example, the Border Patrol budget increased from $263 million in 1990 to $1.6 billion today, a sixfold increase, yet during this period more than 500,000 undocumented immigrants entered the United States each year. In all, nearly 9 million have arrived since 1990. During the same time, the probability that an unauthorized border crosser would be apprehended fell from 20 percent to 5 percent. The United States now spends $1,700 per border apprehension, up from $300 in 1992.

Nor will fencing keep out criminals or terrorists. The September 11 terrorists did not come across the Mexican border illegally. They entered the United States with visas. Fences won't stop immigrant workers from coming here to work. Governor Janet Napolitano of Arizona, who knows a lot about borders, recently said:

> You show me a 50-foot wall and I'll show you a 51-foot ladder at the border.

Fences can be outflanked and not only over land or through underground tunnels. Increased fences prompted smugglers to move migrants in boats and transport them by plane to Canada, with its 4,100 mile largely open border. A recent study of the Pew Hispanic Center found that roughly 40 to 50 percent of the people currently in the United States illegally entered the country legally. We are going to vote on this measure tomorrow in order to stop allegedly illegal immigration coming across the southern border when half of those who are undocumented today come here legally. herefore, you have to deal with that particular issue. That fence issue does not do anything about that problem. Our comprehensive approach does.

More fences would do nothing about immigrants who come here legally and then overstay their visas. Unnecessary enforcement measures also harm United States relations with Mexico and other countries. A "fortress America" mentality alienates other nations and makes it harder to work with them on other counterterrorism priorities. Already, the "muro of muerrte," the wall of death, is a rallying call for opponents of free trade and other aspects of United States economic agenda in Latin America.

Cardinal Mahoney, of Los Angeles, has pointed out, "as the world's lone superpower and greatest democracy, we possess the resources and ingenuity to solve our immigration problems humanely and without resorting to the construction of barriers and walls."

The United States is facing a delicate period in its current relations with Mexico. Andres Manuel Lopez Obrador will soon become the President of Mexico after a very close election that challenged Mexico's democracy. Mr. Obrador stated that fencing will increase tension and insecurity at the border.

President Bush got it right in May when he declared an immigration reform bill needs to be comprehensive because all elements of the problem must be addressed together or none of them will be solved at all. He got it wrong last week when he indicated that the House fence bill is an acceptable interim measure.

We will have the opportunity to vote. I hope the Senate recognizes what it recognized during the course of the 2-week debate, and that is, the comprehensive approach is the approach that will ensure the strongest security at our borders. The law enforcement within our country, in terms of the enforcement of programs and human policy, recognizes that those who worked hard, played by the rules, contributed to their community, have sent their sons and daughters off to war, want to be a part of the American dream, who are willing to pay a penalty and also go to the end of the line, would be able to adjust their status.

A comprehensive approach is the way we ought to be going. That is effectively the way everyone who has talked about the overall challenges of the undocumented and illegal immigration believe is the way to go. Sure, we need to do what needs to be done at the border, but it ought to be done in a comprehensive way with these other elements.

This legislation does not do so, will not be effective, and should not be accepted.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SECURE FENCE ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 6061, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

Pending:

Frist amendment No. 5036, to establish military commissions.

Frist amendment No. 5037 (to Amendment No. 5036), to establish the effective date.

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment.

Frist amendment No. 5038 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish military commissions.

Frist amendment No. 5039 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish the effective date.

Frist amendment No. 5040 (to Amendment No. 5039), to amend the effective date.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent I have 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING SENATOR ALEXANDER

Mr. DOMENICI. Mr. President, I note that the distinguished Senator from Tennessee, Senator LAMAR ALEXANDER, is in the Chamber. I am sure he has already spoken this afternoon, but I was not present because I was attending another meeting.

Senator, if you do not feel good this afternoon, I don't know what we are going to do in the Senate in terms of qualifying you to be happy. I don't know what else we will do to make you happier than what we are going to do tonight or during the next week or so on this competiveness measure.

Senator ALEXANDER came to the Senate, and before his first term has expired he has taken the lead, without anyone wanting to run around and try to figure out who should get the lead, on this mammoth piece of legislation. It falls automatically that LAMAR ALEXANDER deserves the credit for getting it started. It was his idea. He recruited the junior Senator from New Mexico.

They asked me, as members of my committee, if they could take the proposition of what we could do to better America's position in a competitive world, if they could take that to the Academy of Sciences to get a report so we could adopt a report during this calendar year.

Believe it or not, they did that. As a result, 71 Senators cosponsored the legislation. As a result, we will have introduced a bill today that almost takes care of every recommendation that committee made to the Congress. We are having it introduced officially by the leadership this evening. It will be held and passed by this Senate before we adjourn this year.

Imagine that, for a Senator who has just come to the Senate. If he cannot say and put up whatever he puts up, matters of high esteem, completed by him; something that he can be proud of, that is this legislation.

There will be a day when it passes that he can be happier, but he will be overjoyed today when he sits down and thinks for a moment of what is accomplished for America to get moving to develop our brain power where we could, where we can, as we can, and as we should, without any doubt.

I compliment the Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I thank the Senator from New Mexico. He is overly generous. I learned as a staff aide in the Senate that if an idea has many fathers and many mothers, it has a much better chance of moving along than if it just has one.

Senator DOMENICI is being overly modest about his own role. This would not have gotten to first base—by "this," I mean the competitiveness legislation—had not Senator DOMENICI created the environment in which it could succeed, and if he and Senator BINGAMAN had not had such a good partnership and been able to work together, set a good example and have been willing to step back and allow other good ideas that were progressing through the Commerce Committee and the HELP Committee.

It has been a remarkable exercise in restraint for many distinguished Senators, some among the most senior Members of the Senate, and at a time when politics is at a pretty high level.

I thank the Senator for what he said. It means a lot to me.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the National Competitiveness Investment Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE NATIONAL COMPETITIVENESS INVESTMENT ACT

The National Competitiveness Investment Act is a bipartisan legislative response to recommendations contained in the National Academies' "Rising Above the Gathering Storm" report and the Council on Competitiveness' "Innovate America" report. Several sections of the bill are derived from proposals contained in the "American Innovation and Competitiveness Act of 2006" (S. 2802), approved by the Senate Commerce Committee 21–0, and the "Protecting America's Competitive Edge Through Energy Act of 2006" (S. 2197) approved unanimously by the Senate Energy Committee. Accordingly, the National Competitiveness Investment Act focuses on three primary areas of importance to maintaining and improving United States' innovation in the 21st Century: (1) increasing research investment, (2) strengthening educational opportunities in science, technology, engineering, and mathematics from elementary through graduate school, and (3) developing an innovation infrastructure. More specifically, the National Competitiveness Investment Act would:

Increase research investment by:

Doubling funding for the National Science Foundation (NSF) from approximately $5.6 billion in fiscal year 2006 to $11.2 billion in fiscal year 2011.

Setting the Department of Energy's Office of Science on track to double in funding over 10 years, increasing from $3.6 billion in fiscal year 2006 to over $5.2 billion in fiscal year 2011.

Establishing the Innovation Acceleration Research Program to direct Federal agencies funding research in science and technology to set as a goal dedicating approximately 8 percent of their Research and Development (R&D) budgets toward high-risk frontier research.

Authorizing the National Institute of Standards and Technology (NIST) from approximately $640 million in fiscal year 2007 to approximately $937 million in fiscal year 2011 and requiring NIST to set aside no less than 8 percent of its annual funding for high-risk, high-reward innovation acceleration research.

Directing NASA to increase funding for basic research and fully participate in interagency activities to foster competitiveness and innovation, using the full extent of existing budget authority.

Coordinating ocean and atmospheric research and education at the National Oceanic and Atmospheric Administration and other agencies to promote U.S. leadership in these important fields.

Strengthen educational opportunities in science, technology, engineering, mathematics, and critical foreign languages by:

Authorizing competitive grants to States to promote better alignment of elementary and secondary education with the knowledge and skills needed for success in postsecondary education, the 21st century workforce, and the Armed Forces, and grants to support the establishment or improvement of statewide P–16 education longitudinal data systems.

Strengthening the skills of thousands of math and science teachers by establishing training and education programs at summer institutes hosted at the National Laboratories and by increasing support for the Teacher Institutes for the 21st Century program at NSF.

Expanding the Robert Noyce Teacher Scholarship Program at NSF to recruit and train individuals to become math and science teachers in high-need local educational agencies.

Assisting States in establishing or expanding statewide specialty schools in math and science that students from across the State would be eligible to attend and providing expert assistance in teaching from National Laboratories' staff at those schools.

Facilitating the expansion of Advanced Placement (AP) and International Baccalaureate (IB) programs by increasing the number of teachers prepared to teach AP/IB and pre-AP/IB math, science, and foreign language courses in high need schools, thereby increasing the number of courses available and students who take and pass AP and IB exams.

Developing and implementing programs for bachelor's degrees in math, science, engineering, and critical foreign languages with concurrent teaching credentials and part-time master's in education programs for math, science, and critical foreign language teachers to enhance both content knowledge and teaching skills.

Creating partnerships between National Laboratories and local high-need high schools to establish centers of excellence in math and science education.

Expanding existing NSF graduate research fellowship and traineeship programs, requiring NSF to work with institutions of higher education to facilitate the development of professional science master's degree programs, and expanding NSF's science, mathematics, engineering and technology talent program.

Providing Math Now grants to improve math instruction in the elementary and middle grades and provide targeted help to struggling students so that all students can master grade-level mathematics standards.

Expanding programs to increase the number of students from elementary school through postsecondary education who study critical foreign languages and become proficient.

Develop an innovation infrastructure by:

Establishing a President's Council on Innovation and Competitiveness to develop a comprehensive agenda to promote innovation and competitiveness in the public and private sectors.

Requiring the National Academy of Sciences to conduct a study to identify forms of risk that create barriers to innovation:

Mr. DOMENICI. I thank the Senator.

Mr. ALEXANDER. Mr. President, although most cannot hear it right now, I want to say how much all in the Senate appreciate the extra hours and the skill with which the staffs met and worked through August and over the last several weeks to bring the three committees together. Senator ENSIGN played a major role, and his staff did. There were many staffs. This was not a bill that Republicans wrote and Democrats looked at or vice versa. We did it together.

FUTURE OF HIGHER EDUCATION

Mr. President, today the Secretary of Education, Margaret Spellings, made an important speech at the National Press Club. In her remarks, she discussed the report from her Commission on the Future of Higher Education. This commission was chaired by Charles Miller, who was the former chairman of the board of regents of the University of Texas system and a leader in education reform at all levels.

I am very impressed with Secretary Spellings. I know her job. I once had it. I do not think we have had a more effective Secretary of Education. I am very impressed with Mr. Miller. I know about his work in Texas as part of a group of business leaders over the last 20 years who have led the country in terms of helping to set accountability standards in elementary and secondary education.

Mr. President, I encourage my colleagues to read Secretary Spellings' speech from today.

Secretary Spellings is the first U.S. Secretary of Education to assume the role of lead adviser to coordinate all of higher education. I am glad she is doing that because almost every Department of the Federal Government has something to do with higher education. Currently, no one is the lead person for that. It ought to be the Secretary of Education. She stepped up to do it. I applaud her, and I applaud President Bush for asking her to do that.

The Secretary's recommendations in her speech today are sensible and respect the prerogative of Congress to make major changes in higher education policy. In plain English, she laid out some very good recommendations, but she recognized that is one branch of Government, we are the Article I branch of Government, and if there are major changes in policy, we will make them here, and then it is their job to implement it.

But among the strong recommendations in her report are the following: Simplify the financial aid system. We are already doing that, having worked with the Secretary on a commission, and it is included in the higher education bill that has not passed. That is a very good recommendation. Another recommendation is expanding more access to more students. The initial cost estimates of her commission's report suggest its recommendations might cost $9 billion or $10 billion more in terms of Pell grants. That is a lot of money, but it is an important goal.

Another recommendation is increased competitiveness. The Secretary's commission spent quite a bit of time urging the Congress and the country to adopt the recommendations of the Augustine commission, to adopt the recommendations of the Council on Competitiveness, and to adopt the President's recommendations on competitiveness. That was a help in getting us come to the point in this body where tonight Senator FRIST and Senator REID will introduce the National Competitiveness Investment Act.

The Secretary's committee recommended less regulation for higher education, which is something I want to talk a little bit more about in a moment. I thoroughly agree with that. And, of course, another recommendation is to find ways to reduce costs, which every family who has a student headed toward higher education thinks about. In our own family, where we have two new grandchildren who are less than 1 year of age, the parents—our children—are already thinking about it: How in the world are we going to pay for college out of our budgets in 18 years? That is at the top of almost everyone's concern.

I want to wave one bright, yellow flag, a cautionary flag, at one troubling aspect of the report of the Secretary's commission. That is best captured by the following sentence on page 13 of the commission's report, and I quote: "Our complex, decentralized post-secondary education system has no comprehensive strategy, particularly for undergraduate programs, to provide either adequate internal accountability systems or effective public information."

"Our complex, decentralized post-secondary education system has no comprehensive strategy. . . ." The commission apparently believes that is a weakness. I believe that is a strength. I believe that is the greatest strength of our higher education system. The key to the quality of the American higher education system is that it is not one system, but that it is a marketplace of over 6,000 autonomous systems, independent systems.

These autonomous or independent institutions—such as the University of Tennessee, or Fisk University, or the Nashville Auto Diesel College, or Yeshiva University—these institutions are regulated primarily by competition—competition for students, for faculty, and for research dollars and by consumer choice, which is fueled by generous Federal dollars that follow more than one-half of American college students to the institutions of their choice.

There is, in addition, a system of independent accreditation to help regulate these independent and autonomous institutions. To be sure, there is still plenty of the traditional kind of command-and-control Government regulation. That is very hard to get away from. Every State has a regulatory body, such as the Tennessee Higher Education Commission. And each of the 6,000 institutions I described that accepts students with Federal grants or loans must wade through over 7,000 Federal regulations and notices. Those regulations exist today.

The president of Stanford University has said that 7 cents of every tuition dollar is spent on compliance with Government regulations. The last thing

American higher education needs is a barrage of new Federal regulations requiring sending new data to Washington so someone here can try to figure out how to improve the Harvard Classics Department or the Nashville Auto Diesel College, both of whose students are eligible for Federal grants and loans.

I believe the overregulation of higher education is the greatest deterrent to maintaining the quality of American higher education, and that autonomy, competition, and choice are the greatest incentives to excellence.

I would, therefore, wish to lead the bandwagon or be on the bandwagon or push the bandwagon for more deregulation and to increase the autonomy of institutions of higher education and to preserve competition for research dollars and to give students the broadest array of education choices possible.

Today in America we are doing that much better than any other country in the world. It is instructive that China and several European countries are deregulating their overly bureaucratized colleges and universities to try to catch up with the quality of ours. Of course, better information informs choices. And, of course, easier transfer policies between or among institutions could increase opportunities. Much is to be gained from research that will help institutions measure what value their classes add to students.

But I do not want rules about transfer policies to diminish institutional autonomy. I do not want to see rules from Washington substitute for choice and competition as the principal regulators of the quality of our colleges and universities. I do not want to see even more tuition dollars go to pay for complying with costly Government regulations instead of to improving research and teaching in the classroom.

By design or luck, the United States has created a magnificent marketplace environment that has resulted in, by far, the best higher education system in the world with remarkable access for students of all incomes. Our goal should be to improve that system, not to replace it with some command-and-control structure.

Mr. President, I spoke before the Secretary's Commission on December 9 of 2005, and I hope that those remarks were useful to the Commission.

Mr. President, I want to comment that it is important to keep all of this discussion in some perspective. For example, there is a great concern about the rising cost of tuition. Secretary Spellings, in her remarks, says she wants to know why. Well, I know why it has gone up. It has gone up because State funding for higher education has been flat. It has actually gone down in many cases. As State funding of colleges and universities in Minnesota or Tennessee or South Dakota has gone down, colleges and universities have had to raise their tuition to have enough funds to maintain quality.

Now, of course, there are plenty of ways to reduce costs, and we need to push that and encourage that. And the Secretary has many suggestions for that. She is right about that. But let's not overlook the fact that Federal spending for higher education has gone way up in the last several years, but State spending has been flat. If anyone wants to know why your tuition bills are higher, it is because your Governors and your legislatures have not been paying their fair share of what it takes to have a quality system of higher education in America. I talked about that in my testimony to the Commission, and I hope they listened to that. I hope the Administration and my colleagues understand that as well.

For example, during the 5-year period from 2000 to 2004, State spending for Medicaid, which is where the Governors have to put most of their extra money, was up 36 percent; State spending for higher education was up barely 7 percent. As a result, tuition went up 38 percent.

There is another way I think about it. When I left the Governor's office nearly 20 years ago in Tennessee, Tennessee was spending 51 cents of every State tax dollar on education and 16 cents on health care—mainly Medicaid. Today, instead of 51 cents on education, it is 40 cents on education. And instead of 16 cents on health care, it is 26 cents on health care. So if we do not get control of Medicaid spending here in this Chamber, and in the other Chamber, one of the unintended consequences will be that we will drive down the quality of higher education all across America because it will not have appropriate State funding and we will not create the new jobs that will help us compete with China and India.

On the question of cost, two other things: One is, I ask unanimous consent, Mr. President, to have printed in the RECORD a short column by the president of the University of Maryland, William E. Kirwan, who discusses State funding that I have just talked about, and talks about what some colleges and universities are doing to reduce costs to help control the rise of tuition.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 14, 2006]

SECURITY THROUGH EDUCATION

(By William E. Kirwan)

A national security crisis is brewing, and if our country doesn't take immediate action, it could be devastating for the future of the United States.

Consider these facts: Worldwide, the United States ranks seventh in high-school completion rates and ninth in the percentage of high-school graduates who enroll in college. Of every 100 current eighth-graders in America, just 18 will receive a college degree during the next 10 years. Based on current participation and completion rates, the education pipeline reveals alarming holes.

The "prescription" for what ails education in this country enjoys widespread consensus: Improve the performance of our primary and secondary school students and provide access to affordable, high-quality higher education to more people. But how the country goes about filling this prescription is a matter of significant debate.

Clearly, a "fix" to the problem requires the combined and coordinated efforts of various sectors. Central to the effort, however, must be higher education. Higher education, after all, prepares the teachers for the schools and sets the standards for the degrees.

What should higher education do to help plug the holes in the education pipeline and enable our nation to address its most pressing long-term national security issue: the development of a robust and superbly educated workforce?

First, higher education must become more engaged in improving primary and secondary school performance. Colleges and universities need to encourage more students to pursue teaching careers and, in partnership with local school districts, better prepare prospective teachers with the content knowledge and pedagogy skills to succeed. Universities must work more effectively with the K–12 sector to ensure that student assessment in high school is closely aligned with college entrance requirements, and that the transition from high school to college is as seamless as advancement from 11th to 12th grade.

The best way to achieve such transformational changes is through so-called statewide K-16 councils, which bring educational leaders from all levels—superintendents, principals, university presidents, deans—together with business and community leaders on a regular basis to develop reform agendas. Such an approach is working in Maryland and a few other states.

As a second means of plugging the holes, state governments and higher education need to rethink the way they distribute financial aid. During the past two decades there has been a huge shift in the allocation of university-based aid, away from students with demonstrated financial need and toward high-ability students—often from upper-middle-class families—whom universities seek in order to improve their SAT profiles and "vanity" rankings. Too many low-income students are either discouraged from attending college or must work such long hours that their progress toward a degree is unreasonably delayed or, worse, terminated.

Fortunately, we have seen several "enlightened" universities—including the University of North Carolina at Chapel Hill, Harvard University, the University of Virginia and the University of Maryland, College Park—introduce programs to ensure that students from families at the lower end of the economic ladder can graduate debt-free. At the University System of Maryland, we recently adopted a policy requiring that students from families with the lowest levels of income graduate with the lowest debt. Planned expenditures on institutional need-based aid by USM institutions have increased more than 30 percent in the past year.

Finally, higher education—especially public higher education—must learn to operate with a more cost-conscious budget model. Most others sectors have experienced significant productivity gains through rigorous attention to cost containment. Higher education can no longer afford to ignore this strategy.

Investment of state funds in higher education on a per-student basis is at a 25-year low. It has fallen from about $7.100 in 2001 to just over $5,800 in 2005. As state investment on a per-student basis has declined, the tuition burden on students and their families has increased. In more than a quarter of our states, tuition revenue is now greater than the state's investment in its public colleges and universities. In the coming decades, areas such as health care, energy, and social services for an aging population will require an ever greater proportion of available tax dollars, accelerating the decline in public investment in higher education.

With that decline and without serious attention to cost containment, colleges and universities will face two highly undesirable alternatives: Accept more students at generally affordable tuition levels and see quality erode or protect quality by driving up tuition to levels that will be prohibitive for low-income students.

With the leadership of its Board of Regents, the University System of Maryland has incorporated cost containment as a formal part of its budget development process. These efforts have reduced the "bottom line" by more than $40 million for the system's 13 institutions during the past two years.

Filling the holes in America's education pipeline must become an urgent national priority. Nowhere is strong, unified action more necessary than at our colleges and universities. In partnership with other sectors, higher education must be held accountable for embracing its role and responsibilities to help improve K-12 education, increasing its need-based financial aid substantially, and containing costs more aggressively. If this doesn't happen, U.S. leadership in the global economy will erode. Perhaps even more threatening, our national ethos of social upward mobility will be lost and we will devolve into a two-tier society with a permanent underclass.

Mr. ALEXANDER. Sometimes we talk so much about the high cost of higher education where families hear that and think no one can go to college. I was president of the University of Tennessee. Tuition has gone up there for the reasons I just talked about. But today tuition at the University of Tennessee, which is one of the leading research institutions in this country—the manager of the Oak Ridge National Laboratory—is $5,300 a year. It is $5.300 a year for tuition at the University of Tennessee. That is more than a lot of people have, but that is a very good bargain in today's marketplace.

Volunteer State Community College, a public 2-year college—we encourage many people to go to community colleges, and then to our research universities—the tuition there is $2.383 a year.

At Tennessee State University, in Nashville—an excellent institution—it is $4.300. It is the same story in many other States. At the University of North Carolina at Chapel Hill, for North Carolina students—one of the best universities in the world—it is $4,500 a year. At the University of Phoenix—a different kind of university, but I had a distinguished scientist from the University of Texas tell me he looked at colleges of education all over America, and he thought the college of education at the University of Phoenix was as good as any to get your teacher's degrees—the comparable cost there for a year's tuition is about $6,669. They do things a little differently, but they provide an education and a service that many people are asking for, and I think that reflects the strength of our autonomous system of higher education.

Now, if you want to go to Harvard, it is a lot more. If you want to go to Vanderbilt, it is a lot more. But the rest of that story is, if you show up at Harvard, or if you are admitted to Vanderbilt, and you do not have the money, they are going to do their best to help you pay for that.

So I would hope as we talk about the cost of higher education that we recognize that many of the State institutions are reasonably priced, that the failure of State funding over the last several years is the principal culprit in the rising increase for public schools, and that we do not get carried away up here in Washington by thinking if we pass some more regulations here, somehow we are going to solve the problem, and we are going to make our higher education system better.

My main point is this: Our greatest threat to quality higher education is overregulation. And our greatest incentive for it is deregulation, choice, and competition. Those are the incentives I would like to preserve.

Mr. President, I yield the floor.

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY INDEPENDENCE FOR AMERICA

Mr. THUNE. Mr. President, as we wind down this legislative session in this last week, we have a lot of work to do on the agenda. We have bills dealing with port security, Homeland Security appropriations, Defense appropriations, and border security, which is the subject of discussion right now, the Secure Fence Act of 2006, and those are probably going to be the things on which we can find consensus. We can add to that the issue of how we deal with detainees and continue to acquire high-value intelligence that will enable us to prevent future terrorist attacks. That legislation is coming down the pike, too. So we have a lot of things to vote on in the last few days before the election. And the assumption, of course, is that we will probably come back in after the election to wrap up some of the outstanding issues.

There are other pieces of legislation that could be dealt with in this period—legislation that is without controversy, legislation that has been acted on by the House of Representatives and on which there is broad bipartisan agreement. It seems to me, at least at this point in the legislative session, that in order to get these bills through, it is going to take considerable agreement on both sides of the political aisle, with enough critical mass behind them to get them through.

I have a bill that fits into that category. I have come to the Senate floor on a couple occasions to speak about it. It has been cleared by the House of Representatives by a vote of 355 to 9. Now it is sitting here, and Senator SALAZAR from Colorado and I have a substitute amendment to that, and as soon as it is picked up and the Senate passes it, it goes back to the House. The House has indicated that if we send it back, they will pass it. Then we can put it on the President's desk.

The bill has to do with an issue that I think is on the minds of a lot of Americans—energy independence. It is a fairly straightforward issue. As I have explained previously on the floor, it has to do with closing the gap in the distribution system between the production of ethanol, the supply of renewable energy in this country, and the demand for it, the ultimate consumer of renewable energy.

Right now, as you know, in the last year we passed an energy bill which required, for the first time ever, certain use of ethanol in this country—7.5 billion gallons by 2012. We are ramping up to that level now. In South Dakota, we already have 11 ethanol plants. We have three under construction, and in a short period we will be at a billion gallons a year—just in South Dakota. If you add to that the production underway in the Chair's home State of Minnesota and other States in the Midwest, there is a tremendous amount of ethanol that is in the pipeline. We have now a requirement that States around the country have to meet that 7.5 billion. I think we also have a ver robust demand for it because people in this country realize that if we are going to get serious about energy independence, we have to begin shifting away from some of the types of energy that we get from other places around the world. This is American energy, homegrown energy, renewable energy. We can raise it every year. We have a corn crop every year that can be converted into gallons of ethanol. We have other types of biomass materials that, raised in places such as the Midwest, are on the cusp in terms of the technology that will soon be available. One is switch grass. There is a research project at South Dakota State University right now looking at the probability in the near future of having the essential ingredients and processes that will enable us to make ethanol out of switch grass, something that is in abundance in the upper Midwest.

This movement toward renewable energy, American-grown energy, is long overdue. People are demanding that we begin to move in that direction. We have a renewable fuel standard, as a result of the Energy bill that passed, which is a great success for moving in that direction. We have, as I said, a lot of production now that is currently on line, with additional plants under construction. What we are missing is the method by which that ethanol or other renewable fuels—bioenergy—is distributed to consumers in this country.

Right now, we have about 180,000 filling stations in America, and only about 800 of those make available E85 or other alternative fuels. If you do the math on that, that is 1 filling station for every 10,000 cars that are currently capable of using E85 or some other form of alternative energy. The Auto Alliance—and probably Members of this Chamber have seen them—has run ads in some of the publications in town saying that today there are 9½ million cars on the road that can use alternative sources of energy. "Flex-fuel vehicles" is how we refer to them in most cases. If you look at the 9½ million cars already on the road and those currently in production, the car manufacturers are gearing up to come up with more vehicles that can run on alternative sources of energy, primarily 85. We have an enormous opportunity out there, a great potential for increasing usage of ethanol and renewable fuels, thereby lessening our dependence upon foreign sources of energy, which has implications for our economy, for our national security, and foreign policy.

This is a win-win. This is flatout a no-brainer for America and for the Senate. Yet we have a hold—a secret hold—by someone on the Democratic side that is preventing this bill from moving forward.

Mr. President, I understand the traditions and the rules of the Senate allow for that sort of thing to happen, but whoever it is—and I have my suspicions about who it is—who has a hold on the bill, I wish they would come forward and defend that hold. This is a noncontroversial piece of legislation which has broad bipartisan support, has passed the House with a 355-to-9 vote, and is ready for action in the Senate. But as of right now, it is being held up by someone on the other side. Again, I don't know who that is. I would like to know who that is and have the opportunity to visit with them to find out what their objection is.

The reality is that this is a piece of legislation which makes so much sense for our economy and, as I said, for our need for energy independence, to have American energy so we can get away from our dependence on foreign sources of energy. It is good for the environment. There are so many benefits to moving this legislation forward. Again, it is heading in a direction that gets us away from dependence upon foreign energy and more energy independence in this country.

I come to the floor to urge my colleagues—it has been cleared on the Republican side. It is ready for action in the House. It is teed up to go there; we have talked with our colleagues in the House. It passed once there.

The amendment Senator SALAZAR and I have offered, the substitute amendment, is a modification of that bill, but it keeps in place the basic concept of the bill. Very simply, in terms of explanation, it provides up to a $30,000 cash incentive for fuel retailers to install pumps that would provide E85 or other types of energy. The average cost to install that pump is somewhere between $40,000 and $200,000, depending on where you are in the country. We believe the convenience stores and the gas stations across this country would take advantage of this if it were in place. It would do something about this ratio I just mentioned where we have 1 filling station for every 10,000 cars in this country that are capable of running on E85 or some other form of alternative energy.

Again, I commend this to my colleagues in the hopes that we can move ahead. We have a few days left this week before everybody heads home for the elections. We don't know what will happen with the elections. This is legislation which, as I said, is broadly supported on a bipartisan, bicameral basis and has the support of the auto manufacturers across the country and the National Association of Convenience Stores. I submitted letters previously for the RECORD expressing the support of the entire ethanol industry and environmental groups. I think it has been cleared on the Republican side, and I hope that whoever on the Democratic side who has placed a hold on the bill will make that known so we can discuss what the objection is and, hopefully, clear it for action so we can get something meaningful done about the issue of energy security before Congress goes home for the elections.

Mr. President, I raise the issue again, and I urge and ask and request that my colleagues work together to accomplish what I think is a very important objective before we leave for the election; that is, moving America in the direction of lessening our dependence upon foreign energy, becoming energy independent, and helping to address the issue of high gas prices in this country. This bill would do that. I simply ask my colleagues to work with me to get that done.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Illinois is recognized.

Mr. DURBIN. I thank the chair.

MENTAL HEALTH PARITY ACT

Mr. DURBIN. Mr. President, in just a few weeks while we are in recess, we will mark the fourth anniversary of the untimely death of our former colleague from Minnesota, Paul Wellstone, Paul Wellstone died at the age of 58 in an airplane crash about 4 years ago. Paul and his wife Sheila and daughter Marcia were on their way to a campaign event in Eveleth, MN on October 25, 2002 when their plane crashed in a wooded field 2 miles short of the airport. We mourn for the surviving children Mark and David and for the families of the campaign staffers, Will McLaughlin, Tom Lapic, and Mary McEvoy, and for the families of the pilots flying that fated aircraft.

Paul's tragic and premature death silenced one of the leading voices in America on the issue of mental illness. Paul Wellstone understood the devastation that mental illness can bring: the stigma, the alienation, the broken families and, sadly, even broken lives.

In 1992, together with Senator PETE DOMENICI of New Mexico, Paul introduced legislation to require insurance companies to offer the same coverage for treating mental illness as for physical illness. The Mental Health Parity Act was passed and signed into law in 1996. The final version of the bill sadly was watered down and fell short of Paul's earliest goals.

A new bill to eliminate these disparities in insurance coverage was introduced in the last Congress. The Paul Wellstone Treatment Act attracted widespread bipartisan support: 69 Members of this Chamber and 245 Members of the House—a clear majority supporting Paul Wellstone's legacy. But unfortunately, during the past 2 years, this bill was not called for passage and did not pass.

Today I am honored to be joined by Senator Norm Coleman of Minnesota, Senator TED KENNEDY, Senator TOM HARKIN, and Senator MARK DAYTON of Minnesota in submitting a sense-of-the-Senate resolution, first to remember Paul Wellstone and honor his legacy, but also to publicly commit to finishing his work on mental health equity legislation.

Mental health disorders are the leading cause of disability. Without treatment, the consequences of mental illness for the individual and for all of us are staggering: disability, unemployment, substance abuse, homelessness, inappropriate incarceration, suicide, and wasted lives. The economic costs of untreated mental illness is more than $100 billion each year in the United States. In my home State of Illinois, close to 4 million people, or 30 percent of the population, are affected by some form of mental illness each year, including depression. Suicide is the third leading cause of death among young people 15 to 24. Seventy-seven percent of adults with severe mental illness are unemployed.

Now, the good news is this: Mental illness is treatable but only for the people who have access to sound diagnosis and care. We have a good start, thanks to the Mental Health Parity law that Senators WELLSTONE and DOMENICI led to enactment in 1996. Our next challenge is to build on the work Paul Wellstone left behind.

Current law requires insurers offer mental health care and offer comparable benefit caps for mental health and physical health, but it does not require group health plans and their health insurance issuers to include mental health coverage in their benefits package. It doesn't prevent insurers from setting higher deductibles, higher copays, and fewer services covered for mental health illness. I commend Senators KENNEDY and DOMENICI for their work in this Congress on working toward a consensus for reaching mental health parity for Americans.

I called Senator DOMENICI last week to tell him I was submitting this resolution and to cheer him on so that during the next session of Congress we can give the right tribute to Paul Wellstone and, more importantly, as Paul would see it and I see it as well, hope to millions of Americans.

This resolution honors Paul Wellstone. It commits us to continuing his work to ensure equity for people with mental illness. Paul fought against discrimination in any form. His life work was dedicated to creating a world in which everyone, regardless of race, religion, economic status, or health or mental health status, would be treated fairly and equally. I urge my colleagues to support this resolution and renew our commitment to ensuring mental health parity.

Paul Wellstone was often quoted as saying:

> I don't think politics has anything to do with left, right, or center. It has to do with trying to do right by the people.

That was what Paul Wellstone said. And now we will have our chance in the next session of Congress to honor that commitment.

Mr. President, I yield the floor.

Mr. COLEMAN. Mr. President, I thank my colleague from Illinois for submitting this resolution both on the legacy of Paul Wellstone and, in particular, focusing on this issue of mental health parity.

Paul Wellstone and I disagreed on a lot of issues. One of the great things about Paul Wellstone is that even if you disagreed with him, you admired his passion—his passion which was reflected when we had our debates. He was always energized. He was real. He was very real.

One of the things he was very passionate about was mental health parity and doing the right thing for millions of Americans. His Senate family has been touched by the tragedy of mental illness—touched. Millions of Americans have been touched or impacted by the tragedy of mental illness. The reality is there is treatment available. We can deal with this. We can lift up lives to make people whole and productive. There is a path to do this. There is a path that my predecessor laid out with the help of Senator DOMENICI in the early 1990s. We made some headway, but we didn't go far enough. We know what the voids are. We know what the gaps are. We have a path to get there. We are close. The problem is "close" may be good in bocce ball, but it is not good in legislation.

I have been here 4 years. It is one of my hopes that on one of the things that Senator Wellstone and I fully agreed on, which is the importance of providing true mental health parity, is that we can get it done. We are not there yet. We need to get it done. I hope that as we move forward and when we come back and finish this session—we are not going to get it done now, but I hope folks will reflect on what is the right thing. It is the right thing. With this resolution we are honoring the legacy of a great Senator, we honor the legacy of someone who had great passion, and we do the right thing for millions of Americans.

Let us get mental health parity through. It is the right thing and I hope we can get it done. Again, I thank my colleague from Illinois for raising this issue.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, I at the outset thank my colleague from Minnesota who was quick to join with his colleague Senator DAYTON as a cosponsor of this resolution.

Many times politics divides us, but when it comes to an issue such as mental illness, we are all in this together. I know my colleague from Minnesota has probably had the same experience I had, of raising this issue at a town meeting or a public meeting, and then I almost guarantee you that before you leave that hall, someone will come up to you and ask if they can speak to you privately to tell you the story of a child or a spouse who has bipolar disorder or schizophrenia or who has committed suicide. It touches so many of us. What Paul Wellstone was trying to remind us of is that mental illness is not a curse, it is an illness, and an illness that can be treated. Why shouldn't we include it in our health insurance for Americans so that every family can be spared the suffering that comes with mental illness today.

I thank my colleague from Minnesota for joining me on this resolution.

Mr. DAYTON. Mr. President, I thank and commend my friend and colleague, the assistant Democratic leader from Illinois, Senator DURBIN, for submitting the Senate resolution honoring the memory of the late Senator Paul Wellstone from Minnesota, my friend of 22 years, my colleague and mentor for my first 2 years in the Senate.

I also thank Senator COLEMAN, my present colleague, for his cosponsorship of this resolution and making it a bipartisan statement. I am proud to join as a cosponsor of the resolution.

It is hard to believe that it has been almost 4 years—it will be on October 25, 2006, when we will not be in session—since the terrible plane crash occurred that took the lives of Paul Wellstone, U.S. Senator from Minnesota, his wife and partner of 39 years, Sheila Wellstone, his daughter Marcia; the Democratic Party associate chair from Minnesota, Mary McEvoy; one of Paul's longtime valued Senate staffers here in Washington, Tom Lapic; and a young Minnesota aide, Will McLaughlin, as well as two pilots.

One of Paul's most important causes was that of mental health parity. The illness of a family member made this a very personal cause for him, as well as his compassion for those throughout this country who suffer from some form of mental illness and are unable to get the treatment they deserve and which is medically available because insurance companies will not pay for and treat mental illness with the same parity they do other physical health problems.

Senator Wellstone found a valuable partner in the distinguished Senator from New Mexico, Mr. DOMENICI. Together they worked on a bipartisan basis for several years against the fervent opposition of the medical insurance industry to pass mental health parity legislation.

In the aftermath of Senator Wellstone's death, then-majority leader of the Senate Tom Daschle succeeded in getting through the Senate the Wellstone-Domenici legislation, which passed the Senate but unfortunately hit opposition by the House of Representatives. And once again the medical insurance industry prevented one of Paul's legislative dreams from becoming law in 2002.

Despite assurances beginning in January of 2003 from the new Senate majority leadership that the Senate would act on successor legislation in honor of Senator Wellstone and pass mental health parity, despite the best efforts of Senator DOMENICI, who was then joined on our side of the aisle by Senator KENNEDY and our own caucus leaders, Senator REID and Senator DURBIN, the Senate has neither considered as a body nor passed mental health parity in either the 108th Congress or the 109th Congress.

In other words, during the last 4 years following Senator Wellstone's terrible tragedy, the Senate has not acted to pass this legislation.

That is why Senator DURBIN's resolution today is so timely and so important in these final days of the 109th session. It states that Senator Wellstone should be remembered for his compassion and leadership on social issues, and the Congress should act to end discrimination against citizens of the United States who live with a illness by passing legislation relating to mental health parity as a priority for the 110th Congress.

One of Paul's favorite quotes was that of a rabbi many years ago who concluded by saying: If not now, when? If not now, unfortunately, then at least in the 110th Congress, over the next 2 years, it is my fervent hope, although I will not be here, and even though my colleague, Senator Paul Wellstone, will not be here, his spirit will continue to carry this legislation forward, and with the leadership of Senator DURBIN and others who have championed this cause in the Senate and with greater understanding perhaps on the other side of Capitol Hill in the House about the importance of this legislation to millions and millions of Americans, this would be one of Senator Wellstone's proudest moments. It would be one of the Senate's and Congress's great accomplishments, if mental health parity were to be made the law of this country for the millions of those who would benefit from it.

I again thank Senator DURBIN.

I yield the floor.

Mr. DURBIN. Mr. President, if the Senator will yield for a question, I would like to say by way of question through the Chair that I thank my colleague from Minnesota. I can recall when he first came to the Senate serving with our mutual friend, Paul Wellstone. It must have been tough to be that close to a dynamo. The man had boundless energy and committed to so many good causes.

The Senator from Minnesota has carried on the fine tradition for your State. I thank the Senator for joining us in this resolution.

Hope springs eternal, and maybe during the lame duck session Senator KENNEDY and Senator DOMENICI will be able to give us some good news that will make us proud on this important issue.

I thank the Senator for his words today.

Mr. DAYTON. I thank the Senator from Illinois. Senator Wellstone was an eternal optimist. I share the Senator's hope that something might be possible this year. If not, this resolution passing on that responsibility to the 110th Congress is very timely and appropriate. I am glad to cosponsor it.

ESTATE TAX

Mr. DURBIN. Mr. President, this morning one of my Republican colleagues came to the floor to talk about what appears to be the favorite topic of most Republican Senators: the estate tax. No matter what we are talking about on the floor, whether it is immigration reform, making America safe from terrorism, dealing with issues involving the funding for our troops, port security, without fail, you can count on one of my colleagues on the other side of the aisle trying to wedge in to this queue with what many of them consider to be at least equally important: the issue of the estate tax.

So my colleague came to the floor and mentioned my name over and over again as if I were his opponent. I would say to my colleague there are many Senators who disagree with his position, but I will be happy to address it for a moment or two.

The simple fact is this: If an American and a spouse have assets valued at less than $2 million at the time of their death, they will never pay one penny in estate taxes—not one. So if, you ask who benefits from this repeal of the estate tax, well, sadly it turns out to be some of the wealthiest people in America. If you took 1 percent—that is 1 out of 100—estates in America, people who die each year, only one-fourth of those will ever pay any estate tax. It is a very small number of people who have done very well in their lives in America who may end up paying estate tax.

I want my position to be clear. There is an exemption under the estate tax, an exempt amount that you can leave to your heirs, that will not be taxed. I think we need to increase that and regularly increase it to reflect reality. It is true, the real estate we own has gone up in value while we have lived there, businesses have increased in value, farms have increased in value, and I think the exemption should be increased as well.

Where I have a problem is where we have people who are very well off—multimillionaires—who end up owing the Government—in fact, owing their country—something for their success, and they will be left in a position with the proposal from the other side of the aisle where they may have no estate tax liability whatsoever.

The majority leader of the Senate, Senator FRIST, has said he is for total repeal of the estate tax—total repeal so that Mr. Bill Gates of Microsoft, who has done so well and made so much money, would pay nothing back to America by way of estate tax when he passes away. Well, Mr. Gates is not asking for that. Many people who are well off are not asking for that. They understand this country has been very good to them, and they are also prepared to pay back so that future generations have a chance to succeed as well.

My colleague came to the floor and talked about farmers and is concerned about farmers. I am from downstate Illinois. A few years ago, after hearing all of the debate about estate taxes, I wrote to the Illinois Farm Bureau, the Illinois Farmers Union, and asked them: Tell me of any farm that you know of where the farmer's survivors had to sell the farm because of paying Federal estate tax. There was not one single instance in my State. They couldn't find one. Now, I understand some of those farmers may have to sell off a portion of their land or some of their acreage to pay their taxes at the time that the spouse finally passes away. But as far as losing farms, that is something that is said over and over again, but neither the Illinois Farm Bureau, the Farmers Union and, in fact, the American Farm Bureau could find a single example of a family being forced to sell its farm because of estate tax liability.

According to the Congressional Budget Office, only 123 family-owned farms and 135 family-owned businesses would pay any estate tax at all with a $2 million family exemption level.

So we often have to stop and wonder why are we dwelling on this or why are some Members of the Senate continuing to dwell on this. If their sympathy is for those who are struggling to survive in America, they should focus their spotlight not on the wealthiest among us but those who are struggling at lower levels.

Let's take a look at some of the realities, the economic realities in America today. This chart shows what has happened over the last 6 years. The minimum wage has been frozen under President Bush and this Republican Congress for 9 years. During that 9-year period of time, the President's pay has been increased substantially, pay for Members of Congress increased $31,600, and the $5.15 an hour minimum wage has not gone up.

It is always interesting to me that my colleagues on the other side of the aisle seem to think that it is fine for those making the lowest wages in America, some of them working very hard each day, to have no increase in their pay for 9 straight years, while they are struggling to make ends meet. They come to the floor and talk to us about those who have made millions of dollars in their lives and whether they will have to pay any taxes. I think it is a misplaced priority.

If we take a look at some of the real household income of Americans across the board, you can see what has happened from 2000 to 2005. Real household income has declined by $1,273. It means the average family, working hard, paying off the costs of living—utilities and mortgages, energy costs, education costs—is working harder and falling behind each and every year.

Our economic policies in this country really are not focused where they should be. We should be focusing on this middle-income American family that is struggling to make ends meet in a very difficult time.

The distribution of wealth in America has changed substantially over the last several years. The distribution of earnings has become even more unequal. When you look at this situation, you see the years between 1995 and 2000 with a violet color, 2000 to 2005 with the red. So in the year 1995 to 2000, the last term of President Clinton, you can see there was an increase in earnings, weekly earnings for full-time workers, across the board. All of these violet bars above show, for example, a 9.6-percent increase, a 7.4-percent increase. So in that 4-year period of time, we had the distribution of earnings increasing.

Now look at the period of time under President Bush. During that time period, in each of these categories of income in America, we have seen that earnings have been declining or rising very slowly, as they are at the highest levels of income in America

Take a look at the wealth as well under the tax breaks given under this administration the last several years. This is the Bush economic record: a $38,000 tax break for people who are making $1 million a year, but for middle-income families making $50,000 to $100,000, their tax break under the Bush administration has been $55, and for those in the lowest income categories a tax break of $6.

You can see where the priorities have been when it comes to taxes. But ask the average family making about $100,000 a year—let's take that as an example. Let's take someone who is a teacher and whose spouse may work part time, bringing in some income to the family, and together they make $100,000 a year. They have raised their kids and spent good money sending them to school. Then the kids apply to college. The families are inundated with a stack of forms—most families have seen them—to apply for student loans and students grants. Those making about $100,000 a year will find it difficult to apply for any financial assistance. So the students, their sons and daughters who finally got into the school of their dreams, may face an unconscionable debt.

Some students put off their education. Some give up on the best schools. Some go on to school and graduate with a mountain of debt, a mountain of debt which was made worse this year when, on July 1, a law signed by President Bush increased the interest rates on student loan debts by 2 percent. It doesn't sound like much, except it means the payback for that student loan has now been increased by 20 percent over the life of the loan. It means these students, borrowing money to go to school, deeper in debt, will now be paying off their student loan debt into their 50s. Imagine that student graduating today—23, 24 years old, maybe—looking ahead to 20 or 30 years of paying off student loan debt. Finally, in their early 50s, they have paid it all off, and now they have a few years to contemplate their retirement.

What is wrong with that picture? What is wrong is students and families in middle-income circumstances are bearing this burden, and this burden is increasing, as I will show, as the cost of college education increases. So instead of talking about a $38,000 tax break for someone who makes $1 million a year, we believe on this side of the aisle that we should allow the deductibility of college education expenses. If you can deduct the amount of interest you pay on your home to encourage home ownership, why shouldn't a family be able to deduct some of the costs of college education from their tax expenses so we can encourage students to go on, further their education, and make this a better country? It is a question of tax priorities: on one side of the aisle, estate tax relief for those in the highest income categories; on this side of the aisle, we are talking about relief when it comes to tax deduction for the real cost of college education expenses.

Most of the families I represent in Illinois were quick to tell me, during the August break, how bad gasoline prices were. We know in the last 5 years they have increased 104 percent. They started coming down in the Midwest, but I think there is a false sense of security here. A lot of people were sacrificing to put more gasoline in the car, but we still don't have a national energy policy, and there is no guarantee that a few weeks from now those gasoline prices will not go back up again because we have no bargaining power.

We are so dependent on foreign oil today that we can't say to those who gouge us and those who want to really charge us the most that there is anything we will do about it. And this administration has not really called the oil company executives in, Exxon and others, to explain the absolutely unprecedented level of profits they took as the gasoline prices went up. That industry made more money more quickly than any industry in America, and they reached higher profit levels than any industry had recorded previously. Yet this administration sat back and said w can do nothing about it as Americans and families and businesses and farmers paid the price. As the cost of gasoline goes up, as prices have in the last several months, families have faced that sacrifice. Now comes the heating oil season for many; and that may again increase the cost of expenses for these families.

Take a look at what has happened as well when it comes to family health insurance premiums under this administration. Family health insurance premiums have increased 71 percent in the last 5 years. That means the average premium for family health insurance went from $6,348 when President Bush took office to $10,880. Is it any wonder families are feeling the squeeze? These premium increases, of course, translate into another $300 or $400 each month that a family has to come up with just to have the same health insurance as last year and maybe less coverage.

Have we discussed expanding health insurance or making it more affordable on the floor of the Senate? Only once and just for a few days. I salute Senator ENZI, Republican from Wyoming, chairman of the HELP Committee, for bringing a health insurance proposal to the floor. We had another proposal here. We tried, if we could, to work out something ahead of time to have a bipartisan approach. We didn't get it done. I hope that in the next Congress, we can find a way to bring real relief on a bipartisan basis to families that are struggling with these health insurance premiums.

I mentioned earlier the cost of education and student loans. This graph shows what has happened under this administration since the President took office with regard to the increased costs of college. They have gone up $3,688, the average annual cost of a public 4-year college, tuition, fees, room, and board. So there was a 41-percent increase in just this 5-year period of time under this administration, increase in college cost. Again, wouldn't our Tax Code be more sensible if we helped families pay this difference, if we helped them put their kids through college to get a good degree and a good life and contribute to this country? Wouldn't that be a higher priority in terms of our Tax Code than whether Bill Gates is going to end up being excused from paying an estate tax when he passes away?

There is also a concern as well with retirement plans. Take a look at what has happened in the last 5 years. In the last 6 years, 3.7 million fewer Americans have retirement plans. The number of workers with employer-sponsored retirement plans has gone down from 56.2 million to 52.5 million, which means more vulnerability.

A lot of people who had paid into a retirement plan through the course of their work experience believed that they had paid their dues, taken the money out of their check every week, and that the day would come and they would see it, that they would finally get to retire and relax. Then came mergers and consolidations and corporate sleight of hand and legal work, and the next thing you know a lot of these pensions started disappearing. So many families are concerned, concerned about when or if they can retire.

You read the stories in the paper all the time in Illinois and every other State about those who had their future plans wrecked when they lost their pension benefits. It has happened at the airlines. It has happened in so many industries across our country. We know it makes a real difference in life. A lot of people who thought they would be spending their time worrying about where to go fishing now are acting as greeters at stores around America and trying to find part-time jobs just to keep it together.

We need to do something about retirement in this country, and one thing we do not need to do is privatize Social Security. Privatizing Social Security is, of course, supported by the President but not by the American people. They know the math doesn't work. Taking money out of the Social Security trust fund for people to experiment with their investments is going to weaken that fund unfortunately. They will be unable to make the payments our Social Security retirees need. If there is ever a time when we need Social Security to be strong, it is now, as we see fewer and fewer Americans with retirement plans.

The number of Americans without health insurance has gone up dramatically under this administration, from 39.8 million Americans with no health insurance to 46.6 million Americans. Those who are insured will tell you many times that their health insurance is not very good. They come up to me at town meetings in Illinois and talk about frightening scenarios where someone in their family had a serious illness, a diagnosis, and then when they tried to pay off the medical bills, it turns out the health insurance fought them all the way. These health insurance companies are spending a lot less on care and a lot more on battles with the people who have the health insurance, denying coverage whenever they can. So we have to really get back to this issue as part of the priorities of this Congress. I am sorry that this Republican Congress has not really come up with assistance that many of these Americans need with health insurance

Overall, as we go through this litany, you can understand as you go through this litany why this next chart is where it is today. In the last 5 years, under this administration, household debt has gone up over $26,000. Because Americans are struggling to make ends meet, because the cost of college and health care and gasoline and heating your home has gone up dramatically, Americans have had to borrow more and more just to keep up. They are right on the edge, trying to pay off very expensive credit card debt.

There has been a 35-percent increase in household debt in the last 5 years for the reasons I mentioned earlier, from an average inflation-adjusted debt per household of $75,000 to over $101,000. This debt is hanging over the heads of many Americans, and if there is any rock in the road that Americans families trip over—if someone gets sick, loses a job, a divorce, something unforeseen—they are going to find themselves then facing default on their debt and even higher interest rates.

While this has been going on for the average American, employee compensation has gone down some 4.6 percent. So while all the debts have been piling up, the compensation that is being given to individuals has been going down. Meanwhile, corporate profits are up 8 percentage points. So we can see that the share of corporate income going to profits and employee compensation has gone in opposite directions, and those directions do not benefit those families that are struggling to get by.

Those who run the corporations are doing quite well, thank you. In the last 5 years, the pay for the chief executive officers of major corporations in America has gone up over $1.6 million individually. This average pay here of $5.2 million when the President took office is now up to $6.8 million. So while the pay for employees is going down and expenses are going up, in the boardrooms the median CEO compensation has gone up substantially.

When you take a look at the tax cuts under this administration, their economic record, tax cuts are over 150 times larger for millionaires than they are for most households in America. So we gave the tax cuts of $103,000 for those in the highest income levels and $684 for those making less than $100,000 a year. So the so-called tax cut program has not really helped those families struggling the hardest.

What has happened to employment, creation of jobs in America, is illustrated by this chart. We have seen the average annual growth rate of nonfarm employment in America under every President. You have to go back to Herbert Hoover and the Great Depression to see a decline of 6 percent in employment in America. You will see the lowest number of any President since Herbert Hoover has been registered by this administration, in the creation of jobs. That is the average annual growth rate of nonfarm employment. It is the slowest job growth in America in over 70 years.

The other sad reality is, while all of these things have taken place, this represents the famous wall of debt which Senator CONRAD of North Dakota has brought to our attention over and over again. When President Bush took office, our national debt was $5.8 trillion. Today, it is over $8.5 trillion—a dramatic increase in America's debt in a 6-year period of time. With policies which this administration supports and many on the other side have been arguing for, we can see America's debt reaching $11.6 trillion in 2011. So in a 10-year period of time, we will have virtually doubled—not quite but almost doubled—the debt of America, which means we are leaving a burden for our children, a burden with which they will have to deal—a burden with which they will have to deal as we see more and more baby boomers in Social Security and Medicare. As we see fewer people working, those who remain in the workforce will not only have to face their own personal challenges economically, but they will have to deal with the debt that we are leaving behind.

If this is fiscal conservatism, I don't understand the meaning of the term.

Why is it that we have reached this point? Sadly, the economy is not going as planned. We are facing a war which costs between $1.5 billion and $3 billion every week, and the other side continues to come to the floor and ask for something that no administration has ever asked for in the history of the United States—a tax cut in the midst of a war. That is what the Senator from this morning was suggesting. He wants to cut the estate tax. By cutting the estate tax there will be less revenue for our Government, the war will continue, and our debt will grow. These numbers will have to be adjusted upwards for the debt we are going to leave our children.

Yesterday we had a hearing with the Democratic Policy Conference to discuss the war in Iraq. We had two generals and a Marine Corps colonel who spoke to us. They spoke on a lot of things that we need to do to make America safer and make sure we win this war in Iraq. But one thing that MG John Batiste said I really thought was important. He said—and I think we all believe—that America can rise to a challenge. America can meet a challenge. We have done it so many times in our history. We have won wars when we were not expected to. We put a man on the Moon when a lot of people scoffed at that possibility. We developed medical breakthroughs which no one would have dreamed of. We led the world in computer technology development and in so many areas one by one. Whether it was in agricultural production or in industrial development or innovation we have led the world. We have led the world because leaders have stepped forward—a President has stepped forward and challenged us and said we need to stick together, we need to work together to reach the goal.

General Batiste said yesterday—and I paraphrase his actual testimony, but I believe what he said. He said that what we need to be reminded of is we can meet any challenge as a nation. We need to be reminded, as well, if we are challenged and work together, we can win this war on terrorism. And he said it is going to involve sacrifice. It is not the first time Americans have been asked to sacrifice. They have done that many times. I believe that spirit of sacrifice is what is needed to make sure we keep America safe from terrorism and safe from other threats.

I see that Senator ENSIGN has come to the floor. I don't know whether he wishes to take the floor at this time. But I mentioned his name earlier. I commended him for bringing the health insurance issue to the floor. I hope in the next session that we can work together to try to find some bipartisan compromise to deal with this health insurance challenge. It is still out there and getting more challenging every day. Senator ENZI of Wyoming, as Republican chair of the committee, may have been the first one to bring the health issue to the floor of the Senate in the 10 years I have been here. I commend him for that.

Although we didn't see eye to eye on all of that, I hope we come back together and sit down and try to find some common bipartisan approach no matter who is in charge of the Senate in the next session.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered:

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT

Mr. ENZI. Mr. President, in a moment I will request unanimous consent that the Senate pass S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act.

Just last week, we made a unanimous consent request to pass this bipartisan, bicameral legislation. That means Members from both sides of the aisle and both ends of the building have agreed to the language in this reauthorization. It passed out of the House Committee on Energy and Commerce last week. However, Senators from three States are blocking the vote that would speed reauthorization programs that provide life-sparing treatment to individuals suffering from HIV and AIDS.

We have to pass this bill. If this bill is not reauthorized by September 30, several States and the District of Columbia will be slated to lose funds. People who have been counting on the money for HIV and AIDS will lose money on September 30. Therefore, Senators from three States are holding up a bill that would help Connecticut, Georgia, Kentucky, New Hampshire, Pennsylvania, Delaware, Illinois, Maine, Oregon, Washington State, California, Hawaii, Massachusetts, Maryland, Montana, Rhode Island, Vermont, and the District of Columbia, not to mention some of the towns, major cities, and some of the States that would be gaining revenue as we move the money to areas where the current AIDS and HIV cases are. People with HIV and AIDS who live in the States I just mentioned will be hurt if a few Senators continue blocking this reauthorization.

As we all know, the Ryan White program provides critical health services for people infected with HIV and AIDS. These individuals rely on vital programs for drugs and other services. We need to pass this legislation so we can provide them with the treatment they desperately need. I urge Senators who are holding up this bill to stop playing the "numbers game" so that the Ryan White legislation can address the epidemic of today—not yesterday.

I mentioned that we changed the formula to follow the people. The HIV/AIDS epidemic affects more women, minorities, and more people in rural areas and the South than ever before. While we have made significant progress in understanding and treating this disease, there is still much to do to ensure equitable treatment for all Americans infected with HIV and AIDS. We must ensure that those infected with HIV and living with AIDS will receive our support and our compassion, regardless of their race, regardless of their agenda, regardless of where they live; therefore, I urge my colleagues to support this key legislation and to stop playing the numbers game so we can assist those with HIV in America.

UNANIMOUS-CONSENT REQUEST S. 2823

Having said that, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2823, the Ryan White Act. I ask unanimous consent that the Enzi substitute at the desk be agreed to; the committee-reported amendment No. 578, as amended, be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and any statements related to the bill be printed in the RECORD.

Mr. DAYTON. Mr. President, I object, not on my account but on behalf of some of my Senate colleagues who, I stress, want to join with the program.

I commend the chairman for his leadership on behalf of this legislation and the support of the reauthorization, but they object to the permanent reduction in funding for their respective States which would occur under the formula the chairman referenced. They share my hope, along with the chairman, that this issue can be satisfactorily resolved for all concerned before the expiration, September 30, so that this—I think we all agree—very important and valuable program benefiting all of our States can continue uninterrupted.

I do object on their behalf.

The PRESIDING OFFICER. The objection is heard.

Mr. ENZI. I am sorry to hear we have an objection. We need to find a way to work through this objection. I have been working desperately across the aisle with Senator KENNEDY, who has been joining me in this effort to help get it out of committee. We have been trying to find a way that the formula would work. One of the ways was to include in the bill 3 years of hold harmless for them to finish updating their system to the point where if they truly have the HIV numbers, they will truly get the money. If they don't have the HIV numbers, yes, they will lose the money.

Now, I don't know if the Senator from Minnesota is aware that our Ryan White reauthorization bill increases the funding for Minneapolis by $2 million and $2.5 million for the whole State. It is a net benefactor. There have been increases in HIV and AIDS cases in Minnesota, and this would move money to where the cases are. That is where the numbers show that his city and State would be significant beneficiaries.

I have a lot of statistics I can go through, but I wonder if the Senator is also aware that these increases are due to the inclusion of HIV/AIDS in the funding formula and that Minnesota has more HIV cases.

Mr. DAYTON. Mr. President, again, to make the record clear, I am not objecting on my own account but on behalf of my other Senate colleagues. I thank the chairman for that improvement in the funds that are going to Minnesota. I strongly support the program and intend to vote for it.

I thank the chairman again for his leadership and his continuing efforts to get this important legislation reauthorized.

Mr. ENZI. Mr. President, I appreciate that clarification.

I will ask the Senator for his help. He said he would vote for the bill. Anything we can do to move this forward. We have put a 3-year hold harmless in there for everyone.

On September 30, the world falls apart for a number of people. California, for one, will lose $18.5 million of their funding. There are a number of big losers. There are no big losers if we pass the bill, provided the numbers back up what they have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, by objecting to moving this bill, we need to look at the real lives that are getting ready to be harmed. Not only is the funding for the program going to be cut to the poorest of the poor by the formula in the preexisting Ryan White Act, but also the money for New York and California is going to be cut. The New York delegation, for example, argues that updating the formulas is devastating their State's infrastructure. A closer look reveals that the impact on New York, like other States with large urban areas, is not so great.

The national average funding per AIDS case in 2006 was $1,613. New York's average was $2,122—33 percent more than the national average. Under the corrected funding formulas, the national average in 2007 would be $1,793; New York's would still be higher at $2,107, just 5 percent less than the State currently has, so people who are getting no treatment now, especially minority women where this disease has ravaged and is growing at a larger proportion, do not have access to any care.

What we are really saying is to avoid a 5-percent cut, we are going to eliminate access for large numbers of minority women in this country who are infected with this virus and have no access to drugs, have no access to treatment today because the dollars have not followed the epidemic.

The political response to this, even though it might be parochial, is wrong for this country. It is wrong for those who have no benefit today to continue to be denied benefits because some group might lose a small percentage when, in fact, a very large number of people are going to be benefited by the new Ryan White fund.

We need to be very careful. The last Ryan White law was very specific in what is getting ready to happen. The number of people waiting for drugs is going to shoot through the ceiling if we do not pass the bill because of the funding formula that was in there to force us to pass a bill.

What we have said is we are going to object on parochial interests, a 4- or 5-percent cut, but the reason we are going to object, we do not care that other people are going to have no care, no treatment, no drugs, no access, so what we are really doing is we are not taking away any significant care, but we are markedly reducing an opportunity for life for those who are the least able to care for themselves.

Just a couple of other examples. The New York Times noted that out of this $2,107, we have dog-walking paid for through AIDS funds, we have candlelight dinners paid for for AIDS recipients—this at the same time an African-American woman in Atlanta, in Greensboro, or in Tulsa cannot get the lifesaving drugs she needs for tomorrow, the drugs that will save her life, allowing her to continue to be a mother.

There have been a lot of people who have worked very hard to get Ryan White reauthorized. I thank them personally for that. It diminishes the Senate when we think of the parochial and not the whole.

The long-term former funding for Ryan White was based on AIDS cases. The new funding is based on HIV and AIDS cases. This new funding in this new bill says that 75 percent of the money has to go to treatment—we have never had that before—to really make a difference in people's lives.

I am disappointed that we are not going to be able to do this bill, but my disappointment is nothing compared to the people who aren't going to get care, who aren't going to have a future, who aren't going to have a life if this is not changed. I thank the chairman for his hard work. I thank the Senator from North Carolina for his work and Senator JEFF SESSIONS, as well. This is a disease which is moving hard and heavy to minority communities, to the South. If we do not recognize that they ought to have equal rights for treatment and care, there is something wrong with us.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, this is, plain and simple, about whether this Senate is going to allow legislation to go forward to reauthorize Ryan White, that allows the funding to follow the patients. What an incredible thought, that we would be here at a stalemate over whether health dollars follow the individual HIV-positive and AIDS patients.

In North Carolina, we have gone on an aggressive program for volunteer testing. The amazing thing we found out is that of those individuals now tested, 30 percent have full-blown aids, meaning that the options we have, that the health community has, are minimal from a standpoint of how we stop that disease in its tracks and give them any quality of life.

We are making the steps in North Carolina to try to identify the individuals who should be on a regimen of drugs. But by not allowing this bill to come to the floor for debate, we are denying the Senate the ability to bring the bill up and to consider the merits of it, and, yes, to amend it if we want to, to live with the majority of this body as to whether we change the funding formulas from what the committee has decided; which is, the funding should follow the patient.

My colleague from Oklahoma is an OB/GYN by profession. He has the medical degree. He understands the specifics of it. And the one thing that TOM COBURN has drilled in me over and over and over again is that to deny these individuals the ability to have the regimen of drugs that are available is to give them a death sentence. To deny this legislation to come up on this floor is to give a death sentence to somebody in America.

The likelihood is that some of those individuals with that death sentence live in North Carolina. Seventy-two percent of new North Carolina cases reported in 2005 were minority clients. Women of color in the South are 26 times more likely to be HIV positive than White females. In 2004, 66.7 percent of people living with AIDS in North Carolina were African American—the fifth highest rate in the Nation. The national average was 39.9 percent.

What is unique about this challenge of the demographic shift in where HIV and AIDS is affecting the U.S. population is that, for example, in North Carolina, in many cases, it is in rural North Carolina. The challenge is not only how you match the dollars for drugs with the patient, it is how you supply the transportation to the patient to get to the clinic where, in fact, they get their drugs. To deny the ability of the Senate to come to the floor and debate this bill, to bring it up and to address the merits of this formula change, to suggest that there is something wrong with allowing the funding to follow the patient—I am not sure I get it. I thought that is why America sent us here.

In 2004, North Carolina's contribution of $11.2 million a year represented, the seventh highest among all States for ADAP programs in absolute dollars, and the second highest contribution as a State in percentage. Nobody can look at North Carolina and say we are not doing our share and more for the people who live in North Carolina.

But what we are denied by our inability to debate this legislation, to amend it, if some want to amend it, is to say that North Carolina will have to continue to make a bigger investment on the part of our State because certain States do not want to give up their Federal dollars, even though they no longer have the pool of HIV and AIDS patients.

In 2004—one comparison I will draw for this body—in Massachusetts, there were 8,254 individuals living with AIDS; in North Carolina, we had 7,245. Total Federal spending in Massachusetts for individuals living with AIDS was $18.6 million. In North Carolina, it was $8.1 million—$10 million shy of Massachusetts, with an affected AIDS population 1,000 less than Massachusetts. That one statistic shows the inequity that exists in the formula that we currently have within Ryan White.

One simple change means that funds will now follow the patients. That the concentration of dollars will go into the communities that affect the individuals who are infected with this disease.

I am not sure that many of us have stopped to focus on the fact that when the Federal Government makes an investment or the State government makes an investment to make sure that AIDS patients have the medications they need, we eliminate two hospital visits a year. A person living with AIDS today untreated will likely visit the hospital twice in any given year, for a week's stay each, once for a retinal infection, the second time for pneumonia. The average of those two stays is about $33,000

For an investment of slightly over $10,000 a year—part by the Federal Government, part by the State government, part by private entities—we can eliminate those two hospital visits.

So the inability to bring up this legislation, the inability to debate a change in Ryan White, an inability to let the money follow the patients means not only will New York keep their pot of money or California keep their pot of money, but it means North Carolina is going to pick up, in unrecoverable hospital expenses, about $22,000 per year per patient for whom we could not provide the medicine. So not only are we not investing the Federal money wisely because it is being invested in communities that do not have the patient population anymore, we are turning around, and the Federal Government is picking up, in the case of North Carolina, 60-plus percent of the Medicaid expense, or of the disproportionate share of the hospital expense in DSH payments, or, in fact, the hospital is sitting there with a $33,000 bill and somebody unable to pay for it, and potentially it gives them a collection problem.

This is an opportunity for us to fix something that is broken, for us to do something that every person, every Member of the Senate understands the equity and the fairness of; and that is, if we are going to make a Federal investment, let's make sure the dollars follow the individuals who are affected with HIV and AIDS.

This is an opportunity for us to understand that AIDS does not recognize State borders, that it does not recognize the difference between sexes or ethnic backgrounds, that it has now infiltrated rural areas the same way it did urban areas years ago when we were reluctant to come to this floor and talk about it.

This is a health problem in America. It deserves our attention today. It demands that we change the formula to make sure as many Americans as possible who are infected with AIDS are, in fact, treated, in part with the money we devote out of the taxpayers' pockets to do it. The inability to bring this legislation up—to stand up and suggest that we would like to bring it up, and there is an objection—is to say, no, we do not want to debate it. Why? Because they do not want to fix it. They would rather allow a death sentence to be applied to somebody, to many people, across this country.

So as Dr. COBURN said, dogs can be watched, midnight dinners can be had, but the fact is, this legislation is focused on how we get lifesaving drugs to individuals who are infected with HIV and AIDS. My hope today is that Members who are scared to have this debate will come to the floor and lift their hold, will agree to the unanimous consent request, and come down and have a debate on this and try to defend—try to defend—these numbers, try to tell me that having $18 million for 1,000 more HIV/AIDS patients is fair. In fact, it is not fair.

We are obligated—we are obligated—as Members of this body to change the formula so it represents where the best investment can be made, and to where the American people look at it and know we have responded in a fair and equitable way.

I thank the chairman for the committee's commitment to do this legislation, for the work of the chairman and his leadership in, quite frankly, coming up with a very difficult bill to address the input of many different regions of the country and many different States. But the same population—a population that was infected with HIV/AIDS, regardless of where they live, regardless of where they grew up, regardless of what their skin color is, regardless of whether they are male or female—they ought to be equitably treated as it relates to the distribution of Federal funds available for them to access lifesaving treatments and drugs for their disease.

My hope is that at the end of this day the Chair, the committee, but more importantly the individuals who are infected across this country, will, in fact, win and we will pass this legislation and change this unfair funding formula.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator for his words. The increase in knowledge that I am sure he has created across the country—and also the comments of the Senator from Oklahoma—both of them have made an excellent case for why we need to do this. We need to do it immediately. We need to do it for people who have HIV/AIDS. I would note that the person who raised the objection to us adopting the bill is not from one of the three States that have a hold on the bill. I would hope those people would take a look at the situation in their State, and take a look at the fact they are getting more than the average number of funds being expended on patients across the rest of the country, and see that the surpluses their States are running at the end of the year greatly exceed the rather minute loss they would have, and that they would agree for us to move forward on this bill and get it in place before that September 30 deadline that is going to be devastating to 13 States that will lose money for having done the right thing.

Now, having said that, I know there will be people who will say the Republicans cannot get anything done. Well, that particular issue, and many others are not Republican issues. They are issues of the United States. And that is one on which we worked across the aisle and had a great deal of agreement on. And I have to thank Senator KENNEDY, the ranking member on my committee, for the extreme work he did to help us find, among the thousands of formulas we looked at, the one that was the most fair so it would follow the patients. I do appreciate the work he has helped us do in the committee during the year.

ACCOMPLISHMENTS OF THE HELP COMMITTEE

Mr. ENZI. Mr. President, I want to take just a few minutes to talk about what the Health, Education, Labor, and Pensions Committee has done this year. This Ryan White reauthorization is extremely important, but it is not the only bill we have been working on. Because of the way we have done our work, some people may not be aware of what has been done. In fact, I know that to be the case.

This is a committee that has worked across the aisle. When you work across the aisle, a lot of times you can work out many of the difficulties, and when you work out the difficulties, there is not a big floor debate. And when there is not a big floor debate, there is nothing for the media to write up about the blood; consequently, it does not get coverage. So I want to correct that here today, and I would like to discuss the Senate Health, Education, Labor, and Pensions Committee's accomplishments for the 109th Congress.

We have heard some claims that this is a do-nothing Congress. Well, I am here to assure American workers, retirees, students, and parents that the Health, Education, Labor, and Pensions Committee has done a great deal to help you live more secure, productive, and healthy lives. Of course, we have more to do, but I am proud that during a time of intense partisanship on Capitol Hill, the HELP Committee has produced a lengthy list of legislative accomplishments.

Looking back over the past 2 years, most of these victories materialized when Senators were willing to work across party lines and across the Capitol to put finding a solution in front of exploiting an issue.

Mr. President, I ask unanimous consent that a list of bills and reports filed by the HELP Committee in the 109th Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORTS FILED BY THE HELP COMMITTEE, 109TH CONGRESS, FIRST AND SECOND SESSION (2005–2006)

Bill No.	Ordered rpted	Date rpted.	Written rpt	Cal. No.	Status
1. S. 265 (Rural Trauma Care)	2/9/2005	2/2/2006	109-215	359	
2. S. 285 (Children's Hosp. Graduate Medical Ed. Prog.)	2/9/2005	5/11/2005	109-66	98	Passed Senate, Amended 7/26/2005, Referred to Energy & Commerce 7/27/2005 (H.R. 5574)
3. S. 288 (High Risk Health Insurance Pools)	2/9/2005	2/10/2005 7/29/2005	No 109-121	2	Passed Senate, 10/19/2005, (amdt. to H.R. 3204) P.L. 109-172
4. S. 302 (NIH)	2/9/2005	5/26/2005	109-75	117	Passed Senate, 7/27/2005, Referred to Energy & Commerce 7/28/2005
5. S. 306 (Genetic Info.)	2/9/2005	2/10/2005	No	3	Passed Senate, Amended 2/17/2005, Received in House, Held at desk 3/1/2005

REPORTS FILED BY THE HELP COMMITTEE, 109TH CONGRESS, FIRST AND SECOND SESSION (2005–2006)—Continued

Bill No.	Ordered rpted.	Date rpted.	Written rpt.	Cal. No.	Status
6. S. 172 (Amend FDA-re: Contact lenses)	3/9/2005	7/27/2005	109–110	177	Passed Senate, 7/29/2005, Passed House 10/26/2005. P.L. 109–96. 11/9/2005
7. S. 250 (Carl D. Perkins)	3/9/2005	3/9/2005	No	39	P.L. 109–270
		5/10/2005	109–65	39	8/12/2006.
8. S. 525 (Caring for Children)	3/9/2005	8/31/2005	109–130	199	
9. S. 544 (Patient Safety)	3/9/2005	Discharged			Passed Senate, Amended 7/21/2005, Passed House 7/27/2005 P.L. 109–41. 7/29/2005.
10. S. 655 (Centers for Disease Control	4/27/2005	6/27/2005	109–91	140	P.L. 109–245. 7/26/2006
11. S. 898 (Patient Navigator)	4/27/2005	5/25/2005	109–73	115	P.L. 109–18; (H.R. 1812). 6/29/2005.
12. S. 1021 (WIA)	5/18/2005	9/7/2005	109–134	203	Passed Senate, Amended 6/29/2006.
13. S. 518 (. . . Prescription Electronic Reporting)	5/25/2005	7/29/2005	109–117	187	P.L. 109–60; (H.R. 1132). 8/11/2005.
14. S. 1107 (Head Start)	5/25/2005	8/31/2005	109–131	200	
15. S. 1317 (Cord Blood)	6/29/2005	7/11/2005	109–129	156	P.L. 109–129; (H.R. 2520). 12/20/2005.
16. S. 1418 (Health IT)	7/20/2005	7/27/2005	109–111	178	Passed Senate, Amended 11/17/2005, Referred to Energy & Commerce 11/18/2005.
17. S. 1420 (Medical Device User Fees)	7/20/2005	7/25/2005	109–107	173	P.L. 109–43; (H.R. 3423). 8/1/2005.
18. S. 1614 (Higher Education)	9/8/2005	11/17/2005	No	300	
		2/28/2006	109–218	300	
19. S. (Defined Benefit Security)	9/8/2005	9/28/2005	No	[1] (See Below)	H.R. 4 Pension Protection Act, P.L. 109–280.
20. S. 1873 (Biodefense and Pandemic Vaccine and Drug Development Act)	10/18/2005	10/24/2005	No	257	
21. S. 1902 (CAMRA)	3/8/2006	9/5/2006	109–323	585	Passed Senate 9/13/2006.
22. S. 1955 (Health Insurance Marketplace Modernization and Affordability Act of 2006).	3/15/2006	4/28/2006	No	417	
23. S. 2803 (Mine Improvement and New Emergency)	5/17/2006	5/23/2006	No	439	P.L. 109–236 (6/15/2006).
24. S. 2823 (Ryan White HIV/AIDS Modernization Act)	5/17/2006	8/3/2006	No	580	
25. S. 860 (American History Achievement Act)	5/17/2006				
26. S. 3570 (Older Americans Act Amendments)	6/28/2006	9/19/2006		616	
27. S. 3546 (Dietary Supplements)	6/28/2006	9/5/2006	109–324	586	
28. S. 707 (PREEMIE Act)	6/28/2006	7/31/2006	109–298	541	Passed Senate 8/1/2006.
29. S. 757 (Breast Cancer and Environmental Research Act)	6/28/2006	7/24/2006	109–290	530	
30. S. 3678 (Pandemic and All Hazards Preparedness Act)	7/19/2006	8/3/2006	109–312	583	
31. S. 843 (Combating Autism)	7/19/2006	8/3/2006	109–318	578	Passed Senate 8/3/2006.
32. S. 2322 (RADCare)	9/20/2006				
33. S. 1531 (Keeping Seniors Safe From Falls and TBI)	9/20/2006				
34. S. 3771 (Health Centers Renewal Act)	9/20/2006	9/25/2006		639	
35. H.R. 5074 (Railroad Retirement Technical Improvements)	9/20/2006	9/21/2006		630	Passed Senate 9/25/2006.

[1] (Status—Was combined with a Fin. Cmte. bill and introduced as a Senate Bill on 9/28/2005 as S. 1783—Pension Security and Transparency Act of 2005. Passed Senate amended 11/16/2005. (See also H.R. 28301, H. Res. 602); H.R. 2830—House disagreed to Senate amendment/agreed to a conference on 3/8/2006.)

Mr. ENZI. Mr. President, I joined the HELP Committee when I was first elected to the Senate in 1997. It was natural for me because of my small business background as an owner of family shoe stores. I had firsthand experience with burdensome government regulations, inadequate health care coverage for my workers, and adversarial workplace safety laws. I was energized about finding common sense solutions rather than more Washington bureaucracy.

Now, another reason I joined the HELP Committee is because its broad jurisdiction touches nearly every American.

Now, there were a lot of vacancies on the committee when I signed up. I asked why there were so many vacancies, and I was told, well, that is a contentious committee. I thought I knew what contentious committees were because I served on the labor committee in Wyoming. I found out that there is another level of contentious. I wanted to work with my colleagues to find smart solutions that would address some of the most important challenges faced by my constituents in Wyoming and, of course, other people across the country. I came from Wyoming as a firm believer in my 80–20 rule. The way that rule works is that we can usually find agreement on 80 percent of any issue. We agree across the aisle on about 80 percent the issues that comes up. Now, we are probably never going to reach agreement on the remaining 20 percent.

Unfortunately, for America, what they get to watch on any bill is the debate on the 20 percent we don't agree on, and probably will never compromise on. That is what makes this body seem so contentious—the 20 percent that we don't agree on, even though 80 percent can get done. The committee process will enable us to find that 80 percent, and that has been a principle that has guided my chairmanship.

I was honored and humbled when my colleagues selected me to chair the HELP Committee nearly 2 years ago. Since my chairmanship began, the vision for both the full committee and the subcommittees is to craft legislation that provides lifelong opportunities for people to be healthier, more competitive, and to be more secure at school, work, and in retirement.

Because we have such a broad jurisdiction, the HELP Committee has had an aggressive legislative schedule in the 109th Congress. Over the past 2 years, together with the subcommittees, we have held 57 hearings and reported 36 bills out of committee; 21 of these proposals were approved by the Senate and 12 were signed by the President and became public law. We also reviewed and approved 352 nominations that require Senate confirmation. I thank my colleagues, including their staffs, for doing the work needed to maintain this aggressive pace.

In this Congress, the HELP Committee has been privileged to have in its ranks active subcommittee chairmen and engaged members. This is largely the reason the committee has had legislative success. I thank them for their dedication, and I applaud them for the joint success as a committee. Our ranking member, Senator KENNEDY, and I may disagree on a number of issues, but we have worked hard to find common ground and we share a commitment to improving the health, education, work, and retirement security of Americans.

The number of bills acted upon by the HELP Committee is certainly impressive. However, the numbers alone don't begin to tell the story of how the committee's activity will improve the lives of Americans now and in the years to come: One of the committee's most significant accomplishments came on August 17 of this year when President Bush signed into law the Pension Protection Act. That act marks the most comprehensive change to pension law since 1974. The Pension Protection Act is a real victory for working Americans who spend a lifetime working hard and saving for retirement. It dramatically strengthens pension funding rules and helps curb record pension failures. In doing so, the act better protects the retirement dreams of 45 million Americans. Not only were single employer fund rules significantly overhauled, but the rules regarding hybrid pension plans were finally clarified, and multi-employer funding rules were changed as well. The proposal strengthens current law and will better help Americans prepare and plan for retirement. It provides workers the security of knowing that moneys earned for retirement will be there when they are ready to retire.

It also secures the Pension Benefit Guaranty Corporation and secures that corporation without picking the pockets of taxpayers to keep the agency solvent. This legislation was no small undertaking. It took a year and a half of hearings, 5 months of deliberations in conference, and countless hours of negotiations on each provision of the bill.

Fortunately, pension issues are almost always handled in tag team fashion, involving both the HELP Committee and the Senate Finance Committee, which has jurisdiction over the Internal Revenue Code. While this tag team approach is a great asset and helped us get the bill through the Senate, it meant a complicated and extraordinarily large conference involving four committees in the House and Senate and 27 conferees.

Together with my ranking member, Senator KENNEDY, Finance Committee Chairman GRASSLEY, ranking member Senator BAUCUS, as well as HELP's Retirement Security and Aging Subcommittee Chairman DEWINE, and Ranking Member MIKULSKI, our committees collaborated with House counterparts to make this sweeping reform happen. Because of this teamwork, the law passed the Senate 93 to 5. The result was a policy and a process that was truly bipartisan. Total floor time for the bill—Senate debate and conference report debate—totaled about one hour and fifteen minutes equally divided.

Some may think the conference took a long time to conclude, but history proves that it was ended in record time. The last big pension conference occurred in 1994. The conference was appointed in March of that year, but did not conclude until December. Prior to that, the most recent conference took place in 1987 and operated in the context of budget reconciliation. Again, that conference commenced in March but didn't end until December.

This year, our conference began in March and ended in July—just 5 months compared to a 10-month conference for earlier bills. Comparatively speaking, the Pension Protection Act conference finished quickly, but the impact will be felt for generations.

Another major accomplishment of the HELP Committee was the enactment of the Mine Improvement and New Emergency Response Act, MINER. From the tragic loss of life in the coal mines of West Virginia and Kentucky came the first reforms of mine safety laws in 28 years. These tragedies brought together leaders from the mining industry, from government, and from the labor unions, and helped to forge a commitment to improve mine safety. I traveled to the Sago mine with Senators KENNEDY, ROCKEFELLER, and ISAKSON. We met with the families of the miners who lost their lives. We met with other miners who worked there, and we met with people in the union. I felt a commitment to those families and miners in this country to try to ensure that this would never happen again.

The committee approved the MINER Act on May 17, and the President signed the bill in June. That has to be one of the fastest, most comprehensive changes to any safety law. I can't emphasize enough the cooperation of unions and company executives, and Republicans and Democrats.

Protecting the health and safety of those who work in the mining industry need not be a partisan issue. Mining, and coal mining in particular, is vital to our national and local economies, and to national energy security. Ensuring the safety of our miners is essential to protecting and preserving the industry and protecting the workers. I especially thank Senators KENNEDY, ISAKSON, BYRD, ROCKEFELLER, and MCCONNELL for the tireless effort they extended. Their efforts contributed in large part to this proposal becoming law.

I should mention that the debate on the Senate floor was 1 hour equally divided with two votes. So nobody saw that. Nobody saw that debate, but it makes a significant difference for all the people in the country—the mining bill. You never saw any debate on the floor. It passed unanimously without debate. It passed in the House under suspension with limited debate—the same bill.

Sometimes the things that get done by unanimous consent that everybody agrees on nobody ever finds out about, except the people it does benefit; they know. That is why it is worth doing it that way. For a bill that has objections around here, there are ways to overcome it if you get 60 votes for it. But that is usually about a 3-week process. A unanimous consent doesn't use up much time, but it gets things done.

The committee has also made tremendous strides related to education and job training. This session the HELP Committee initiated a comprehensive effort to authorize legislation that enhances knowledge and skills and helps American workers become leaders in the global economy. Some estimates suggest that 60 percent of the jobs created in the next decade will require skills that only 20 percent of the workers today currently possess, and 80 percent of the jobs will require education or training beyond high school. Eighty percent of the jobs will require education or training beyond high school. That is where the world is going. It is changing fast.

One important component of this effort is the reauthorization of the Carl Perkins Career and Technical Education Act. It was signed by the President in August, and it will help close the gap that threatens America's long-term competitiveness. The act addresses the needs of the Nation's changing workforce and prepares Americans for highly technical, higher-paying jobs. The reauthorization also made changes that will increase accountability at the State and local levels and will establish stronger links with businesses to build partnerships with high schools and colleges so they can better meet the needs of the changing workforce.

For many people, participation in these programs can mean the difference between a job with no possibility of advancement and a successful career. Passage of this legislation was a significant accomplishment. Again, limited floor debate, no debate on the conference report; unanimous consent across the aisle.

Another piece of this comprehensive effort is the reauthorization of the Higher Education Act. As my colleagues know, the mandatory portions of the higher education law were reauthorized in February under the Deficit Reduction Act of 2006. Before I elaborate, I want to stress that it is critical to reauthorize the remaining discretionary programs under the act, which I intend to make a top priority for 2007. We have the bill out of committee but haven't had the floor time to do the debate on it. I am making that a top priority for 2007 because postsecondary education is the key to the future success of our students, our communities, and our economy.

As I stated earlier, we reauthorized the mandatory components of the Higher Education Act through the budget reconciliation process. We found over $20 billion in savings by eliminating corporate subsidies for lenders and reworking the interest rate structure for many borrowers, among other revisions. A portion of the savings was used to pay for over $9 billion in enhanced students benefits. The law makes higher education more affordable for students who finance part of their education through loans by reducing borrow origination fees and increasing loan limits.

Another benefit is a $4 billion grant program for postsecondary students who major in science, math, and certain national-security-related foreign languages. These funds are dubbed "SMART grants" and are an important part of making higher education more affordable for low- and middle-income families. We invested resources where we need them the most, which will help ensure we have a workforce that can compete globally.

I was in India earlier this year and saw firsthand what Thomas Friedman discusses in his book, "The World Is Flat." It doesn't take long to figure out that by sheer numbers alone, India has only to educate 25 percent of its population to have more literate and educated people than the total population of the United States.

By using the reconciliation process for these higher education reforms, the HELP Committee was able to produce meaningful deficit reduction. In fact, I am proud the HELP Committee led the entire Congress in deficit reduction and produced $15.5 billion in savings over five years. That is 40 percent of the entire Deficit Reduction Act of 2006. It is not right to overspend now and pass the bill on to our children and grandchildren to pay later.

I thank Chairman GREGG for his leadership on the Budget Committee and for his contribution on the authorizing committee that helped make the meaningful deficit reduction a reality.

Enactment of the Perkins reauthorization and the mandatory revisions of the Higher Education Act were critical components of a comprehensive effort to strengthen knowledge and skills. However, this effort also includes the reauthorization of the Workforce Investment Act. The reauthorization is essential because it will help train American workers to fill the good jobs being created so we can continue to be leaders in the global economy.

The reauthorization of the Workforce Investment Act has been a priority of mine since I chaired the Subcommittee on Employment and Workplace Safety in the previous Congress. Last Congress, I worked tirelessly to report the legislation from the committee, only to be held up on the Senate floor when it came time to appoint conferees. Now, that means the bill made it out of committee and cleared the Senate floor. The House passed a different version, so we need a conference committee to resolve the differences. However, we weren't allowed to appoint a conference committee. That was 2 years ago. Mr. President, 900,000 new jobs could be trained under that program. This year, once again, I have been procedurally hamstrung in my efforts to move to conference. The bill must be completed. It made it out of the committee unanimously. It made it through the floor of the Senate, again unanimously. That means everybody agreed with what is in the bill. Now the only problem left is we have to reconcile that with what the House passed.

America is facing an economic challenge that threatens our ability as a nation to compete on the world stage. This bill sends a clear message that we are serious about helping our workers and our employers remain competitive and about closing the skills gap that is putting America's long-term competitiveness in jeopardy.

Our commitment to lifelong learning never ends. It begins with giving our children the proper tools for a start down the pathway that leads to their education. The committee approved improvements to Head Start this last year, and the completion of this process is one of my top priorities.

On the health front, eight committee bills were signed into law by President Bush. One of the most significant new health care laws is the Patient Safety and Quality Improvement Act. The new law is a culmination of 6 years of work in response to the Institute of Medicine's 1999 report that found that nearly 100,000 Americans die needlessly every year due to medical errors.

The Patient Safety and Quality Improvement Act creates a protected legal environment in which patient safety organizations can analyze why medical errors happen and develop strategies to stop those errors from happening again. The law provides critical legal protection for doctors, nurses, and other health care workers who might fear coming forward with information about mistakes because the information could be used in a lawsuit against them.

This new law is the first important step toward creating a new culture of safety and continuous quality improvement in health care.

This new law is one of just several important pieces of legislation the HELP Committee produced in this Congress. I would mention again that this too took zero debate time on the floor. Another one is the Patient Navigator Outreach and Chronic Disease Prevention Act of 2005, which will help patients with chronic diseases team up with health care experts who can help them find their way through the maze to the best treatment offered in this often complex health care system. Again, no floor debate time.

The Stem Cell Therapeutic and Research Act of 2005 supports the creation and maintenance of cord blood stem cells. Stem cells obtained from umbilical cord blood have already shown great promise in treating cancers, leukemia, and other diseases, and this law will accelerate our work in those areas. I have already had people who have reported back to me that their life may have been saved by that particular act already. I think we had 5 minutes of debate time on that bill.

The National All Schedules Prescription Electronic Reporting Act of 2005 enables physicians and other prescribers to find out whether patients are abusing and diverting narcotics and other dangerous drugs. Instead of enabling these patients and their self-destructive habits, physicians will now be able to identify them and treat them.

The State High Risk Pool Funding Extension Act of 2005 renewed a key law that funds State high-risk health insurance pools. These pools create access to health insurance for otherwise medically uninsurable individuals and are an important part of our strategy to make health insurance available to more Americans. The President also signed a bill to amend the Public Health Service Act and strengthen the National Foundation for the Centers for Disease Control and Prevention.

Finally, we passed two key laws to preserve access to medical technology. The Medical Device User Fee Stabilization Act of 2005 prevented the FDA's medical device user fee program from expiring. Without this law, patients' access to the latest medical innovations would have been compromised. Congress also acted to protect children from dangerous, unregulated cosmetic lenses, often used as part of costumes, by providing for the regulation of these lenses as medical devices.

The HELP Committee members worked together with our House counterparts in a bipartisan, bicameral way to complete action on these laws. I personally thank all of the committee members on both ends of the building for their active participation in this process.

We also scored a victory on the Senate floor this summer related to health insurance. Together with Senators NELSON and BURNS, I introduced legislation that would allow business and trade associations to band their members together in small business health plans and offer group health coverage on a national or statewide basis. It would give small businesses the capability to group together across State lines to effectively negotiate against big insurance companies. It would bring down insurance rate significantly, particularly in the area of administrative costs.

This legislation, the Health Insurance Marketplace and Modernization and Affordability Act, is a direct response to the runaway costs that are driving Americans and businesses away from the health insurance marketplace. In May, this legislation received 55 votes on the Senate floor—a clear majority. Unfortunately, obstructionists used arcane Senate rules requiring 60 votes for passage to defeat consideration of the bill. I count this as a victory for the HELP Committee because the policy is supported by the majority of the Senate. This will not be a victory for Americans until it is signed by the President.

Enacting the Health Insurance Marketplace Modernization and Affordability Act will be a top priority for the HELP Committee and me personally in the 110th Congress. I intend to act on this legislation early next year and continue to work across party lines to find the solution that produces 60 votes in the Senate. The HELP Committee has a role to play in making employer-sponsored health care more accessible and affordable. Employer-provided health insurance is voluntary, and it is in critical condition. Sixty percent of the country's employers offer insurance today. That is down 9 percent from just 5 years ago. And the cost of health insurance for companies has nearly doubled in that same period, with employers expected to pay an average of $8,167 per employee family versus $4,248 5 years ago. My proposal would provide health care coverage to over 1 million small businesses and their working families.

This fall, I am also hopeful the committee can add two more victories to our list of accomplishments. That would be the Health Information Technology conference agreement and the reauthorization of the Ryan White Care Act.

Right now, my staff is working aggressively with the House to complete action on the Wired For Health Care Quality Act conference agreement. This legislation will enhance the adoption of a nationwide interoperable health information technology system, improve the quality of health care, and contain costs. Primarily, it will allow each individual to own their own health care record and to carry it around with them easily. They will have the permanent record to carry with them and release, to the degree they want to, to any health care provider. This will contain costs: just between Medicare, Medicaid and Veterans, this is expected to save $160 billion a year. The cost to implement: $40 billion, one time. A good investment anywhere.

The committee has also been working in a bipartisan, bicameral fashion to complete the reauthorization of the Ryan White Care Act. The measure was approved by the HELP Committee in May, and I am hopeful that we can swiftly clear compromise legislation through both Chambers by December—I was hoping we could pass it today, but I see it has been stopped. It is absolutely essential that this clear by September 30.

The reauthorization of the Older Americans Act will also have a significant impact on the everyday lives of Americans. The HELP Committee approved this legislation in June, and I am hopeful we can complete action on it this year as well. This reauthorization is important because it ensures that our Nation's older Americans, including 78 million aging baby boomers, are healthy, fed, housed, able to get where they need to go, and safe from abuse and scams. We have been in bicameral, bipartisan deliberations for several months. Again, there is a little hangup on the funding formula. Money has to follow the people in all of these programs.

The committee also conducted various investigations and held several oversight hearings that exposed waste, fraud, and abuse in Federal programs and used the findings to craft legislation to increase accountability. Our first oversight hearing last year focused on how an asset management company, Capital Consultants, defrauded workers out of approximately $500 million in retirement assets. The findings from this oversight effort were addressed in the new pension law.

The committee also held the first oversight hearing in almost 70 years on the Randolph Sheppard Act and the Javits Wagner O'Day Act. Both programs are supposed to find employment opportunities for people with disabilities. The committee's investigation and hearing established that some executives were using the programs for their own enrichment—making millions while exploiting people with disabilities. Following the hearing, Federal law enforcement took action against the worst actors, and we have collaborated across party lines to systematically overhaul both programs. My goal is to address these programs with legislation next year.

I thank my ranking member, Senator KENNEDY, and his staff for their hard work these past 2 years. His assistance and cooperation are the main reasons we have been able to accomplish many of these priorities. We didn't always agree, but we were able to identify common ground to advance our mutual priorities.

I also thank each of our committee members. As I stated earlier, we have kept a full schedule. Many of the legislative victories were initiatives brought to my attention by our subcommittee chairs or individual committee members. Senators were also especially diligent about attending the committee hearings and particularly patient when we sometimes waited for a quorum during executive session. For the remainder of the year, I will be reaching out to each of our members to seek feedback on the 2007 agenda, which will serve as the blueprint for the year.

Finally, in closing, I would like to recognize two departing members of the committee: Majority Leader FRIST and Senator JEFFORDS. We are fortunate they chose to serve, and we are grateful for their contributions. Senator JEFFORDS is a past chairman of the committee, and, of course, Majority Leade FRIST has been the doctor on the committee and provided a perspective no one else could. I am proud of the work we have done here on the committee these past 2 years. By working together, we have established a track record of success.

I also wish to compliment the subcommittee chairmen for their extremely hard work. We gave them a lot of independence, and they didn't disappoint me. They took hold of programs. The competitiveness program is one of them that has reached a point where it can now be debated and pursued. The Senator from Tennessee, Mr. ALEXANDER, did a tremendous job of working that bill, along with Senator ENSIGN, collaborating with three different committees on one piece of far-sighted legislation.

Senators DEWINE and MIKULSKI have done a marvelous job with the Elder Fall Act and Older Americans Act and have worked well together for a number of years across the aisle to make sure older Americans are taken care of.

I could go on and mention all of the subcommittees and the work they have done. Senator BURR has done some fantastic work on bioterrorism. He has put together a fantastic bill that contains new concepts which will allow better preparation for any of the possible terrorism acts that could happen on our own soil. Senator ISAKSON, of course, has been extremely active in handling labor issues. As I mentioned, he was a key player in the miner safety bill.

It has been an interesting year. I look forward to another interesting year. I am looking for suggestions from my colleagues on what needs to be done, and looking for that 80 percent that can be accomplished.

Our record of accomplishment is proof that we are a can-do Congress. Far from being a do-nothing Congress, we have shown our colleagues and our constituents that Congress can and is working hard to improve the lives of Americans.

One of the reasons America doesn't know more about this is because of the cooperation that has taken place. We didn't have to debate the 20 percent we didn't agree on here on the floor of the Senate, and consequently there was not a lot of coverage. But just the pensions bill and the miner safety bill, either of those, would be a major accomplishment for any committee during a 2-year period.

I am proud of the 12 bills the President signed and the 21 bills we got through this body. I think that is a record of accomplishment, and I thank all those who participated.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

MENTAL HEALTH PARITY

Mr. HARKIN. Mr. President, earlier today, my colleague, Senator DURBIN of Illinois, took the floor to describe a resolution he and I submitted and a number of others cosponsored with him to both recognize the contributions of our former colleague, Senator Paul Wellstone, and to, in that resolution which has now been submitted in the Senate, commit ourselves to making a mental health parity bill a high priority in the next Congress, the 110th Congress.

I want to join with Senator DURBIN, Senator COLEMAN, and Senator DAYTON, who also spoke on this topic today, in recognizing the contribution of our former colleague, Paul Wellstone, and to rededicating ourselves in his memory to trying to get this mental health parity bill passed once and for all.

It almost seems impossible that it was almost 4 years ago this next month when we tragically lost our friend and colleague, Paul Wellstone, and some others—his wife and others—in that tragic plane crash in Minnesota.

He was a very special individual to all of us. He was one of the best friends I ever had. Of course, I think he was to millions of other people around America. They thought he was one their best friends also because of what he stood for and what he fought for. He was always sticking up for the kind of little person—people who didn't have much voice or power around here.

Paul had one burning goal during his all-too-short tenure in the Senate, and that was to get mental health put on the same parity as physical health. He struggled mightily to get that done.

After his tragic death in October of 2002, many here talked about the need to pass in his memory the Paul Wellstone mental health parity bill. We still have not gotten it done. Four years later, we remember that political science professor who came to the Senate. He had a great impact.

Paul once said, politics is about what we create by what we do and what we hope for and what we dare to imagine. He dared to imagine and to fight for the end of neglect and denial surrounding issues of mental health, especially access to mental health services.

Right now, over 41 million persons suffer from moderate or serious mental disorders each year. Less than half receive any needed treatment. However, 80 to 90 percent of mental disorders are treatable by therapies and medications. Paul fought hard with his characteristic passion for the Mental Health Parity Act, to end this absurd practice of dividing mental health from physical health and putting them into different categories under health insurance.

Mental disorders account for 4 of the 10 leading causes of disability for persons age 5 and older. In fact, depression is the leading cause of disability in the United States. Tragically, mental disorders are also major contributors to mortality. Some 30,000 Americans die by suicide each year.

According to the Substance Abuse and Mental Health Services Administration, undertreated and untreated mental disorders cost the Nation in excess of $200 billion annually, hurting the economy, the profitability of businesses, and, of course, our Government budgets.

For example, a report released earlier this month by the Department of Justice found that more than half of all prison and jail inmates, including 56 percent of State prisoners, 45 percent of Federal prisoners, and 64 percent of local jail inmates were found to have a mental health problem.

We do not treat the mental health; we hire more police. People with mental health problems cause problems in society, and they turn, perhaps, to crime or illicit drugs to somehow treat themselves and their mental disorders and they wind up in our jails. And we pay and we pay and we pay for this as a society. More than half of all of the people in jails and prison in America have mental health problems.

A lot of opponents of mental health parity claim it will drive up the cost of health care. However, an interesting study released on March 30, 2006, in the New England Journal of Medicine released results of a study that evaluated the Federal Employees Health Benefits Program, the one we are under, to which we all belong. This has provided insurance parity for mental health since 2001. The researchers found that when the care was managed, the cost of coverage for mental health problems attributable to parity did not increase the cost, and the quality of the care remained constant.

Interesting. In our own health benefits program since 2001 we have had mental health parity. And guess what. The costs have not gone up, and the quality of care has remained constant. The Wellstone Mental Health Parity Act is modeled after the mental health benefits provided through the Federal program.

Many cost studies miss something that is very important: they fail to calculate and quantify the benefits and savings that will result from parity. They fail to weigh the offsetting cost-benefits to employers from increased productivity, reduced sick leave, reduced disability costs. Indeed, a true comprehensive assessment of the costs of parity must take into account the costs of not providing parity, including the economic costs in the workplace, the cost to taxpayers of shifting of burden to public systems—as I mentioned earlier, our prisons and jails—the cost of care of homeless persons, the cost of care of our public mental health systems, the increased cost in emergency room visits. Add up all that and the cost of not treating people with mental illnesses comes to around $79 billion a year.

When workers suffering from depression receive treatment, many of the medical costs decline by $882 per employee per year. Absenteeism drops by 9 days. Again, if we provide that care, we are saving money and increasing productivity.

Also, the good news is that millions of people with mental illness can recover. I don't know why so many people think once you have a mental illness, that person is doomed for life. That is like saying if I have a physical illness, forget it, I have to have it for the rest of my life. Not true. It is the same for mental health. People have problems; they need help; they get it; they get over it. They can reclaim their lives if they are provided treatment and support in a timely fashion.

To that end, it is time to do away with the discriminatory practice of treating mental and physical illnesses as two different categories under insurance. It is time to do away with the barriers to mental health treatment and coverage. It is time to pass mental health parity.

I might remind the Senate, we did pass it once on the 2002 appropriations bill. I happened to be chairman that year on the health appropriations bill. We passed mental health parity in the Senate. It got voiced-voted. No one even objected. Imagine that. We passed it. It went to conference. We kept it in on the Senate side, but we went to conference with the House and we lost it because the House objected to it, by two or three votes. By two or three votes in conference we lost it. We came that close in 2002 to getting mental health parity.

What has happened since? Why have we fallen so far backward? Why hasn't the Senate, since that time, brought it up? As I said, in 2002, we did it. Since 2003, it has not even been brought up. Hopefully, in the next Congress, we will bring it up again, we will pass it again, like we did before.

For those who had the privilege of serving with Paul Wellstone, his spirit is still very much with us. He still inspires us and he still calls us to conscience. Each day that we fail to pass this legislation, as we have for years, we are cheating millions of Americans. Each day that we do not step up to the plate and provide adequate mental health coverage to our citizens, we cheat them from reclaiming their health and well-being, and we starve society of the talent, contributions, and productivity they have to offer. It is a disservice to society to sweep mental illness under the rug and to deny people access and coverage of adequate treatment.

Congress should make the Wellstone Mental Health Equitable Treatment Act a priority for the 110th Congress. With widespread support and widespread need, passage of this legislation is long overdue.

MORNING BUSINESS

Mr. McCONNELL. I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered

RECOGNIZING DR. WILLIAM C. TORCH

Mr. REID. Mr. President, I rise today in recognition of Dr. William C. Torch of Reno, NV, who has been selected as a recipient of the prestigious Tibbetts Award. Significantly, Dr. Torch is the first individual from Nevada to receive this honor.

Each year the U.S. Small Business Administration celebrates the accomplishments of a handful of firms, organizations, and individuals nationwide with the Tibbetts Award, the agency's highest recognition for innovative technology. Named for Roland Tibbetts, the father of the Small Business Innovation Research Program, the award honors those who best exemplify the philosophy and doctrine of the SBIR Program. Recipients are selected based on overall business achievements, the economic impact of technological innovations, and demonstration of successful collaboration, among other factors. An individual may only win once in his or her lifetime.

Considering the purpose of the Tibbetts Award, I find it very appropriate Dr. Torch is a recipient. A neurologist specializing in sleep disorders, Dr. Torch has long been an innovative leader in modern, medical research, and social improvement. I have been very impressed by Dr. Torch's unique contributions to the field of medicine and the State of Nevada.

Dr. Torch is perhaps best known as the inventor of EYE-COM, a biosensor that monitors the frequency and speed of the human eye blink. Small enough to hide inside of a pair of glasses, EYE-COM uses an alarm to alert wearers if they begin blinking slower than normal. Already this technology has had profound social effects; it holds great potential for even more social and medical utility in the future.

For example, EYE-COM has improved the therapy and lives of many patients by allowing them to better interact with the world around them. In a 2002 interview, Dr. Torch said he hoped truckers and pilots would use EYE-COM to warn them if they were getting too tired, thereby increasing the safety of our Nation's airspace and highways. Law enforcement officers might also use the device to determine if individuals were driving while impaired. As I speak, researchers across the country are working to cultivate the inherent potential of EYE-COM.

Beyond being a noteworthy inventor, Dr. Torch has significant business achievements to his credit. He is the founder and director of the EYEcom Corporation, the Neurodevelopmental and Neurodiagnostic Center, and Washoe Sleep Disorders Center in Reno, NV, which is accredited by the American Academy of Sleep Medicine. He is also the founder of Sleep-Management, a Nevada corporation, specializing in jet lag and shift work fatigue research. From 1998 to 2003, he was the director of neurology at Northern Nevada Medical Center.

Dr. Torch, who has been licensed in Nevada since 1979, received his medical degree with distinction in research and a master's degree in neurochemistry from the University of Rochester. He received his bachelor's degree in chemistry from the Brooklyn College. He completed a residency in pediatrics and a residency and fellowship in child and adult neurology at the Albert Einstein College of Medicine in Bronx, NY.

The Tibbetts Award presentation ceremony is on September 26, 2006, in Washington. I wish to congratulate Dr. Torch on this significant achievement and express my confidence that he has great contributions yet to come. I hope that you will join me in recognizing Dr. Torch's significant achievement.

NATIONAL PUBLIC LANDS DAY

Mr. REID. Mr. President, I rise today in recognition of the 13th annual National Public Lands Day, which will be celebrated on Saturday, September 30. Covering nearly one third of America's total land area, public lands are part of the essence of our country. Today, I am pleased to acknowledge the efforts of volunteers around the Nation who will come together to improve and restore one of America's most valuable assets.

Since it's inception in 1994, National Public Lands Day has helped foster communities of volunteers around the Nation. When it started thirteen years ago, there were 700 volunteers working in only a few areas. I am pleased to report that this year nearly 90,000 volunteers will work at over 800 locations to maintain and enhance countless acres of public land for the enjoyment of future generations.

Growing up in Searchlight—whether I was hunting or just hiking in the desert—I developed a great appreciation for public lands. Preserving these lands for both practical and aesthetic purposes is one of my top priorities.

Given that more than 87 percent of the land in Nevada is managed by Federal agencies, I know that I am not alone in recognizing the importance of public land. Nevadans understand that public lands serve many vital purposes in our State: from hiking and hunting to mining and ranching.

I would be remiss if I didn't also take time to recognize and thank the thousands of Federal employees who manage these lands year-round. The Bureau of Land Management, the Forest Service, the Fish and Wildlife Service and other Federal land agencies help ensure that the complex patchwork of Federal land management in Nevada serves and adapts to the changing needs of our communities and the public at large. They provide a vital, although rarely reported, service to our Nation.

Through the month of October, volunteers and staff from land management agencies from across Nevada will gather at sites such as the Black Rock Desert-High Rock Canyon Emigrant Trails Conservation Area, the Desert Tortoise Conservation Management Area, the Lake Mead National Recreation Area, Lamoille Canyon, and the Nevada Northern Railway, among others. They will remove litter, construct walking paths, restore fences, post signs, and perform tasks that will improve our public lands for everyone who is fortunate enough to visit them.

Our public lands are part of what makes America a great nation. I voice my gratitude to everyone who will participate in National Public Lands Day this year.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ANTHONY P. SEIG

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Sunman. Anthony P. Seig, 19 years old, died on September 9 in Baghdad after being gravely injured when a rocket struck the roof of his barracks the day before. Tony risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Tony enlisted in the Army shortly after graduating East Central High School in St. Leon last year. He had been in Iraq for 2 months when he was killed and would have celebrated his 20th birthday in a few weeks. Tony was remembered by his aunt, Vicki Jenkins, who told a local news outlet, "He's certainly our hero. He was very proud to serve his country. He felt very strongly about serving his country."

Tony was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 118th Military Police Company, Fort Bragg, NC. This brave soldier leaves behind his mother, Linda Seig, and two sisters.

Today, I join Tony's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Tony, a memory that will burn brightly during these continuing days of conflict and grief.

Tony was known for his dedication to his family and his love of country. Today and always, Tony will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Tony's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor

power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Tony's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Anthony P. Seig in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Tony's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Tony.

HISPANIC HERITAGE MONTH

Mr. DOMENICI. Mr. President, I rise today to celebrate National Hispanic Heritage Month. I am honored to have the opportunity to recognize the valuable contributions and achievements of the Hispanic people of our proud country.

For the nearly 34 years I have represented my home State of New Mexico in the Senate, I have witnessed the growth and success of the Hispanic community in almost every facet of social life. New Mexico's Hispanic community has a long and rich history that dates back centuries. Today, it can claim a long ledger of accomplishments in fields as diverse as science and art, business and sport, medicine and public service.

With respect to the fields of science and military service, I am proud to call attention to the remarkable achievements of Sidney Gutierrez. Born and raised in Albuquerque, Sidney Gutierrez is a distinguished astronaut who has complied over 488 hours in space during his time with NASA. Sidney has been recognized by Hispanic Business Magazine as one of the 100 most influential Hispanics in America, and he has also been a recipient of the Congressional Hispanic Caucus Award. Prior to his stellar achievements at NASA, Sidney served his country in the U.S. Air Force after he graduated from the Air Force Academy. What is important to note about Sidney's record is that his isn't an aberration. Today, hundreds of Hispanics serve our Nation's high-tech fields—both in the private sector and for the Government as scientists and researchers at our national laboratories.

Today, many Hispanic people from New Mexico continue to serve their country in the armed services. They have stood up as proud Americans and volunteered to protect their families and communities during the global war on terror. We should also take this moment to remember the sacrifices Hispanics have made to preserve the liberties and freedom that make America a beacon of hope to millions around the world. Just as soldiers from New Mexico distinguished themselves in battles at Battan, Attu, North Africa, Europe, and the Pacific, today men and women in uniform of Hispanic heritage are fighting for their Nation in Afghanistan and Iraq. Our Nation is stronger because of these men and women. They deserve the gratitude of the Nation for their sacrifices.

Hispanic Americans have also been active in other forms of public service. The first Hispanic Congressman in the House of Representatives and the first Hispanic Senator in our Nation's history were from New Mexico. Since it became a State in 1912, New Mexico has been a trailblazer in placing Hispanics into elected office.

The first Hispanic Senator in our Nation's history was a New Mexican by the name of Octaviano Larrazolo. Senator Larrazolo lived a rich life and valued public service above everything else. He was one of the early and important contributors to the constitution of the State of New Mexico and a fearless advocate for statehood. It was no surprise then that the people of New Mexico elected him to serve as their Governor. Throughout his career he was known as an advocate for better education and believed that a strong educational system was the key advancement in our fair and competitive society.

The tradition of Congress celebrating the contributions of Hispanic Americans goes back almost 40 years. In 1968, Congress started by designating a week to celebrate Hispanic heritage. Over the years, we decided to extend the designation to cover a month starting on September 15. The extra time has been a necessary and appropriate change to allow us to recognize the long record of contributions Hispanic Americans have made to our communities and to our Nation. I call on the American people to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the month with appropriate ceremonies and activities.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On July, 29, 2006, in San Diego at an annual gay pride festival 3 gay men were assaulted. During the festival, 3 men with baseball bats began yelling anti-gay remarks and a fight broke out. Two of the victims were hit in the head with a baseball bat and a third victim was stabbed. In the past 32 years the annual gay pride festival has often been the focus of anti-gay protesters, many times leading to violence.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

REPUBLIC OF THE PHILIPPINES

Mr. INOUYE. Mr. President, this year marks the 60th anniversary of Philippine-United States diplomatic relations and friendship. The partnership of our two nations is bound by several battles dating back to World War II, and continues today with the war on terrorism. Those who continue to pay the ultimate sacrifices do so in the defense of freedom and the democratic way of life.

During World War II, Filipinos fought side by side with Americans in defense of Bataan and Corregidor, fighting a common enemy. Today, we face a different battle—the war on terrorism—a battle being fought and won in the Philippines. At this moment in many parts of the world, little children, innocent children are crying in pain. Many of these children are being killed from mines and explosives mainly because older men do not know how to discuss peace. They know only how to discuss war, hatred, and death.

A month ago, together with the senior officers of the Republic of Philippines Armed Forces, I flew to Zamboanga on the Island of Mindanao. The main element of the mission was to inspect the joint Philippine and United States Armed Forces, and to receive a report on their activities. However, the event that impressed me most was the simple ceremony celebrating the presentation of 185 electrification projects to governors, chieftains, and leaders of various villages and towns in the many islands of Mindanao.

These island villages and towns never had electricity. Children had to study by candlelight. For the first time, these communities have electricity in their homes. Children can spend more time learning. Parents can use sewing machines and other power tools to make products to bring to market. And, communities can use computers to surf the Web and connect to the world.

The ceremony began with Asalamalaykum, and a prayer thanking Allah, recited by the Imam of Zamboanga. He was followed by a Christian minister, who read scripture from the Bible. Thereafter, children performed their traditional Muslim dance, welcoming us with such warmth, joy, and tranquility. While Christians and Muslims in other parts of the world are killing each other, to see the scene in Zamboanga, where Muslims and Christians are sitting together, breaking bread together, was a deep inspiration. It demonstrates to me that under proper leadership, miracles can happen, and miracles do happen.

In Mindanao, there is a demonstration of hope. The joint military forces of our two nations have demonstrated that while you need an iron fist to combat terrorism, you also need to extend a hand of friendship to win their hearts and minds. When you work together, when you cooperate, when you consult, when you speak of peace and hope, miracles can happen. If the rest of the world did the same thing, children would not be screaming in pain.

Of all the aid that we provide the Republic of the Philippines, 60 percent is being spent in Mindanao to reinforce efforts to secure a lasting peace, and to build a better life for the people of Mindanao. More than 22,000 former Moro National Liberation Front combatants are now small-scale commercial farmers, earning incomes through farming corn, rice, and seaweed. An additional 6,500 former combatants have been trained to produce high-value crops, such as finfish and bananas. In partnership with the private sector, 6,500 households in 227 remote communities are now equipped with solar-powered, renewable energy systems.

The ties that bind our two nations are based on the foundations of freedom and democracy. The work conducted today along with the economic opportunities and education provided by the Government of the Republic of the Philippines and in conjunction with the United States Government continues to pave the way toward a better quality of life and stability for the children and region of Mindanao.

Mr. President, I commend to my colleagues the text of an August 2006 paper entitled "Securing Peace in Mindanao through Diplomacy, Development, and Defense," written by the American Embassy in Manila.

VOTE EXPLANATION

Mr. HATCH. Mr. President, I was necessarily absent on Senate business yesterday when the Senate voted on the nomination of Francisco Augusto Besosa to be a U.S. district judge for the District of Puerto Rico. Had I been present, I would have voted in favor of Mr. Besosa's nomination.

FOREIGN CORRUPTION AND OIL

Mr. LEVIN. Mr. President, last month, on August 10, President Bush announced a new U.S. initiative to combat corruption around the world. He named it a "National Strategy to Internationalize Efforts Against Kleptocracy." In introducing this initiative, President Bush said:

> High-level corruption by senior government officials, or kleptocracy, is a grave and corrosive abuse of power and represents the most invidious type of public corruption. It threatens our national interest and violates our values. It impedes our efforts to promote freedom and democracy, end poverty, and combat international crime and terrorism.

I couldn't agree more.

But lately, some of the President's actions are at odds with his rhetoric. The first principle of the President's initiative against corruption is to deny entry into the United States to kleptocrats, meaning high-level officials engaged in or benefitting from corruption. Yet in recent months the administration has welcomed two of the world's most notorious kleptocrats: Teodoro Obiang, the President of Equatorial Guinea, and Nursultan Nazarbayev, the President of Kazakhstan.

What do these two men have in common besides corrupt dictatorships? Oil. Both control their nations' vast oil resources. Both supply oil to the United States. By welcoming these corrupt dictators into the United States, in contradiction to the anticorruption principles articulated by the President in August, the administration announces to the world that we will compromise our principles for a price: oil.

On April 12 of this year, at the State Department, Secretary Rice greeted the President of Equatorial Guinea, Teodoro Obiang, by saying: "Thank you very much for your presence here. You are a good friend and we welcome you." In welcoming Mr. Obiang, she made no mention of the deeply troubling hallmarks of his regime, no mention of human rights abuses, no mention of election fraud; no mention of widespread and high-level corruption. Instead, a photograph of Secretary Rice shaking Mr. Obiang's hand and smiling broadly appeared in publications around the world. Mr. Obiang has undoubtedly used his visit, and that photograph, to legitimize his regime and demonstrate his favored status in the United States.

Secretary Rice said that her objective as Secretary of State is to conduct "transformational diplomacy" which, in her words, requires us to "work with our many partners around the world to build and sustain democratic, well-governed states that will respond to the needs of their people—and conduct themselves responsibly in the international system." Under Mr. Obiang, Equatorial Guinea is nothing near democratic, well-governed, or responsive to its citizens.

Equatorial Guinea is the third largest oil producer in sub-Saharan Africa. It currently exports about 360,000 barrels per day, with much more under development. U.S. companies have invested over $10 billion to develop those oil resources. But the development of Equatorial Guinea's oil resources has not benefitted its deeply impoverished people. Though Equatorial Guinea's oil money makes it, on a per capita basis, one of the wealthiest nations in the world, the standard of living of its people is among the world's poorest. Equatorial Guinea ranks 121st on the United Nations Human Development Index. According to a 2002 State Department report, there is "little evidence that the country's oil wealth is being devoted to the public good."

Mr. Obiang is a principal cause of his people's misery. He took power by coup 30 years ago, his opponents have been jailed and tortured, and his most recent election was condemned by the State Department as "marred by extensive fraud and intimidation." The 2005 State Department Country Report on Human Rights Practices states, that in Equatorial Guinea, "Official corruption in all branches of the government remained a significant problem." In its index of corruption, Transparency International ranks Equatorial Guinea 152 out of 159 nations. In other words, Equatorial Guinea is one of the most corrupt countries in the world today.

I became familiar with the Obiang regime through my role as ranking minority member of the Senate Permanent Subcommittee on Investigations. On July 15, 2004, the subcommittee held a hearing entitled, "Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act." That hearing and an accompanying report detailed how President Obiang and his family had been personally profiting from U.S. oil companies operating in his country, established offshore shell corporations to open bank accounts at Riggs Bank here in Washington, and made large deposits, including cash deposits of as much as $3 million at a time, in transactions suggesting strongly that the funds were the proceeds of foreign corruption. In addition, over $35 million in oil proceeds were transferred to suspect offshore accounts.

President Bush has stated that his intention is to "defeat high-level public corruption in all its forms and to deny corrupt officials access to the international financial system as a means of defrauding their people and hiding their ill-gotten gains." And yet, after it was revealed that Mr. Obiang misused U.S. financial institutions to launder suspect funds, the State Department actually intervened on behalf of his regime in order to convince U.S. banks to open accounts for the Equatorial Guinean Government. That bears repeating: after it was shown how Mr.

Obiang used Riggs Bank to deposit and transfer suspect funds, and after Riggs shut down the accounts used by him and his regime, the State Department approached reluctant U.S. banks and asked them to open accounts for the Obiang regime. So much for "denying corrupt officials access to our financial system."

There is more. A few months ago, in May, the administration announced a new program directing the Defense Department to help 20 specified countries build up their military forces. One was Equatorial Guinea. Despite a terrible human rights record, a reputation for corruption, and their own oil wealth, the administration proposed spending U.S. taxpayer dollars to build up the Obiang regime's military. Indeed, President Bush asked for a provision in the DOD authorization bill approving the funding. A number of us objected, and Equatorial Guinea was removed from the provision in the Senate bill.

These and other actions taken by the administration to court Mr. Obiang are more than misguided. They supply ammunition to critics of America who claim we don't mean what we say and we don't live up to our principles, especially when oil is at stake. On the issue of foreign corruption, the President needs to play it straight. What will it be? Will we avert our eyes from Mr. Obiang's record of corruption and brutality so we can obtain Equatorial Guinea's oil? Or will we demand an end to his corrupt ways?

The President's courting of Mr. Nazarbayev of Kazakhstan is also disturbing. Mr. Nazarbayev is an iron-fisted dictator who imprisons his opponents, bans opposition parties, and controls the press. The State Department's 2005 Kazakhstan Country Report on Human Rights Practices states that "the government's human rights record remained poor," and "corruption remained a serious problem."

That is not all. Several years ago, our Justice Department filed a criminal indictment alleging that Mr. Nazarbayev accepted tens of millions of dollars in bribes from an American businessman. The U.S. attorney of the Southern District of New York is at this very moment preparing for trial in the case, U.S. v. Giffen. The indictment targets the American businessman, James Giffen, for paying $78 million in bribes to Mr. Nazarbayev and his cronies to gain access to an oil field in Kazakhstan. It does not charge Mr. Nazarbayev with a crime, despite alleging his acceptance of the bribes. It is a sad and sorry spectacle to observe that, despite this indictment, the administration is welcoming Mr. Nazarbayev to the White House this week.

Talk about mixed messages. For paying the bribes, Mr. Giffen gets indicted for violating the Foreign Corrupt Practices Act, mail and wire fraud, money laundering, and tax evasion; for accepting the bribes, Mr. Nazarbayev gets an invitation to the White House. The President has invited to the White House a man who our very own Department of Justice accuses of accepting a $78 million bribe. Why? What could be the reason, the justification, for this White House invitation? Could it be that Kazakhstan exports 1 million barrels of oil per day?

The President has got to play it straight. The State Department says Mr. Nazarbayev is a dictator who imprisons opponents and disregards human rights. The Justice Department says he accepted $78 million in bribes from one U.S. businessman alone. The President says he is an honored guest. Which is it? Corrupt dictator or honored guest? Surely it can't be both.

President Bush said that kleptocracy "threatens our national interest and violates our values." He said high-level foreign corruption "impedes our efforts to promote freedom and democracy, end poverty, and combat international crime and terrorism." He is right, which is exactly why his courtship of corrupt dictators like Mr. Obiang and Mr. Nazarbayev is so deeply regrettable. To compromise our battle against corruption to gain favor with oil-producing dictators is not only morally wrong, it hands a propaganda club to our critics, it sustains brutal and corrupt regimes, and it is ultimately destructive of our efforts, in the words of Secretary Rice, to "build and sustain democratic, well-governed states.'

AGRICULTURE NATURAL DISASTER ASSISTANCE

Mr. BAUCUS. Mr. President, I rise today to speak to an issue that is vital to agricultural producers in my State as well as across our Nation. That issue is agriculture natural disaster assistance. The relentless drought has brought economic hardship to both our agriculture producers and our rural communities. Farmers and ranchers in many different parts of the United States are suffering the effects of natural disasters.

We must not and cannot continue to ignore the impacts of drought and the effect it has on our agricultural producers and our rural communities. Agricultural producers are every bit as deserving of assistance for their suffering from the drought as the small businesses suffering from the hurricanes.

We as a nation have a responsibility to provide emergency assistance to those who have had losses due to natural disasters. I look forward to working with my colleagues to fulfill that responsibility, working to support a bill that provides critical emergency relief to our Nation's agricultural producers. After what I hope will be a healthy debate on this important issue, I ask that a vote be taken on the bill.

Too often, the argument is made that farmers and ranchers should be satisfied with the funding they will receive from the farm bill. The truth is that only 18 percent of the total funding in the farm bill goes directly to producers. The rest goes to very important programs, such as Food Stamps and the Senior Farmers Market Nutrition Program. Nothing in the farm bill was ever intended to cover losses due to natural disasters. It is only intended to cover economic losses.

The same way we use emergency funds to help individuals and rebuild communities hurt by hurricanes and tornadoes, we should use emergency funds to help individuals and rebuild our communities hurt by drought.

WAR ON TERROR

Mr. GRASSLEY. Mr. President, I rise to speak for a few minutes in morning business.

In August, I received a letter from a constituent, Mr. John Dodgen, of Humboldt, IA. Along with the letter, Mr. Dodgen enclosed a copy of an opinion piece he authored regarding the war on terror that was published in the local newspaper.

In his opinion piece, Mr. Dodgen rightly asserts that the United States is engaged in a global war on terror with an enemy whose goal is the elimination of the United States. I also strongly agree with his premise that we must take the fight to the terrorists where they operate or we will be forced to confront them on our soil. This is a war that we must win, and we must remain on the offense until the war is won.

Mr. Dodgen raises some compelling thoughts in his opinion piece. Rather than try to summarize all of Mr. Dodgen's points and recommendations, I would like to submit for the RECORD his thoughts on controlling terrorism.

I ask unanimous consent that the text of Mr. Dodgen's opinion piece be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTROLLING TERRORISM

Our world is made-up of two dramatically opposed factions. Those who enjoy freedom versus those who would enslave the world. This is not a debatable subject—it's an all out world war of ideologies.

As a nation of freedom, we are engaged in a conflict that must be won or our world culture will be reduced to the dark ages. We are engaged in a conflict for survival.

The nations of Iran, Syria, North Korea, and the terrorists of Hezbollah all seek one objective—the destruction of Israel and the United States. They are like "mad dogs". There is no way to reason with them to a peace loving state. The only solution with a rabies infected dog is to destroy it. This same strategy does not apply to all Muslims, only those lunatic, malicious, hateful, and destruction-minded fanatics who declared war on "infidels" several years ago. In World

War II the allies stopped Hitler, Mussolini and Japan from destroying half the world. Ninety percent of my Navy amphibious group were killed or wounded invading the Philippines and millions of others were killed in tragic World War II.

While we still have a chance to stamp out the hate and suicidal destructive force in our world, the U.S. and our allies should confront Iran, Syria, North Korea, and Hezbollah with an ultimatum to destroy their rockets and nuclear warhead pursuits or we will have no alternative but to destroy them ourselves with or without the United Nations blessing. It's totally unrealistic to think that negotiations with these evil nations will solve or alleviate the threat, so we should bring this to a head before they attack any other nations and unleash their evil hatred and destruction on innocent, peace-loving people. We should use every means within our power to reduce their threat to insignificance. There is no other course; we should act now while our declared and profound enemies are vulnerable to our containment. If we wait and try to solve our world's conflict with diplomacy and negotiation, we are fooling ourselves and eventually our nation and our love for freedom and peaceful existence on Earth will be destroyed.

In past history, two postures for our nation—The Monroe Doctrine and Teddy Roosevelt's "Walk Softly And Carry A Big Stick Policy—along with President Kennedy's demand that Russia withdraw rockets with nuclear warheads from Cuba, kept us from wars to maintain our freedom. Now we need to declare and carry out the United States world position that we will not tolerate "evil and war mongering" nations, and unless they cease and desist of such a threat they will have the United States and its overwhelming power to force them to do so. We were able to convince Libya to stop its terrorism with a well placed bomb; we can do the same with the other terrorist nations listed.

America needs to withdraw from the United Nations as they have utterly failed from their beginning existence to keep the peace or more than temporarily stop aggression and human suffering. What the world needs is for the United States to establish a "World Peace Council" made up of: The President of the United States; The Prime Minister of England; Queen Elizabeth and/or Australia's Governor General; The President and/or The Prime Minister of Russia; The President of China; The Emperor and/or Prime Minister of Japan; The President of India.

These nations could meet for three days every month to determine the issues requiring their attention, determine the appropriate action, and then enforce their decision based on the majority vote of the council. A veto would be prohibited. Funding would be on an assessed basis from the seven nations plus other voluntary freedom loving nations and a chosen General whose International Police Force would be enlisted on a country by country basis to carry out the seven nations' solution.

If any of the nations selected to form the World Peace Council chooses not to serve or withdraws, then the remaining members would select a nation for their replacement. In the case of a tie vote, another candidate would be chosen until a majority vote determined the successor.

As a Christian, it is utterly deplorable for me to come to the above conclusion. However; as a practical human being and a concerned U.S. Citizen, I acknowledge that terrorism is a fact that must be recognized and dealt with. I therefore urge our Congress and President to declare an ultimatum on the nations of terrorists and restrain them while we still have the power and resolve to do so. We cannot wait until we have another Pearl Harbor, Cuban Missile Crisis, or 9/11 before we stop this aggression.

ADDITIONAL STATEMENTS

IN MEMORY OF SEYMOUR ROBINSON

• Mrs. BOXER. Mr. President, today I ask my colleagues to pay tribute to an exceptional man and a wonderful friend of mine, Seymour Robinson. Seymour died on September 13 at the age of 90. His deep sense of moral and social responsibility and tireless commitment to giving back touched the lives of all who knew him.

Seymour was born on May 24, 1916, in Chicago, IL. He worked hard to support his family during the Great Depression. He enlisted in the Army Air Corps and was soon transferred to the U.S. Army Infantry in Fort Worth, TX. It was here that he met his beloved wife of 60 years, Anita. Before they could marry, he was shipped out to serve in World War II.

As a member of the Civil Affairs D Team of the U.S. First Infantry Division, he fought at Omaha Beach during the U.S. landing in Normandy on D-Day. As part of a U.S. unit attached to the French Second Armored Division, Seymour was involved in the liberation of Paris. After his unit captured the German SS barracks on the Place de la Republique in Paris, it was overrun by cheering crowds; the Jewish people in Paris were finally able to come out of hiding, wearing the yellow stars that were used to segregate them. Of this time, Seymour recounts a powerful incident: "As their enthusiasm settled down, we were asked a devastating question: 'What is the will of the Americans. Are we still to wear our yellow stars?' Without a second's hesitation, we tore the stars off the clothes of those nearest us and put them on our uniforms. The question had floored us. We couldn't speak. The word had spread quickly. 'We are free!' "

His bravery and courage will never be forgotten. He was awarded three Bronze Battle Stars by the U.S. and the Croix de Guerre by the French government, given to individuals who distinguish themselves heroically in acts of bravery against the enemy.

Seymour's experience as a World War II veteran helped shape his deep sense of responsibility. He said "This experience reestablished my identity. I am a Jew who knows that I must forever be vigilant about the human rights not only of my people but of all people . . ."

After returning to Chicago a war hero, he married Anita on January 14, 1946. They soon visited California, where Anita's parents lived. As Anita recounts their trip, there was ice on the ground in Chicago when they took off and it was 80 degrees in California when they landed; she refused to go back. Seymour and Anita thus ended up in my beautiful home state, where they lived the California dream with their three wonderful children: David, Lorraine and Billy.

Their children were deeply influenced by their father. Seymour taught his three children that they have a responsibility as Jews and Americans to give back to society and do the right thing.

Once in California, Seymour easily found a job first as a steelworker and then a typographer. As a typographer, he worked his way up to foreman and ended up buying the business, Ad Compositors, which was one of the largest of its kind in Southern California. He was a lifelong member of the International Typographical Union. Seymour had previously been an organizer for the Congress of Industrial Organizations, CIO, before it became the AFL–CIO.

While living in West Los Angeles with his family, Seymour was a cofounder and leader of Neighbors United, an organization that worked to promote racial harmony and maintain diversity in neighborhoods at a time of racial strife in L.A. He was also active in the Public Affairs Committee of the Westside Jewish Community Center and the Urban Affairs Committee of the Los Angeles Board of Education, working to desegregate the Los Angeles public schools.

Seymour helped elect Mayor Tom Bradley, Los Angeles's first African-American mayor. Seymour was also involved with the L.A. City Human Relations Commission and the Mayor's Advisory Committee.

Seymour was President of the Citizen's Advisory Committee for Pan Pacific Park, helping to coordinate funding for this park. Mayor Richard Riordan officially named him the "Father of Pan Pacific Park" for his instrumental role in creating this public park on the Westside of Los Angeles.

Never one to rest on his laurels, in his later years he was active as the Los Angeles County Political Coordinator for the AARP.

Seymour Robinson is survived by his beloved wife Anita; his children David, Lorraine and Billy Robinson; and his granddaughters Rachel and Mara Woods-Robinson.

I am proud to have called Seymour my friend. Seymour was never afraid to speak his mind when he saw injustice. He had a deep sense of right and wrong and was very persuasive in convincing others to get involved in the fight for social justice. He was an inspiration to all who knew him and a hero to this nation. He will be greatly missed.•

HONORING JONATHON SOLOMON

• Mr. KERRY. Mr. President, I would like to take a moment to recognize the life and legacy of a great Native American leader, mentor, and friend. This summer, Alaska and the Nation lost Jonathon Solomon, a Gwich'in Athabascan elder and lifelong environmental advocate, at the age of 74 in Anchorage. Jonathon's life was dedicated to the defense of Native rights, and he was best known throughout the country for his indefatigable advocacy of Gwich'in lands, most especially the Arctic National Wildlife Refuge.

Born in Fort Yukon, Solomon began his advocacy for the Refuge in the 1970s through his fight for subsistence rights and the protection of the Porcupine caribou herd. This work brought him all over the country, including numerous trips to Washington DC. I had the special opportunity to meet Jonathon during one of these trips, and I quickly learned that he was an eloquent speaker, strong debater, and a masterful advocate. He spoke strongly about the importance of the Coastal Plain of the Arctic Refuge, the birthplace of caribou upon which the Gwich'in have relied for their existence for generations.

Jonathon's work will live on through the Gwich'in Steering Committee, a nonprofit group which he helped to found during the first united meeting of the Gwich'in people in 1988. I am proud to have a part in carrying on Jonathon's legacy through my continued and unwavering support for the protection of the Arctic National Wildlife Refuge. Please join me and many others across this Nation in honoring a fallen environmental hero.•

REMEMBERING DETECTIVE MICHAEL THOMAS

• Mr. SALAZAR. Mr. President, please allow me to take a moment to commemorate the loss of a Colorado police officer last week. He was killed in an act of senseless violence, a victim of a random shooting while he was on duty. Detective Michael Thomas proudly served a 24-year career with the Aurora Police Department, and had been promoted to detective last April, where he worked on narcotics cases.

Mike Thomas graduated from Hinkley High School in Aurora in 1972, and joined the U.S. Air Force. There, he became a mechanic for F-16 fighter planes, and eventually wound up working with the Air Force's precision flight unit, the Thunderbirds. But after 10 years in the Air Force, Mike retired, leaving behind his Air Force uniform of service for another: that of the Aurora Police Department.

During his career in the patrol and canine units and as a detective, Detective Thomas was decorated for service more than 12 times. Among the awards Detective Thomas received was the Medal of Honor, the Aurora Police Department's highest award, in 1992. Detective Thomas received the award for disarming a suspect armed with a knife in October 1991.

Aurora Police Chief Daniel Oates said last week, "There was no one who didn't like Mike Thomas." Stories abound of Detective Thomas's generosity of spirit, his thoughtful nature, and attention to detail that made him such an outstanding policeman. One fellow officer recalled the impression that Thomas made upon him about following through: after every call, Mike Thomas would make sure to ask those he was helping if they were satisfied with the service he had provided them.

Detective Thomas will be interred today at Fort Logan National Cemetery in Denver. He will be surrounded by his family of the Aurora Police Department, and in the thoughts and prayers of police officers and their families around our Nation.

To Detective Thomas's daughter, Nicole, I can only offer the profound thanks of our community and Nation during this time of grief. Your father's sacrifice for the greater good fills each of us with deep respect and humbles all of us.•

TRIBUTE TO LIEUTENANT CHRIS HART

• Mr. THUNE. Mr. President, I wish to recognize Navy Lieutenant Chris Hart of Rapid City, SD. Lieutenant Hart was awarded the Bronze Star Medal with Valor for his courageous service in support of Operation Iraqi Freedom.

Lieutenant Hart served as Explosive Ordinance Disposal Team Officer-in-Charge with Multinational Forces Iraq, Multinational Division West from July to September 2005. He took part in 52 combat operations, and showed outstanding leadership in the face of enemy fire. Thanks to Lieutenant Hart's efforts, insurgents were denied explosive materials and thwarted in their attempts to cause harm. Lieutenant Hart's service is a shining example of the dedication and bravery that makes America's soldiers the greatest in the world.

It gives me great pleasure to rise in congratulating Lieutenant Hart for his heroic service in defense of our Nation and our freedoms.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 383. An act to designate the Ice Age Floods National Geologic Route, and for other purposes.

H.R. 1344. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

H.R. 1515. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

H.R. 1796. An act to amend the National Trails System Act to designate the route of the Mississippi River from its headwaters in the State of Minnesota to the Gulf of Mexico for study for potential addition to the National Trails System as a national scenic trail, national historic trail, or both, and for other purposes.

H.R. 3534. An act to designate the Piedras Blancas Light Station and the surrounding public land as an Outstanding Natural Area to be administered as a part of the National Landscape Conservation System, and for other purposes.

H.R. 3871. An act to authorize the Secretary of the Interior to convey to The Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. certain Federal land associated with the Lewis and Clark National Historic Trail in Nebraska, to be used as an historical interpretive site along the trail.

H.R. 3961. An act to authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park.

H.R. 4275. An act to amend Public Law 106-348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States.

H.R. 4382. An act to provide for the conveyance of certain land in Clark County, Nevada, for use by the Nevada National Guard.

H.R. 4588. An act to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984.

H.R. 5079. An act to update the management of Oregon water resources, and for other purposes.

H.R. 5132. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the Battles of the River Raisin during the War of 1812.

H.R. 5224. An act to designate the facility of the United States Postal Service located at 350 Uinta Drive in Green River, Wyoming, as the "Curt Gowdy Post Office Building".

H.R. 5323. An act to require the Secretary of Homeland Security to provide for ceremonies on or near Independence Day for administering oaths of allegiance to legal immigrants whose applications for naturalization have been approved.

H.R. 5454. An act to authorize salary adjustments for Justices and judges of the United States for fiscal year 2007.

H.R. 5857. An act to designate the facility of the United States Postal Service located at 1501 South Cherrybell Avenue in Tucson, Arizona, as the "Morris K. 'Mo' Udall Post Office Building".

H.R. 5861. An act to amend the National Historic Preservation Act, and for other purposes.

H.R. 5923. An act to designate the facility of the United States Postal Service located at 29-50 Union Street in Flushing, New York, as the "Dr. Leonard Price Stavisky Post Office".

H.R. 6102. An act to designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, Virginia, as the "Captain Christopher Petty Post Office Building".

The message also announced that the House has passed the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 430. Concurrent resolution recognizing the accomplishments of the American Council of Young Political Leaders for providing 40 years of international exchange programs, increasing international dialogue, and enhancing global understanding, and commemorating its 40th anniversary.

H. Con. Res. 471. Concurrent resolution congratulating The Professional Golfers' Association of America on its 90th anniversary and commending the members of The Professional Golfers' Association of America and The PGA Foundation for the charitable contributions they provide to the United States.

H. Con. Res. 480. Concurrent resolution to correct the enrollment of the bill H.R. 3127.

The message further announced that the House has passed the following bills, without amendment:

S. 1275. An act to designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building".

S. 1323. An act to designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building".

S. 2690. An act to designate the facility of the United States Postal Service located at 8801 Sudley Road in Manassas, Virginia, as the "Harry J. Parrish Post Office".

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 683) to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1036) to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3127) to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3508) to authorize improvements in the operation of the government of the District of Columbia, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4588. An act to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under the Water Resources Research Act of 1984.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3936. A bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 860. A bill to amend the National Assessment of Educational Progress Authorization Act to require State academic assessments of student achievement in United States history and civics, and for other purposes (Rept. No. 109–348).

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 3687. A bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes (Rept. No. 109–349).

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2007" (Rept. No. 109–350).

By Mr. CRAPO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3938. An original bill to reauthorize the Export-Import Bank of the United States.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. INHOFE for the Committee on Environment and Public Works.

*Roger Romulus Martella, Jr., of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

*Brigadier General Bruce Arlan Berwick, United States Army, to be a Member of the Mississippi River Commission.

*Colonel Gregg F. Martin, United States Army, to be a Member of the Mississippi River Commission.

*Brigadier General Robert Crear, United States Army, to be a Member and President of the Mississippi River Commission.

*Rear Admiral Samuel P. De Bow, Jr., NOAA, to be a Member of the Mississippi River Commission.

*William H. Graves, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2007.

By Mr. SPECTER for the Committee on the Judiciary.

Kent A. Jordan, of Delaware, to be United States Circuit Judge for the Third Circuit.

John Alfred Jarvey, of Iowa, to be United States District Judge for the Southern District of Iowa.

Sara Elizabeth Lioi, of Ohio, to be United States District Judge for the Northern District of Ohio.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BROWNBACK:

S. 3935. A bill to direct the Federal Trade Commission to prescribe rules to prohibit deceptive conduct in the rating of video and computer games and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST (for himself, Mr. Reid, Mr. Domenici, Mr. Bingaman, Mr. Stevens, Mr. Inouye, Mr. Enzi, Mr. Kennedy, Mr. Ensign, Mr. Lieberman, Mr. Alexander, Ms. Mikulski, Mrs. Hutchison, Mr. Nelson of Florida, Mr. Burns, Mrs. Clinton, Mr. Allen, Ms. Cantwell, Mr. Cornyn, Mr. Kerry, Mr. Talent, Mr. Salazar, Mr. Craig, Ms. Landrieu, Mr. Isakson, Mr. Menendez, Mr. Smith, Mr. Kohl, Mr. Voinovich, Mr. Roberts, and Mr. Coleman):

S. 3936. A bill to invest in innovation and education to improve the competitiveness of the United States in the global economy; read the first time.

By Mr. SCHUMER:

S. 3937. A bill to require the Federal Aviation Administration to finalize the proposed rule relating to the reduction of fuel tank flammability exposure, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAPO:

S. 3938. An original bill to reauthorize the Export-Import Bank of the United States;

from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar:

By Mr. VITTER (for himself, Mr. Inhofe, Mr. Brownback, and Mr. Santorum):

S. 3939. A bill to require the Food and Drug Administration to establish restrictions regarding the qualifications of physicians to prescribe the abortion drug commonly known as RU-486; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself and Mrs. Lincoln):

S. 3940. A bill to amend the Internal Revenue Code of 1986 to extend and expand tax incentives that promote affordable education; to the Committee on Finance.

By Mr. SANTORUM:

S. 3941. A bill to amend the Internal Revenue Code of 1986 to fully allow students to live in units eligible for the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. Menendez):

S. 3942. A bill to establish the Paterson Great Falls National Park in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mr. Dodd, and Mr. Feingold):

S. 3943. A bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election; to the Committee on Rules and Administration.

By Mr. LAUTENBERG (for himself, Mr. Menendez, Mrs. Clinton, Mr. Schumer, Mr. Obama, Mr. Durbin, and Mr. Nelson of Florida):

S. 3944. A bill to provide for a one year extension of programs under title XXVI of the Public Health Service Act; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Mrs. Murray, Mr. Lautenberg, Mrs. Boxer, Mr. Menendez, Ms. Cantwell, Mr. Kennedy, Mr. Inouye, Mr. Kerry, Mr. Jeffords, and Mr. Chafee):

S. 3945. A bill to provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 585. A resolution commending the New Orleans Saints of the National Football League for winning their Monday Night Football game on Monday, September 25, 2006 by a score of 23 to 3; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. Res. 586. A resolution celebrating 40 years of achievements of medical coders, and encouraging the medical coding community to continue providing accurate medical claims and statistical reporting to the people of the United States and to the world; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself, Mr. Martinez, and Mr. Coleman):

S. Res. 587. A resolution expressing concern relating to the threatening behavior of the Islamic Republic of Iran and the ideological alliance that exists between the countries of Cuba and Venezuela, and supporting the people of Iran, Cuba, and Venezuela in the quest of those peoples to achieve a truly democratic form of government; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 474

At the request of Mr. Smith, the name of the Senator from Washington (Mrs. Murray) was added as a cosponsor of S. 474, a bill to establish the Mark O. Hatfield-Elizabeth Furse Scholarship and Excellence in Tribal Governance Foundation, and for other purposes.

S. 503

At the request of Mr. Bond, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 503, a bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes.

S. 1141

At the request of Mr. Cochran, the name of the Senator from Pennsylvania (Mr. Santorum) was added as a cosponsor of S. 1141, a bill to authorize the Secretary of Homeland Security to regulate ammonium nitrate.

S. 1353

At the request of Mr. Reid, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1687

At the request of Ms. Mikulski, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1915

At the request of Mr. Ensign, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 2135

At the request of Mr. Inouye, the name of the Senator from Washington (Ms. Cantwell) was added as a cosponsor of S. 2135, a bill to direct the Secretary of Transportation to report to Congress concerning proposed changes to long-standing policies that prohibit foreign interests from exercising actual control over the economic, competitive, safety, and security decisions of United States airlines, and for other purposes.

S. 2154

At the request of Mr. Obama, the name of the Senator from Texas (Mr. Cornyn) was added as a cosponsor of S. 2154, a bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks.

S. 2414

At the request of Mr. Bayh, the name of the Senator from Oklahoma (Mr. Coburn) was added as a cosponsor of S. 2414, a bill to amend the Internal Revenue Code of 1986 to require broker reporting of customer's basis in securities transactions, and for other purposes.

S. 2491

At the request of Mr. Cornyn, the names of the Senator from Iowa (Mr. Harkin), the Senator from Arizona (Mr. Kyl), the Senator from Maine (Ms. Collins) and the Senator from Utah (Mr. Hatch) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 3128

At the request of Mr. Burr, the name of the Senator from Nebraska (Mr. Hagel) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3238

At the request of Mr. Cornyn, the names of the Senator from Nebraska (Mr. Hagel), the Senator from Utah (Mr. Bennett) and the Senator from Illinois (Mr. Obama) were added as cosponsors of S. 3238, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory.

S. 3325

At the request of Mr. Bunning, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 3325, a bill to promote coal-to-liquid fuel activities.

S. 3519

At the request of Mr. Hatch, the name of the Senator from South Dakota (Mr. Thune) was added as a cosponsor of S. 3519, a bill to reform the State inspection of meat and poultry in the United States, and for other purposes.

S. 3535

At the request of Mr. Talent, the name of the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 3535, a bill to modernize and update the

National Housing Act and to enable the Federal Housing Administration to use risk based pricing to more effectively reach underserved borrowers, and for other purposes.

S. 3623

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 3623, a bill to promote coal-to-liquid fuel activities.

S. 3696

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3705

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

S. 3771

At the request of Mr. HATCH, the names of the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 3771, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 3771, supra.

S. 3787

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3787, a bill to establish a congressional Commission on the Abolition of Modern-Day Slavery.

S. 3814

At the request of Mr. ROBERTS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3814, a bill to amend part B of title XVIII of the Social Security Act to restore the Medicare treatment of ownership of oxygen equipment to that in effect before enactment of the Deficit Reduction Act of 2005.

S. 3855

At the request of Mr. CONRAD, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 3855, a bill to provide emergency agricultural disaster assistance, and for other purposes.

S. 3862

At the request of Mr. TALENT, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 3862, a bill to amend the Animal Health Protection Act to prohibit the Secretary of Agriculture from implementing or carrying out a National Animal Identification System or similar requirement, to prohibit the use of Federal funds to carry out such a requirement, and to require the Secretary to protect information obtained as part of any voluntary animal identification system.

S. 3877

At the request of Mrs. FEINSTEIN, the names of the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. LEVIN) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 3877, a bill entitled the "Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006".

S. 3880

At the request of Mr. INHOFE, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 3880, a bill to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

S. 3900

At the request of Mr. GREGG, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 3900, a bill to amend title XVIII of the Social Security Act to improve the quality and efficiency of health care, to provide the public with information on provider and supplier performance, and to enhance the education and awareness of consumers for evaluating health care services through the development and release of reports based on Medicare enrollment, claims, survey, and assessment data.

S. 3912

At the request of Mr. ENSIGN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3912, a bill to amend title XVIII of the Social Security Act to extend the exceptions process with respect to caps on payments for therapy services under the Medicare program.

S. 3913

At the request of Mr. ROCKEFELLER, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Rhode Island (Mr. REED) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

S. RES. 549

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 549, a resolution expressing the sense of the Senate regarding modern-day slavery.

S. RES. 572

At the request of Mr. BURNS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 572, a resolution expressing the sense of the Senate with respect to raising awareness and enhancing the state of computer security in the United States, and supporting the goals and ideals of National Cyber Security Awareness Month.

AMENDMENT NO. 5023

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 5023 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5028

At the request of Mr. SALAZAR, the names of the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 5028 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. REID, Mr. DOMENICI, Mr. BINGAMAN, Mr. STEVENS, Mr. INOUYE, Mr. ENZI, Mr. KENNEDY, Mr. ENSIGN, Mr. LIEBERMAN, Mr. ALEXANDER, Ms. MIKULSKI, Mrs. HUTCHISON, Mr. NELSON of Florida, Mr. BURNS, Mrs. CLINTON, Mr. ALLEN, Ms. CANTWELL, Mr. CORNYN, Mr. KERRY, Mr. TALENT, Mr. SALAZAR, Mr. CRAIG, Ms. LANDRIEU, Mr. ISAKSON, Mr. MENENDEZ, Mr. SMITH, Mr. KOHL, Mr. VOINOVICH, Mr. ROBERTS, and Mr. COLEMAN):

S. 3936. A bill to invest in innovation and education to improve the competitiveness of the United States in the global economy; read the first time.

Mr. FRIST. Mr. President, I rise today to introduce the National Competitiveness Investment Act of 2006. Unfamiliar as it might sound to some, I am joined by the Democratic Leader, Senator REID, on this important legislation.

This truly is a bipartisan bill. It reflects the fact that when it comes to our country's economic future, there is wide bipartisan support for those policies that will keep the United States competitive in this ever changing, dynamic, global economy of the 21st century.

The bill we are introducing today is a product of many Senators who have come together . . . who put aside political affiliations . . . to craft a broad comprehensive bill. The legislation has evolved over the course of the 109th Congress.

Two years ago, under the leadership of Senators DOMENICI, ALEXANDER, and BINGAMAN, the Senate Energy Committee asked the National Academies what were those policies that—if enacted—would enhance the science and technology enterprise so that the United States could successfully compete, prosper, and be secure in this new century.

Out of that request, the National Academies created a high level committee of experts headed by the respected former CEO of Lockheed, Norm Augustine.

Chairman Augustine put the problem in stark terms when he wrote last December: "In the five decades since I began working in the aerospace industry, I have never seen American business and academic leaders as concerned about this nation's future prosperity as they are today."

The U.S. today has the strongest scientific and technological enterprise in the world, including the best research universities. But there is growing evidence and recognition that our educational system is failing in those areas that have directly underpinned our strength—science, engineering, and mathematics. We must invest for the future in those areas if we are to maintain our technological edge in the world.

The Augustine report entitled "Rising Above the Gathering Storm" did identify four broad areas for policy action. These were: 1. Increase the talent pool by improving K–12 science and math education. 2. Strengthen the Nation's traditional commitment to reseaerch. 3. Increase the talent pool by improving higher education focus on training math and science teachers. 4. Improve incentives, primarily through the tax code, for innovation.

The President's budget also recognizes the need to target Federal resources on those areas that will allow the country to continue to lead in innovation.

The President's "American Competitiveness Initiative" similarly focuses on increasing resources for basic research and science, and by filling gaps in our education competitiveness agenda with expanded "Math Now", Adjunct Teacher Corps, and Advanced Placement and International Baccalaureate programs.

Trying to put all this into one piece of legislation has been a challenge. Indeed, at least three different Senate Committees—Energy, Commerce, and HELP—all have jurisdiction over programs and policies in this area. This does not even address tax policies under the jurisdiction of the Finance Committee.

So in July I directed the three major Senate Committees with responsibility for authorizing legislation to combine their various proposals into one bill. The bill Senator REID and I introduce today is the result of a lot of hard work over the summer and August recess month.

First I want to acknowledge the leadership of Senator ENSIGN, Chairman of the Commerce Subcommittee on Technology, Innovation, and Competitiveness in helping to produce this legislation.

Second, I thank the Chairmen and Ranking Members of Energy, Commerce, and the HELP Committees for their dedication to this project—Senators DOMENICI, BINGAMAN, STEVENS, INOUYE, ENZI, and KENNEDY.

Finally, Senators ALEXANDER, LIEBERMAN, HUTCHISON, NELSON, and MIKULSKI have contributed their time and insights into this important legislation and I am sure there are others I have failed to mention.

While the legislation does not address all of the issues raised in the various studies—it is doubtful anyone piece of legislation could—it nonetheless is a start, it is a good first step, and of course it is a bipartisan first step.

The legislation would, among other things: 1. Authorize a doubling of the funding for basic Federal research over the next 5 years at the National Science Foundation, and significantly expand funding for basic research at National Institute of Standards and Technology, the Department of Energy's Office of Science, and NASA. 2. Recruit and train needed new math and science teachers. 3. Create new Teachers Institutes to improve the teaching techniques for math and science. 4. Create a DOE—DARPA dedicated to the goal of increasing innovation and competitive breakthroughs in technology. 5. Expand scholarship programs to recruit and train math and science teachers at the K–12 level. 6. Increase the number of students taking Advanced Placement courses and entering International Baccalaureate programs, and 7. Increase funding for "early career" researchers.

Authorizations for these programs would total $73 billion over the next five years, less than $2.0 billion above the President's request.

When we consider that over the next five years our economy will exceed $76 trillion—a 1 percent investment for the future seems a small price to pay for our continued economic security and leadership in the world.

This legislation is the correct thing to do for the country's future economic security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Competitiveness Investment Act".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 4 divisions as follows:

(1) DIVISION A.—Commerce and Science.
(2) DIVISION B.—Department of Energy.
(3) DIVISION C.—Education.
(4) DIVISION D.—National Science Foundation.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—COMMERCE AND SCIENCE

Sec. 1001. Short title.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

Sec. 1101. National Science and Technology Summit.
Sec. 1102. Study on barriers to innovation.
Sec. 1103. National Innovation Medal.
Sec. 1104. Release of scientific research results.
Sec. 1105. Semiannual Science, Technology, Engineering, and Mathematics Days.
Sec. 1106. Study of service science.

TITLE II—INNOVATION PROMOTION

Sec. 1201. President's Council on Innovation and Competitiveness.
Sec. 1202. Innovation acceleration research.

TITLE III—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 1301. NASA's contribution to innovation.
Sec. 1302. Aeronautics Institute for Research.
Sec. 1303. Basic Research enhancement.
Sec. 1304. Aging workforce issues program.
Sec. 1305. Conforming amendments.
Sec. 1306. Fiscal year 2007 basic science and research funding.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Sec. 1401. Authorization of appropriations.
Sec. 1402. Amendments to the Stevenson-Wydler Technology Innovation Act of 1980.
Sec. 1403. Innovation acceleration.
Sec. 1404. Manufacturing extension.
Sec. 1405. Experimental Program to Stimulate Competitive Technology.
Sec. 1406. Technical amendments to the National Institute of Standards and Technology Act and other technical amendments.

TITLE V—OCEAN AND ATMOSPHERIC PROGRAMS

Sec. 1501. Ocean and atmospheric research and development program.
Sec. 1502. NOAA ocean and atmospheric science education programs.

DIVISION B—DEPARTMENT OF ENERGY

Sec. 2001. Short title.

Sec. 2002. Definitions.
Sec. 2003. Mathematics, science, and engineering education at the Department of Energy.
Sec. 2004. Department of Energy early-career research grants.
Sec. 2005. Advanced Research Projects Authority-Energy.
Sec. 2006. Authorization of appropriations for the Department of Energy for basic research.
Sec. 2007. Discovery science and engineering innovation institutes.
Sec. 2008. Protecting America's Competitive Edge (PACE) graduate fellowship program.
Sec. 2009. Title IX compliance.
Sec. 2010. High-risk, high-reward research.
Sec. 2011. Distinguished scientist program.

DIVISION C—EDUCATION

Sec. 3001. Findings.
Sec. 3002. Definitions.

TITLE I—TEACHER ASSISTANCE

Subtitle A—Teachers for a Competitive Tomorrow

Sec. 3111. Purpose.
Sec. 3112. Definitions.
Sec. 3113. Programs for baccalaureate degrees in mathematics, science, engineering, or critical foreign languages, with concurrent teacher certification.
Sec. 3114. Programs for master's degrees in mathematics, science, or critical foreign languages education.
Sec. 3115. General provisions.
Sec. 3116. Authorization of appropriations.

Subtitle B—Advanced Placement and International Baccalaureate Programs

Sec. 3121. Purpose.
Sec. 3122. Definitions.
Sec. 3123. Advanced Placement and International Baccalaureate programs.

TITLE II—MATH NOW

Sec. 3201. Math Now for elementary school and middle school students program.

TITLE III—FOREIGN LANGUAGE PARTNERSHIP PROGRAM

Sec. 3301. Findings and purpose.
Sec. 3302. Definitions.
Sec. 3303. Program authorized.
Sec. 3304. Authorization of appropriations.

TITLE IV—ALIGNMENT OF EDUCATION PROGRAMS

Sec. 3401. Alignment of secondary school graduation requirements with the demands of 21st century postsecondary endeavors and support for P-16 education data systems.

DIVISION D—NATIONAL SCIENCE FOUNDATION

Sec. 4001. Authorization of appropriations.
Sec. 4002. Strengthening of education and human resources directorate through equitable distribution of new funds.
Sec. 4003. Graduate fellowships and graduate traineeships.
Sec. 4004. Professional science master's degree programs.
Sec. 4005. Increased support for science education through the National Science Foundation.
Sec. 4006. Meeting critical national science needs.
Sec. 4007. Reaffirmation of the merit-review process of the National Science Foundation.
Sec. 4008. Experimental Program to Stimulate Competitive Research.
Sec. 4009. Encouraging participation.
Sec. 4010. Cyberinfrastructure.
Sec. 4011. Federal information and communications technology research.
Sec. 4012. Robert Noyce Teacher Scholarship Program.
Sec. 4013. Sense of the Senate regarding the mathematics and science partnership programs of the Department of Education and the National Science Foundation.
Sec. 4014. National Science Foundation teacher institutes for the 21st century.

DIVISION A—COMMERCE AND SCIENCE

SEC. 1001. SHORT TITLE.

This division may be cited as the "American Innovation and Competitiveness Act of 2006".

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY; GOVERNMENT-WIDE SCIENCE

SEC. 1101. NATIONAL SCIENCE AND TECHNOLOGY SUMMIT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President shall convene a National Science and Technology Summit to examine the health and direction of the United States' science and technology enterprises. The Summit shall include representatives of industry, small business, labor, academia, State government, Federal research and development agencies, non-profit environmental and energy policy groups concerned with science and technology issues, and other nongovernmental organizations.

(b) REPORT.—Not later than 90 days after the date of the conclusion of the Summit, the President shall issue a report on the results of the Summit. The report shall identify key research and technology challenges and recommendations for areas of investment for Federal research and technology programs to be carried out during the 5-year period beginning on the date the report is issued.

(c) ANNUAL EVALUATION.—Beginning in 2007, the Director of the Office of Science and Technology Policy shall publish and submit to Congress an annual report that contains recommendations for areas of investment for Federal research and technology programs, including a justification for each area identified in the report. Each report submitted during the 5-year period beginning on the date of the conclusion of the Summit shall take into account any recommendations made by the Summit.

SEC. 1102. STUDY ON BARRIERS TO INNOVATION.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall enter into a contract with the National Academy of Sciences to conduct and complete a study to identify, and to review methods to mitigate, new forms of risk for businesses beyond conventional operational and financial risk that affect the ability to innovate, including studying and reviewing—

(1) incentive and compensation structures that could effectively encourage long-term value creation and innovation;

(2) methods of voluntary and supplemental disclosure by industry of intellectual capital, innovation performance, and indicators of future valuation;

(3) means by which government could work with industry to enhance the legal and regulatory framework to encourage the disclosures described in paragraph (2);

(4) practices that may be significant deterrents to United States businesses engaging in innovation risk-taking compared to foreign competitors;

(5) costs faced by United States businesses engaging in innovation compared to foreign competitors, including the burden placed on businesses by high and rising health care costs;

(6) means by which industry, trade associations, and universities could collaborate to support research on management practices and methodologies for assessing the value and risks of longer term innovation strategies;

(7) means to encourage new, open, and collaborative dialogue between industry associations, regulatory authorities, management, shareholders, labor, and other concerned interests to encourage appropriate approaches to innovation risk-taking;

(8) incentives to encourage participation among institutions of higher education, especially those in rural and underserved areas, to engage in innovation;

(9) relevant Federal regulations that may discourage or encourage innovation;

(10) the extent to which Federal funding promotes or hinders innovation; and

(11) the extent to which individuals are being equipped with the knowledge and skills necessary for success in the 21st century workforce, as measured by—

(A) elementary school and secondary school student academic achievement on the State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965, especially in mathematics, science, and reading;

(B) the rate of student entrance into institutions of higher education by type of institution, and barriers to access to institutions of higher education;

(C) the rates of—

(i) students successfully completing postsecondary education programs; and

(ii) certificates, associate degrees, and baccalaureate degrees awarded in the fields of science, technology, engineering, and mathematics; and

(D) access to, and availability of, high quality job training programs.

(b) REPORT REQUIRED.—Not later than 1 year after entering into the contract required by subsection (a) and 4 years after entering into the contract required by subsection (a), the National Academy of Sciences shall submit to Congress a report on the study conducted under such subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences $1,000,000 for fiscal year 2007 for the purpose of carrying out the study required under this section.

SEC. 1103. NATIONAL INNOVATION MEDAL.

Section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711) is amended—

(1) by striking the section heading and inserting "**SEC. 16. NATIONAL TECHNOLOGY AND INNOVATION MEDAL.**"; and

(2) in subsection (a), by striking "Technology Medal" and inserting "Technology and Innovation Medal".

SEC. 1104. RELEASE OF SCIENTIFIC RESEARCH RESULTS.

(a) PRINCIPLES.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget and the heads of all Federal civilian agencies that conduct scientific research, shall develop and issue an overarching set of principles to ensure the communication and open exchange of data and results to other agencies, policymakers, and the public of research conducted by a scientist employed by a Federal civilian agency and to prevent the intentional or unintentional suppression or distortion of such research findings. The principles shall encourage the open exchange of data and results of research undertaken by a scientist employed by such an agency and shall be consistent with existing Federal laws, including chapter 18 of title 35, United States Code (commonly known as the "Bayh-Dole Act").

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall ensure that all civilian Federal agencies that conduct scientific research develop specific policies and procedures regarding the public release of data and results of research conducted by a scientist employed by such an agency consistent with the principles established under subsection (a). Such polices and procedures shall—

(1) specifically address what is and what is not permitted or recommended under such policies and procedures;

(2) be specifically designed for each such agency;

(3) be applied uniformly throughout each such agency; and

(4) be widely communicated and readily accessible to all employees of each such agency and the public.

SEC. 1105. SEMIANNUAL SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS DAYS.

It is the sense of Congress that the Director of the Office of Science and Technology Policy should—

(1) encourage all elementary and middle schools to observe a Science, Technology, Engineering, and Mathematics Day twice in every school year for the purpose of bringing in science, technology, engineering, and mathematics mentors to provide hands-on lessons to excite and inspire students to pursue the science, technology, engineering, and mathematics fields (including continuing education and career paths);

(2) initiate a program, in consultation with Federal agencies and departments, to provide support systems, tools (from existing outreach offices), and mechanisms to allow and encourage Federal employees with scientific, technological, engineering, or mathematical responsibilities to reach out to local classrooms on such Science, Technology, Engineering, and Mathematics Days to instruct and inspire school children, focusing on real life science, technology, engineering, and mathematics-related applicable experiences along with hands-on demonstrations in order to demonstrate the advantages and direct applications of studying the science, technology, engineering, and mathematics fields; and

(3) promote Science, Technology, Engineering, and Mathematics Days involvement by private sector and institutions of higher education employees in a manner similar to the Federal employee involvement described in paragraph (2).

SEC. 1106. STUDY OF SERVICE SCIENCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, in order to strengthen the competitiveness of United States enterprises and institutions and to prepare the people of the United States for high-wage, high-skill employment, the Federal Government should better understand and respond strategically to the emerging management and learning discipline known as service science.

(b) STUDY.—Not later than 270 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy, through the National Academy of Sciences, shall conduct a study and report to Congress regarding how the Federal Government should support, through research, education, and training, the emerging management and learning discipline known as service science.

(c) OUTSIDE RESOURCES.—In conducting the study under subsection (b), the National Academy of Sciences shall consult with leaders from 2- and 4-year institutions of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), leaders from corporations, and other relevant parties.

(d) SERVICE SCIENCE DEFINED.—In this section, the term "service science" means curricula, training, and research programs that are designed to teach individuals to apply scientific, engineering, and management disciplines that integrate elements of computer science, operations research, industrial engineering, business strategy, management sciences, and social and legal sciences, in order to encourage innovation in how organizations create value for customers and shareholders that could not be achieved through such disciplines working in isolation.

TITLE II—INNOVATION PROMOTION

SEC. 1201. PRESIDENT'S COUNCIL ON INNOVATION AND COMPETITIVENESS.

(a) IN GENERAL.—The President shall establish a President's Council on Innovation and Competitiveness.

(b) DUTIES.—The Council's duties shall include—

(1) monitoring implementation of public laws and initiatives for promoting innovation, including policies related to research funding, taxation, immigration, trade, and education that are proposed in this Act or in any other Act;

(2) providing advice to the President with respect to global trends in competitiveness and innovation and allocation of Federal resources in education, job training, and technology research and development considering such global trends in competitiveness and innovation;

(3) in consultation with the Director of the Office of Management and Budget, developing a process for using metrics to assess the impact of existing and proposed policies and rules that affect innovation capabilities in the United States;

(4) identifying opportunities and making recommendations for the heads of executive agencies to improve innovation, monitoring, and reporting on the implementation of such recommendations;

(5) developing metrics for measuring the progress of the Federal Government with respect to improving conditions for innovation, including through talent development, investment, and infrastructure improvements; and

(6) submitting to the President and Congress an annual report on such progress.

(c) MEMBERSHIP AND COORDINATION.—

(1) MEMBERSHIP.—The Council shall be composed of the Secretary or head of each of the following:

(A) The Department of Commerce.

(B) The Department of Defense.

(C) The Department of Education.

(D) The Department of Energy.

(E) The Department of Health and Human Services.

(F) The Department of Homeland Security.

(G) The Department of Labor.

(H) The Department of the Treasury.

(I) The National Aeronautics and Space Administration.

(J) The Securities and Exchange Commission.

(K) The National Science Foundation.

(L) The Office of the United States Trade Representative.

(M) The Office of Management and Budget.

(N) The Office of Science and Technology Policy.

(O) The Environmental Protection Agency.

(P) Any other department or agency designated by the President.

(2) CHAIRPERSON.—The Secretary of Commerce shall serve as Chairperson of the Council.

(3) COORDINATION.—The Chairperson of the Council shall ensure appropriate coordination between the Council and the National Economic Council, the National Security Council, and the National Science and Technology Council.

(4) MEETINGS.—The Council shall meet on a semi-annual basis at the call of the Chairperson and the initial meeting of the Council shall occur not later than 6 months after the date of enactment of this Act.

(d) DEVELOPMENT OF INNOVATION AGENDA.—

(1) IN GENERAL.—The Council shall develop a comprehensive agenda for strengthening the innovation and competitiveness capabilities of the Federal Government, State governments, academia, and the private sector in the United States.

(2) CONTENTS.—The comprehensive agenda required by paragraph (1) shall include the following:

(A) An assessment of current strengths and weaknesses of the United States investment in research and development.

(B) Recommendations for addressing weaknesses and maintaining the United States as a world leader in research and development and technological innovation.

(C) Recommendations for strengthening the innovation and competitiveness capabilities of the Federal government, State governments, academia, and the private sector in the United States.

(3) ADVISORS.—

(A) RECOMMENDATION.—Not later than 30 days after the date of enactment of this Act, the National Academy of Sciences, in consultation with the National Academy of Engineering, the Institute of Medicine, and the National Research Council, shall develop and submit to the President a list of 50 individuals that are recommended to serve as advisors to the Council during the development of the comprehensive agenda required by paragraph (1). The list of advisors shall include appropriate representatives from the following:

(i) The private sector of the economy.

(ii) Labor.

(iii) Various fields including information technology, energy, engineering, high-technology manufacturing, health care, and education.

(iv) Scientific organizations.

(v) Academic organizations and other nongovernmental organizations working in the area of science or technology.

(B) DESIGNATION.—Not later than 30 days after the date that the National Academy of Sciences submits the list of recommended individuals to serve as advisors, the President shall designate 50 individuals to serve as advisors to the Council.

(C) REQUIREMENT TO CONSULT.—The Council shall develop the comprehensive agenda required by paragraph (1) in consultation with the advisors.

(4) INITIAL SUBMISSION AND UPDATES.—

(A) INITIAL SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the Council shall submit to Congress and the President the comprehensive agenda required by paragraph (1).

(B) UPDATES.—At least once every 2 years, the Council shall update the comprehensive agenda required by paragraph (1) and submit each such update to Congress and the President.

(e) TECHNICAL AMENDMENT.—Section 101(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(b)) is amended by striking "an" in the first sentence and inserting "a distinct".

(f) OPTIONAL ASSIGNMENT.—Notwithstanding subsection (a) and paragraphs (1) and (2) of subsection (c), the President may designate an existing council to carry out the requirements of this section.

SEC. 1202. INNOVATION ACCELERATION RESEARCH.

(a) PROGRAM ESTABLISHED.—The President, through the head of each Federal research agency, shall establish a program, to be known as the Innovation Acceleration Research Program, to support and promote innovation in the United States through research projects that can yield results with far-ranging or wide-ranging implications but are considered too novel or span too diverse a range of disciplines to fare well in the traditional peer review process. Priority in the awarding of grants under this program shall be given to research projects that—

(1) meet fundamental technology or scientific challenges;

(2) involve multidisciplinary work; and

(3) involve a high degree of novelty.

(b) DEPARTMENTS AND AGENCIES.—

(1) FUNDING GOALS.—The President shall ensure that it is the goal of each Executive agency (as defined in section 105 of title 5, United States Code) that finances research in science, mathematics, engineering, and technology to allocate approximately 8 percent of the agency's total annual research and development budget to funding research, including grants, under the Innovation Acceleration Research Program.

(2) ADMINISTRATION.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the head of each Executive agency participating in the Innovation Acceleration Research Program under paragraph (1) shall submit to the Director of the Office of Science and Technology Policy and the Director of the Office of Management and Budget a plan for implementing the research program within such Executive agency. An implementation plan may incorporate existing initiatives of the Executive agencies that promote research in innovation as described in subsection (a).

(B) REQUIRED METRICS.—

(i) IN GENERAL.—The head of each Executive agency submitting an implementation plan pursuant to subparagraph (A) shall include metrics upon which grant funding decisions will be made and metrics for assessing the success of the grants awarded.

(ii) METRICS FOR BASIC RESEARCH.—The metrics developed under clause (i) to assess basic research programs shall assess management of the programs and shall not assess specific scientific outcomes of the research conducted by the programs.

(C) GRANT DURATION AND RENEWALS.—

(i) IN GENERAL.—Any grants issued by an Executive agency under this section shall be for a period not to exceed 3 years.

(ii) EVALUATION.—Not later than 90 days prior to the expiration of a grant issued under this section, the Executive agency that approved the grant shall complete an evaluation of the effectiveness of the grant based on the metrics established pursuant to subparagraph (B). In its evaluation, the Executive agency shall consider the extent to which the program funded by the grant met the goals of quality improvement and job creation.

(iii) PUBLICATION OF REVIEW.—The Executive agency shall publish and make available to the public the review of each grant approved pursuant to this section.

(iv) FAILURE TO MEET METRICS.—Any grant that the Executive agency awarding the grant determines has failed to satisfy any of the metrics developed pursuant to subparagraph (B), shall not be eligible for a renewal.

(v) RENEWAL.—A grant issued under this section that satisfies all of the metrics developed pursuant to subparagraph (B), may be renewed once for a period of not more than 3 years. Additional renewals may be considered only if the head of the Executive agency makes a specific finding that the program being funded involves a significant technology or scientific advance that requires a longer time frame to complete critical research, and the research satisfies all the metrics developed pursuant to subparagraph (B).

(vi) WAIVER.—The head of the Executive agency may authorize a waiver of the requirement of clauses (iv) and (v) related to satisfying metric requirements if he or she determines that the grant failed to meet a small number of metrics and the failure was not significant for the overall performance of the grant.

(c) DEFINITIONS.—In this section:

(1) FEDERAL RESEARCH AGENCY.—The term "Federal research agency" means a major organizational component of a department or agency of the Federal Government, or other establishment of the Federal Government operating with appropriated funds, that has as its primary purpose the performance of scientific research.

(2) MAJOR ORGANIZATIONAL COMPONENT.—The term "major organizational component", with respect to a department, agency, or other establishment of the Federal Government, means a component of the department, agency, or other establishment that is administered by an individual whose rate of basic pay is not less than the rate of basic pay payable under level V of the Executive Schedule under section 5316 of title 5, United States Code.

TITLE III—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 1301. NASA'S CONTRIBUTION TO INNOVATION.

(a) PARTICIPATION IN INTERAGENCY ACTIVITIES.—The National Aeronautics and Space Administration shall be a full participant in any interagency effort to promote innovation and economic competitiveness through near-term and long-term basic scientific research and development and the promotion of science, technology, engineering, and mathematics education.

(b) HISTORIC FOUNDATION.—In order to carry out the participation described in subsection (a), the Administrator of the National Aeronautics and Space Administration shall build on the historic role of the National Aeronautics and Space Administration in stimulating excellence in the advancement of physical science and engineering disciplines and in providing opportunities and incentives for the pursuit of academic studies in science, technology, engineering, and mathematics.

(c) BALANCED SCIENCE PROGRAM AND ROBUST AUTHORIZATION LEVELS.—The balanced science program authorized by section 101(d) of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155; 42 U.S.C. 16611) shall be an element of the contribution by the National Aeronautics and Space Administration to such interagency programs. It is the sense of Congress that a robust National Aeronautics and Space Administration, funded at the levels authorized for fiscal years 2007 and 2008 under sections 202 and 203 of such Act (42 U.S.C. 16631 and 16632) and at appropriate levels in subsequent fiscal years would enable a fair balance among science, aeronautics, education, exploration, and human space flight programs and allow full participation in any interagency efforts to promote innovation and economic competitiveness.

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—The Administrator shall submit to Congress and the President an annual report describing the activities conducted pursuant to this section, including a description of the goals and the objective metrics upon which funding decisions were made.

(2) CONTENT.—Each report submitted pursuant to paragraph (1) shall include, with regard to science, technology, engineering, and mathematics education programs, at a minimum, the following:

(A) A description of each program.

(B) The amount spent on each program.

(C) The number of students or teachers served by each program.

(D) Measurement of how each program improved student achievement, including with regard to challenging State achievement standards.

SEC. 1302. AERONAUTICS INSTITUTE FOR RESEARCH.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall establish within the Administration an Aeronautics Institute for Research for the purpose of managing the aeronautics research carried out by the Administration.

(2) DIRECTOR.—The Institute shall be headed by a Director with appropriate experience in aeronautics research and development.

(b) DUTIES.—The Institute shall implement the programs authorized under title IV of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155; 42 U.S.C. 16701 et seq.).

(c) COOPERATION WITH OTHER AGENCIES.—

(1) IN GENERAL.—The Institute shall operate in conjunction with relevant programs in the Department of Transportation, the Department of Defense, the Department of Commerce, and the Department of Homeland Security, including the activities of the Joint Planning and Development Office established under the Vision 100—Century of Aviation Reauthorization Act (Public Law 108–176; 117 Stat. 2490).

(2) RESOURCES.—The Director of the Institute may accept assistance, staff, and funding from those Departments and other Federal agencies. Any such funding shall be in addition to funds authorized for aeronautics under the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155; 119 Stat. 2895).

(3) OTHER COORDINATION.—The Director of the Institute may utilize the Next Generation Air Transportation Senior Policy Committee established under section 710 of the Vision 100—Century of Aviation Reauthorization Act (Public Law 108–176; 49 U.S.C. 40101 note) to coordinate its programs with other Departments and agencies.

(d) PARTNERSHIPS.—In developing and carrying out its plans, the Institute shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

SEC. 1303. BASIC RESEARCH ENHANCEMENT.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Secretary of Energy, the Secretary of Defense, and Secretary of Commerce shall, to the extent practicable, coordinate basic and fundamental research activities related to physical sciences, technology, engineering and mathematics.

(b) ESTABLISHMENT OF BASIC RESEARCH EXECUTIVE COUNCIL.—In order to ensure effective application of resources to basic science activity and to facilitate cooperative basic and fundamental research activities with other governmental organizations, the Administrator of the National Aeronautics and Space Administration shall establish within the Administration a Basic Research Executive Council to oversee the distribution and management of programs and resources engaged in support of basic research activity.

(c) MEMBERSHIP.—The membership of the Basic Research Executive Council shall consist of the most senior agency official representing each of the following areas of research:

(1) Space Science.

(2) Earth Science.

(3) Life and Microgravity Sciences.

(4) Aeronautical Research.

(d) LEADERSHIP.—The Basic Research Executive Council shall be chaired by an individual appointed for that purpose who shall have, as a minimum, a appropriate graduate degree in a recognizable discipline in the physical sciences, and appropriate experience in the conduct and management of basic research activity. The Chairman of the Council shall report directly to the Administrator of the National Aeronautics and Space Administration.

(e) SUPPORTING RESOURCES AND PERSONNEL.—The Chairman of the Basic Research Executive Council shall be provided with adequate administrative staff support to conduct the activity and functions of the Council.

(f) DUTIES.—The Basic Research Executive Council shall have, at minimum, the following duties:

(1) To establish criteria for the identification of research activity as basic in nature.

(2) To establish, in consultation with the Office of Science and Technology Policy, the National Science Foundation, the National Academy of Sciences, the National Institutes of Health, and other appropriate external organizations, a prioritization of fundamental research activity to be conducted by the National Aeronautics and Space Administration, to be reviewed and updated on an annual basis, taking into consideration evolving national research priorities.

(3) To monitor, review, and evaluate all basic research activity of the National Aeronautics and Space Administration for compliance with basic research priorities established under paragraph (2).

(4) To make recommendations to the Administrator of the National Aeronautics and Space Administration regarding adjustments in the basic research activities of the Administration to ensure consistency with the research priorities established under this section.

(5) To provide an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives outlining the activities of the Council during the preceding year and the status of basic research activity within the Administration. The initial such report, to serve as a baseline document, shall be provided within 90 days after the establishment and initial operations of the Council.

SEC. 1304. AGING WORKFORCE ISSUES PROGRAM.

It is the sense of Congress that the Administrator of the National Aeronautics and Space Administration should implement a program to address aging work force issues in aerospace that—

(1) documents technical and management experiences before senior people leave the Administration, including—

(A) documenting lessons learned;

(B) briefing organizations;

(C) providing opportunities for archiving lessons in a database; and

(D) providing opportunities for near-term retirees to transition out early from their primary assignment in order to document their career lessons learned and brief new employees prior to their separation from the Administration;

(2) provides incentives for retirees to return and teach new employees about their career lessons and experiences; and

(3) provides for the development of an award to recognize and reward outstanding senior employees for their contributions to knowledge sharing.

SEC. 1305. CONFORMING AMENDMENTS.

Section 101(d) of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155; 42 U.S.C. 16611(d)) is amended—

(1) by striking "and" after the semicolon in paragraph (2)(B);

(2) by striking "Act." in paragraph (2)(C) and inserting "Act; and";

(3) by adding at the end of paragraph (2) the following:

"(D) the number and content of science activities which are undertaken in support of science missions described in subparagraph (A), and the number and content of science activities which may be considered as fundamental, or basic research, whether incorporated within specific missions or conducted independently of any specific mission."; and

(4) by adding at the end of paragraph (3) the following:

"(H) How NASA science activities can best be structured to ensure that basic and fundamental research can be effectively maintained and coordinated in response to national goals in competitiveness and innovation, and in contributing to national scientific, technology, engineering and mathematics leadership.".

SEC. 1306. FISCAL YEAR 2007 BASIC SCIENCE AND RESEARCH FUNDING.

Notwithstanding any other provision of law, the Administrator of the National Aeronautics and Space Administration shall increase funding for basic science and research, including for the Explorer Program, for fiscal year 2007 by $160,000,000 by transferring such amount for such purpose from accounts of the National Aeronautics and Space Administration. The transfer shall be contingent upon the availability of unobligated balances to the National Aeronautics and Space Administration.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 1401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce for the use of the National Institute of Standards and Technology—

(1) for fiscal year 2007, $639,646,000, of which $110,000,000 shall be used for the Hollings Manufacturing Extension Partnership Program;

(2) for fiscal year 2008, $703,611,000, of which $115,000,000 shall be used for the Hollings Manufacturing Extension Partnership Program;

(3) for fiscal year 2009, $773,972,000, of which $120,000,000 shall be used for the Hollings Manufacturing Extension Partnership Program;

(4) for fiscal year 2010, $851,369,000, of which $125,000,000 shall be used for the Hollings Manufacturing Extension Partnership Program; and

(5) for fiscal year 2011, $936,506,000, of which $130,000,000 shall be used for the Hollings Manufacturing Extension Partnership Program.

SEC. 1402. AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

(a) IN GENERAL.—Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Commerce for Technology.".

(2) DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) through (13) as paragraphs (1) through (11), respectively.

(3) REPEAL OF AUTHORIZATION.—Section 21(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3713(a)) is amended—

(A) in paragraph (1), by striking "sections 5, 11(g), and 16" and inserting "sections 11(g) and 16"; and

(B) in paragraph (2), by striking "$500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act;".

(4) HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Section 208 of the High-Performance Computing Act of 1991 (15 U.S.C. 5528) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(5) ASSISTIVE TECHNOLOGY ACT OF 1998.—Section 6(b)(4)(B)(v) of the Assistive Technology Act of 1998 (29 U.S.C. 3005(b)(4)(B)(v)) is amended by striking "the Technology Administration of the Department of Commerce," and inserting "the National Institute of Standards and Technology,".

SEC. 1403. INNOVATION ACCELERATION.

(a) PROGRAM.—In order to implement section 1202 of this Act, the Director of the National Institute of Standards and Technology shall—

(1) establish a program linked to the goals and objectives of the measurement laboratories, to be known as the "Standards and Technology Acceleration Research Program", to support and promote innovation in

the United States through high-risk, high-reward research; and

(2) set aside, from funds available to the measurement laboratories, an amount equal to not less than 8 percent of the funds available to the Institute each fiscal year for such Program.

(b) EXTERNAL FUNDING.—The Director shall ensure that at least 80 percent of the funds available for such Program shall be used to award competitive, merit-reviewed grants, cooperative agreements, or contracts to public or private entities, including businesses and universities. In selecting entities to receive such assistance, the Director shall ensure that the project proposed by an entity has scientific and technical merit and that any resulting intellectual property shall vest in a United States entity that can commercialize the technology in a timely manner. Each external project shall involve at least one small or medium-sized business and the Director shall give priority to joint ventures between small or medium-sized businesses and educational institutions. Any grant shall be for a period not to exceed 3 years.

(c) COMPETITIONS.—The Director shall solicit proposals annually to address areas of national need for high-risk, high-reward research, as identified by the Director.

(d) ANNUAL REPORT.—Each year the Director shall issue an annual report describing the program's activities, including include a description of the metrics upon which grant funding decisions were made in the previous fiscal year, any proposed changes to those metrics, metrics for evaluating the success of ongoing and completed grants, and an evaluation of ongoing and completed grants. The first annual report shall include best practices for management of programs to stimulate high-risk, high-reward research.

(e) ADMINISTRATIVE EXPENSES.—No more than 5 percent of the finding available to the program may be used for administrative expenses.

(f) HIGH-RISK, HIGH-REWARD RESEARCH DEFINED.—In this section, the term "high-risk, high-reward research" means research that—

(1) has the potential for yielding results with far-ranging or wide-ranging implications;

(2) addresses critical national needs related to measurement standards and technology; and

(3) is too novel or spans too diverse a range of disciplines to fare well in the traditional peer review process.

SEC. 1404. MANUFACTURING EXTENSION.

(a) MANUFACTURING CENTER EVALUATION.—Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by inserting "A Center that has not received a positive evaluation by the evaluation panel shall be notified by the panel of the deficiencies in its performance and shall be placed on probation for one year, after which time the panel shall reevaluate the Center. If the Center has not addressed the deficiencies identified by the panel, or shown a significant improvement in its performance, the Director shall conduct a new competition to select an operator for the Center or may close the Center." after "at declining levels.".

(b) FEDERAL SHARE.—Strike section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) and insert the following:

"(d) ACCEPTANCE OF FUNDS.—In addition to such sums as may be appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies and under section 2(c)(7) from the private sector for the purpose of strengthening United States manufacturing. Such funds from the private sector, if allocated to a Center or Centers, shall not be considered in the calculation of the Federal share of capital and annual operating and maintenance costs under subsection (c).".

SEC. 1405. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.

(a) IN GENERAL.—The Director of the National Institutes of Standards and Technology shall re-establish the Experimental Program to Stimulate Competitive Technology. The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than a majority of the States have received.

(b) ARRANGEMENTS.—In carrying out the program, the Director shall cooperate with State, regional, or local science and technology-based economic development organization and with representatives of small business firms and other appropriate technology-based businesses.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—In carrying out the program, the Director may make grants or enter into cooperative agreements to provide for—

(1) technology research and development;

(2) technology transfer from university research;

(3) technology deployment and diffusion; and

(4) the strengthening of technological and innovation capabilities through consortia comprised of—

(A) technology-based small business firms;

(B) industries and emerging companies;

(C) institutions of higher education including community colleges; and

(D) State and local development agencies and entities.

(d) REQUIREMENTS FOR MAKING AWARDS.—

(1) IN GENERAL.—In making awards under this section, the Director shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award, giving special emphasis to those projects which will increase the participation of women, Native Americans (including Native Hawaiians and Alaska Natives), and underrepresented groups in science and technology.

(2) MATCHING REQUIREMENT.—The non-Federal share of the activities (other than planning activities) carried out under an award under this subsection shall be not less than 50 percent of the cost of those activities.

(e) CRITERIA FOR STATES.—The Director shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

(f) COORDINATION.—To the extent practicable, in carrying out this subsection, the Director shall coordinate the program with other programs of the Department of Commerce.

(g) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report that meets the requirements of this subsection.

(2) REQUIREMENTS FOR REPORT.—The report required by this subsection shall contain—

(A) a description of the structure and procedures of the program;

(B) a management plan for the program;

(C) a description of the merit-based review process to be used in the program;

(D) milestones for the evaluation of activities to be assisted under the program in fiscal year 2008;

(E) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

(F) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated.

SEC. 1406. TECHNICAL AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AND OTHER TECHNICAL AMENDMENTS.

(a) RESEARCH FELLOWSHIPS.—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1) is amended by striking "up to 1 per centum of the" in the first sentence.

(b) FINANCIAL AGREEMENTS.—

(1) CLARIFICATION.—Section 2(b)(4) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)(4)) is amended by inserting "and grants and cooperative agreements," after "arrangements,".

(2) MEMBERSHIPS.—Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(A) by striking "and" after the semicolon in paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following:

"(22) notwithstanding subsection (b)(4) of this section, the Grants and Cooperative Agreements Act (31 U.S.C. 6301–6308), the Competition in Contracting Act (31 U.S.C. 3551–3556), and the Federal Acquisition Regulations set forth in title 48, Code of Federal Regulations, to expend appropriated funds for National Institute of Standards and Technology memberships in scientific organizations, registration fees for attendance at conferences, and sponsorship of conferences in furtherance of technology transfer; and".

(c) WORKING CAPITAL FUND.—Section 12 of the National Institute of Standards and Development Act (15 U.S.C. 278b) is amended by adding at the end the following:

"(g) AMOUNT AND SOURCE OF TRANSFERS.—Not to exceed one-quarter per centum of the amounts appropriated to the Institute for any fiscal year may be transferred to the fund, in addition to any other transfer authority. In addition, funds provided to the Institute from other Federal agencies for the purpose of production of Standard Reference Materials may be transferred to the fund.".

(d) OUTDATED SPECIFICATIONS.—

(1) REDEFINITION OF METRIC SYSTEM.—Section 2 of the Act of July 28, 1866, entitled "An Act to authorize the Use of the Metric System of Weights and Measures" (15 U.S.C. 205; 14 Stat. 339, 340) is amended to read as follows:

"SEC. 2. METRIC SYSTEM DEFINED.

"The metric system of measurement shall be defined as the International System of Units as established in 1960, and subsequently maintained, by the General Conference of Weights and Measures, and as interpreted or modified for the United States by the Secretary of Commerce.".

(2) REPEAL OF REDUNDANT AND OBSOLETE AUTHORITY.—The Act of July 21, 1950, entitled, "An Act To redefine the units and establish the standards of electrical and photometric measurements of 1950" (15 U.S.C. 223, 224) is hereby repealed.

(3) IDAHO TIME ZONE.—Section 3 of the Act of March 19, 1918, (15 U.S.C. 264; commonly known as the Calder Act) is amended—

(A) in the section heading, by striking "**third zone**" and inserting "**fourth zone**"; and

(B) by striking "third zone" and inserting "fourth zone".

(4) STANDARD TIME.—The first section of the Act of March 19, 1918, (15 U.S.C. 261; commonly known as the Calder Act) is amended—

(A) by inserting "(a) IN GENERAL.—" before "For the purpose";

(B) by striking the second sentence and the extra period after it and inserting "Except as provided in section 3(a) of the Uniform Time Act of 1966, the standard time of the first zone shall be Coordinated Universal Time retarded by 4 hours; that of the second zone retarded by 5 hours; that of the third zone retarded by 6 hours; that of the fourth zone retarded by 7 hours; that of the fifth zone retarded 8 hours; that of the sixth zone retarded by 9 hours; that of the seventh zone retarded by 10 hours; that of the eighth zone retarded by 11 hours; and that of the ninth zone shall be Coordinated Universal Time advanced by 10 hours."; and

(C) adding at the end the following:

"(b) COORDINATED UNIVERSAL TIME DEFINED.—In this section, the term 'Coordinated Universal Time' means the time scale maintained through the General Conference of Weights and Measures and interpreted or modified for the United States by the Secretary of Commerce in coordination with the Secretary of the Navy.".

(e) RETENTION OF DEPRECIATION SURCHARGE.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Within"; and

(2) adding at the end the following:

"(b) RETENTION OF FEES.—The Director is authorized to retain all building use and depreciation surcharge fees collected pursuant to OMB Circular A–25. Such fees shall be collected and credited to the Construction of Research Facilities Appropriation Account for use in maintenance and repair of National Institute of Standards and Technology's existing facilities.".

(f) NON-ENERGY INVENTIONS PROGRAM.—Section 27 of the National Institute of Standards and Technology Act (15 U.S.C. 278m) is repealed.

TITLE V—OCEAN AND ATMOSPHERIC PROGRAMS

SEC. 1501. OCEAN AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.

The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the National Science Foundation and the Administrator of the National Aeronautics and Space Administration, shall establish a coordinated program of ocean and atmospheric research and development, in collaboration with academic institutions and other nongovernmental entities, that shall focus on the development of advanced technologies and analytical methods that will promote United States leadership in ocean and atmospheric science and competitiveness in the applied uses of such knowledge.

SEC. 1502. NOAA OCEAN AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency.

(b) NOAA SCIENCE EDUCATION PLAN.—The Administrator, appropriate National Oceanic and Atmospheric Administration programs, ocean atmospheric science and education experts, and interested members of the public shall develop a science education plan setting forth education goals and strategies for the Administration, as well as programmatic actions to carry out such goals and priorities over the next 20 years, and evaluate and update such plan every 5 years.

(c) CONSTRUCTION.—Nothing in this section may be construed to affect the application of section 438 of the General Education Provisions Act (20 U.S.C. 1232a) or sections 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794 and 794d).

DIVISION B—DEPARTMENT OF ENERGY

SEC. 2001. SHORT TITLE.

This division may be cited as the "Protecting America's Competitive Edge Through Energy Act" or the "PACE–Energy Act".

SEC. 2002. DEFINITIONS.

In this division:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) NATIONAL LABORATORY.—The term "National Laboratory" has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(4) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Under Secretary for Science appointed under section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)).

SEC. 2003. MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION AT THE DEPARTMENT OF ENERGY.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(2) by inserting after subsection (a) the following:

"(b) ORGANIZATION OF MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION PROGRAMS.—

"(1) DIRECTOR OF MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION.—Notwithstanding any other provision of law, the Secretary, acting through the Under Secretary for Science (referred to in this subsection as the 'Under Secretary'), shall appoint a Director of Mathematics, Science, and Engineering Education (referred to in this subsection as the 'Director') with the principal responsibility for administering mathematics, science, and engineering education programs across all functions of the Department.

"(2) QUALIFICATIONS.—The Director shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Under Secretary on all matters pertaining to mathematics, science, and engineering education at the Department.

"(3) DUTIES.—The Director shall—

"(A) oversee all mathematics, science, and engineering education programs of the Department;

"(B) represent the Department as the principal interagency liaison for all mathematics, science, and engineering education programs, unless otherwise represented by the Secretary or the Under Secretary;

"(C) prepare the annual budget and advise the Under Secretary on all budgetary issues for mathematics, science, and engineering education programs of the Department;

"(D) increase, to the maximum extent practicable, the participation and advancement of women and underrepresented minorities at every level of science, technology, engineering, and mathematics education; and

"(E) perform other such matters related to mathematics, science, and engineering education as are required by the Secretary or the Under Secretary.

"(4) STAFF AND OTHER RESOURCES.—The Secretary shall assign to the Director such personnel and other resources as the Secretary considers necessary to permit the Director to carry out the duties of the Director.

"(5) ASSESSMENT.—

"(A) IN GENERAL.—The Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy, not later than 5 years after, and not later than 10 years after, the date of enactment of this paragraph, shall assess the performance of the mathematics, science, and engineering education programs of the Department.

"(B) CONSIDERATIONS.—An assessment under this paragraph shall be conducted taking into consideration, where applicable, the effect of mathematics, science, and engineering education programs of the Department on student academic achievement in math and science.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection."; and

(3) by striking subsection (d) (as redesignated by paragraph (1)) and inserting the following:

"(d) MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION FUND.—The Secretary shall establish a Mathematics, Science, and Engineering Education Fund, using not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for each fiscal year, to carry out sections 3165, 3166, and 3167.".

(b) CONSULTATION.—The Secretary shall—

(1) consult with the Secretary of Education regarding activities authorized under subpart B of the Department of Energy Science Education Enhancement Act (as added by subsection (d)(3)) to improve mathematics and science education; and

(2) otherwise make available to the Secretary of Education reports associated with programs authorized under that section.

(c) DEFINITION.—Section 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d) is amended by adding at the end the following:

"(5) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).".

(d) MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION PROGRAMS.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by inserting after section 3162 the following:

"Subpart A—Science Education Enhancement";

(2) in section 3169, by striking "part" and inserting "subpart"; and

(3) by adding at the end the following:

"Subpart B—Mathematics, Science, and Engineering Education Programs

"SEC. 3170. DEFINITIONS.

"In this subpart:

"(1) DIRECTOR.—The term 'Director' means the Director of Mathematics, Science, and Engineering Education.

"(2) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

"CHAPTER 1—ASSISTANCE FOR SPECIALTY SCHOOLS FOR MATHEMATICS AND SCIENCE

"SEC. 3171. SPECIALTY SCHOOLS FOR MATHEMATICS AND SCIENCE.

"(a) PURPOSE.—The purpose of this section is to provide assistance to States to establish or expand public, statewide specialty secondary schools that provide comprehensive mathematics and science (including engineering) education to improve the academic achievement of students in mathematics and science.

"(b) DEFINITION OF SPECIALTY SCHOOL FOR MATHEMATICS AND SCIENCE.—In this chapter, the term 'specialty school for mathematics and science' means a public secondary school (including a school that provides residential services to students) that—

"(1) serves students residing in the State in which the school is located; and

"(2) offers to those students a high-quality, comprehensive mathematics and science (including engineering) curriculum designed to improve the academic achievement of students in mathematics and science.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From the amounts authorized under subsection (i), the Secretary, acting through the Director, shall award grants, on a competitive basis, to States in order to provide assistance to the States for the costs of establishing or expanding public, statewide specialty schools for mathematics and science.

"(2) RESOURCES.—The Director shall ensure that appropriate resources of the Department, including the National Laboratories, are available to schools funded under this section in order to—

"(A) increase experiential, hands-on learning opportunities in mathematics and science for students attending such schools; and

"(B) provide ongoing professional development opportunities for teachers employed at such schools.

"(3) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available necessary funds for a program using scientific and engineering staff of the National Laboratories, during which the staff—

"(A) assists teachers in teaching courses at the schools funded under this section;

"(B) uses National Laboratory scientific equipment in teaching the courses; and

"(C) uses distance education and other technologies to provide assistance described in subparagraphs (A) and (B) to schools funded under this section that are not located near the National Laboratories.

"(4) RESTRICTION.—No State shall receive funding for more than 1 specialty school for mathematics and science for a fiscal year.

"(d) FEDERAL AND NON-FEDERAL SHARES.—

"(1) FEDERAL SHARE.—The Federal share of the costs described in subsection (c)(1) shall not exceed 50 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (c)(1) shall be—

"(A) not less than 50 percent; and

"(B) provided from non-Federal sources, in cash or in kind, fairly evaluated, including services.

"(e) APPLICATION.—Each State desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require that describes—

"(1) the process by which and selection criteria with which the State will select and designate a school as a specialty school for mathematics and science in accordance with this section;

"(2) how the State will ensure that funds made available under this section are used to establish or expand a specialty school for mathematics and science—

"(A) in accordance with the activities described in subsection (g); and

"(B) that has the capacity to improve the academic achievement of all students in all core academic subjects, and particularly in mathematics and science;

"(3) how the State will measure the extent to which the school increases student academic achievement on State academic achievement standards in mathematics and science;

"(4) the curricula and materials to be used in the school;

"(5) the availability of funds from non-Federal sources for the non-Federal share of the costs of the activities authorized under this section; and

"(6) how the State will use technical assistance and support from the Department, including the National Laboratories, and other entities with experience and expertise in mathematics and science education, including institutions of higher education.

"(f) DISTRIBUTION.—In awarding grants under this section, the Director shall—

"(1) ensure a wide, equitable distribution among States that propose to serve students from urban and rural areas; and

"(2) provide equal consideration to States without National Laboratories.

"(g) USES OF FUNDS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use the funds made available through the grant to—

"(A) employ proven strategies and methods for improving student learning and teaching in mathematics and science;

"(B) integrate into the curriculum of the school comprehensive mathematics and science education, including instruction and assessments that are aligned with the State's academic content and student academic achievement standards (within the meaning of section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)), classroom management, professional development, parental involvement, and school management; and

"(C) provide high-quality and continuous teacher and staff professional development.

"(2) SPECIAL RULE.—Grant funds under this section may be used for activities described in paragraph (1) only if the activities are directly related to improving student academic achievement in mathematics and science.

"(h) EVALUATION AND REPORT.—

"(1) STATE EVALUATION AND REPORT.—

"(A) EVALUATION.—Each State that receives a grant under this section shall develop and carry out an evaluation and accountability plan for the activities funded through the grant that measures the impact of the activities, including measurable objectives for improved student academic achievement on State mathematics and science assessments.

"(B) REPORT.—The State shall submit to the Director a report containing the results of the evaluation and accountability plan.

"(2) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the PACE-Energy Act, the Director shall submit a report to the appropriate committees of Congress detailing the impact of the activities assisted with funds made available under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $10,000,000 for fiscal year 2007;

"(2) $20,000,000 for fiscal year 2008;

"(3) $30,000,000 for fiscal year 2009;

"(4) $40,000,000 for fiscal year 2010; and

"(5) $50,000,000 for fiscal year 2011.

"CHAPTER 2—EXPERIENTIAL-BASED LEARNING OPPORTUNITIES

"SEC. 3175. EXPERIENTIAL-BASED LEARNING OPPORTUNITIES.

"(a) INTERNSHIPS AUTHORIZED.—

"(1) IN GENERAL.—From the amounts authorized under subsection (f), the Secretary, acting through the Director, shall establish a summer internship program for middle school and secondary school students that shall—

"(A) provide the students with internships at the National Laboratories; and

"(B) promote experiential, hands-on learning in mathematics or science.

"(2) RESIDENTIAL SERVICES.—The Director may provide residential services to students participating in the Internship authorized under this chapter.

"(b) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Director shall establish criteria to determine the sufficient level of academic preparedness necessary for a student to be eligible for an internship under this section.

"(2) PARTICIPATION.—The Director shall ensure the participation of students from a wide distribution of States, including States without National Laboratories.

"(c) PRIORITY.—

"(1) IN GENERAL.—The Director shall give priority for an internship under this section to a student who meets the eligibility criteria described in subsection (b) and who attends a school—

"(A)(i) in which not less than 30 percent of the children enrolled in the school are from low-income families; or

"(ii) that is designated with a school locale code of 6, 7, or 8, as determined by the Secretary of Education; and

"(B) for which there is—

"(i) a high percentage of teachers who are not teaching in the academic subject areas or grade levels in which the teachers were trained to teach;

"(ii) a high teacher turnover rate; or

"(iii) a high percentage of teachers with emergency, provisional, or temporary certification or licenses.

"(2) COORDINATION.—The Director shall consult with the Secretary of Education in order to determine whether a student meets the priority requirements of this subsection.

"(d) OUTREACH AND EXPERIENTIAL-BASED PROGRAMS FOR MINORITY STUDENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director, in cooperation with Hispanic-serving institutions, historically Black colleges and universities, tribally controlled colleges and universities, Alaska Native- and Native Hawaiian-serving institutions, and other minority-serving institutions and nonprofit entities with substantial experience relating to outreach and experiential-based learning projects, shall establish outreach and experiential-based learning programs that will encourage underrepresented minority students in kindergarten through grade 12 to pursue careers in math, science, and engineering.

"(2) COMMUNITY INVOLVEMENT.—The Secretary shall ensure that the programs established under paragraph (1) involve, to the maximum extent practicable—

"(A) participation by parents and educators; and

"(B) the establishment of partnerships with business organizations and appropriate Federal, State, and local agencies.

"(3) DISTRIBUTION.—The Secretary shall ensure that the programs established under paragraph (1) are located in diverse geographic regions of the United States, to the maximum extent practicable.

"(e) EVALUATION AND ACCOUNTABILITY PLAN.—The Director shall develop an evaluation and accountability plan for the activities funded under this chapter that objectively measures the impact of the activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007 through 2011.

"CHAPTER 3—NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN MATHEMATICS AND SCIENCE EDUCATION

"SEC. 3181. NATIONAL LABORATORIES CENTERS OF EXCELLENCE IN MATHEMATICS AND SCIENCE EDUCATION.

"(a) DEFINITION OF HIGH-NEED PUBLIC SECONDARY SCHOOL.—In this chapter, the term 'high-need public secondary school' means a secondary school—

"(1) with a high concentration of low-income individuals (as defined in section 1707 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537)); or

"(2) designated with a school locale code of 6, 7, or 8, as determined by the Secretary of Education.

"(b) ESTABLISHMENT.—The Secretary shall establish at each of the National Laboratories a program to support a Center of Excellence in Mathematics and Science at 1 high-need public secondary school located in the region of the National Laboratory to provide assistance in accordance with subsection (f).

"(c) PARTNERSHIP.—Each high-need public secondary school selected as a Center of Excellence shall form a partnership with a department that provides training for teachers and principals at an institution of higher education for purposes of compliance with subsection (g).

"(d) SELECTION.—

"(1) IN GENERAL.—The Secretary, acting through the Director, shall establish criteria to guide the National Laboratories in selecting the sites of the Centers of Excellence.

"(2) PROCESS.—The National Laboratories shall select the sites of the Centers of Excellence through an open, widely publicized, and competitive process.

"(e) GOALS.—The Secretary shall establish goals and performance assessments for each Center of Excellence authorized under subsection (b).

"(f) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available necessary funds for a program using scientific and engineering staff of the National Laboratories, during which the staff—

"(1) assists teachers in teaching courses at the Centers of Excellence in Mathematics and Science; and

"(2) uses National Laboratory scientific equipment in the teaching of the courses.

"(g) SPECIAL RULE.—Each Center of Excellence shall ensure—

"(1) provision of clinical practicum, student teaching, or internship experiences for math and science teacher candidates as part of its teacher preparation program;

"(2) provision of supervision and mentoring for teacher candidates in the teacher preparation program; and

"(3) to the maximum extent practicable, provision of professional development for veteran teachers in the public secondary schools in the region.

"(h) EVALUATION.—The Secretary shall consider the results of performance assessments required under subsection (e) in determining the contract award fee of a National Laboratory management and operations contractor.

"(i) PLAN.—The Director shall—

"(1) develop an evaluation and accountability plan for the activities funded under this chapter that objectively measures the impact of the activities; and

"(2) disseminate information obtained from those measurements.

"(j) NO EFFECT ON SIMILAR PROGRAMS.—Nothing in this section displaces or otherwise affects any similar program being carried out as of the date of enactment of this subpart at any National Laboratory under any other provision of law.

"CHAPTER 4—SUMMER INSTITUTES

"SEC. 3185. SUMMER INSTITUTES.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PARTNER.—The term 'eligible partner' means—

"(A) the mathematics or science (including engineering) department at an institution of higher education, acting in coordination with a department at an institution of higher education that provides training for teachers and principals; or

"(B) a nonprofit entity with expertise in providing professional development for mathematics or science teachers.

"(2) SUMMER INSTITUTE.—The term 'summer institute' means an institute, conducted during the summer, that—

"(A) is conducted for a period of not less than 2 weeks;

"(B) includes, as a component, a program that provides direct interaction between students and faculty, including personnel of 1 or more National Laboratories who have scientific expertise; and

"(C) provides for follow-up training, during the academic year, that is conducted in the classroom.

"(b) SUMMER INSTITUTE PROGRAMS AUTHORIZED.—

"(1) PROGRAMS AT THE NATIONAL LABORATORIES.—The Secretary, acting through the Director, shall establish or expand programs of summer institutes at each of the National Laboratories to provide additional training to strengthen the mathematics and science teaching skills of teachers employed at public schools for kindergarten through grade 12, in accordance with the activities authorized under subsections (c) and (d).

"(2) PROGRAMS WITH ELIGIBLE PARTNERS.—

"(A) IN GENERAL.—The Secretary, acting through the Director, shall identify and provide assistance to eligible partners to establish or expand programs of summer institutes that provide additional training to strengthen the mathematics and science teaching skills of teachers employed at public schools for kindergarten through grade 12, in accordance with the activities authorized under subsections (c) and (d).

"(B) ASSISTANCE.—Consistent with sections 3165 and 3166, the Director shall make available necessary funds for a program using scientific and engineering staff of the National Laboratories, during which the staff—

"(i) assists in providing training to teachers at summer institutes; and

"(ii) uses National Laboratory scientific equipment in the training.

"(C) LIMITATION OF AMOUNT.—To carry out this paragraph, the Director may use not more than 50 percent of the amounts authorized under subsection (h) for a fiscal year.

"(c) REQUIRED ACTIVITIES.—Each program authorized under subsection (b) shall—

"(1) create opportunities for enhanced and ongoing professional development for teachers that improves the mathematics and science content knowledge of such teachers;

"(2) include material pertaining to recent developments in mathematics and science pedagogy;

"(3) provide training on the use and integration of technology in the classroom;

"(4) directly relate to the curriculum and academic areas in which the teachers provide instruction;

"(5) enhance the ability of the teachers to understand and use the challenging State academic content standards for mathematics and science and to select appropriate curricula;

"(6) train teachers to use curricula that are—

"(A) based on scientific research;

"(B) aligned with challenging State academic content standards; and

"(C) object-centered, experiment-oriented, and concept- and content-based;

"(7) provide professional development activities, including supplemental and follow-up activities; and

"(8) allow for the exchange of best practices among the participants.

"(d) PERMISSIBLE ACTIVITIES.—A program authorized under subsection (b) may include—

"(1) a program that provides teachers with opportunities to work under the guidance of experienced teachers and college faculty;

"(2) instruction in the use and integration of data and assessments to inform and instruct classroom practice; and

"(3) extended master teacher programs.

"(e) PRIORITY.—To the maximum extent practicable, the Director shall ensure that each summer institute program authorized under subsection (b) provides training to—

"(1) teachers from a wide range of school districts;

"(2) teachers from disadvantaged school districts; and

"(3) teachers from groups underrepresented in the fields of mathematics and science teaching, including women and members of minority groups.

"(f) COORDINATION AND CONSULTATION.—The Director shall consult and coordinate with the Secretary of Education and the Director of the National Science Foundation regarding the implementation of the programs authorized under subsection (b).

"(g) EVALUATION AND ACCOUNTABILITY PLAN.—

"(1) IN GENERAL.—The Director shall develop an evaluation and accountability plan for the activities funded under this section that measures the impact of the activities.

"(2) CONTENTS.—The evaluation and accountability plan shall include—

"(A) measurable objectives to increase the number of mathematics and science teachers who participate in the summer institutes involved; and

"(B) measurable objectives for improved student academic achievement on State mathematics and science assessments.

"(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress with the annual budget submission of the Secretary a report on how the activities assisted under this section improve the mathematics and science teaching skills of participating teachers.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $15,000,000 for fiscal year 2007;

"(2) $25,000,000 for fiscal year 2008;

"(3) $40,000,000 for fiscal year 2009;

"(4) $50,000,000 for fiscal year 2010; and

"(5) $75,000,000 for fiscal year 2011.

"CHAPTER 5—NUCLEAR SCIENCE EDUCATION

"SEC. 3191. NUCLEAR SCIENCE TALENT EXPANSION PROGRAM FOR INSTITUTIONS OF HIGHER EDUCATION.

"(a) PURPOSES.—The purposes of this section are—

"(1) to address the decline in the number of and resources available to nuclear science programs of institutions of higher education; and

"(2) to increase the number of graduates with degrees in nuclear science, an area of strategic importance to the economic competitiveness and energy security of the United States.

"(b) DEFINITION OF NUCLEAR SCIENCE.—In this section, the term 'nuclear science' includes—

"(1) nuclear science;

"(2) nuclear engineering;

"(3) nuclear chemistry;

"(4) radio chemistry; and

"(5) health physics.

"(c) ESTABLISHMENT.—The Secretary, acting through the Director, shall establish in accordance with this section a program to expand and enhance institution of higher education nuclear science educational capabilities.

"(d) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—The Secretary, acting through the Director, shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in nuclear science.

"(2) ELIGIBILITY.—To be eligible for a grant under this subsection, an applicant shall partner with a National Laboratory or other eligible nuclear-related entity, as determined by the Secretary.

"(3) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on—

"(A) the potential to attract new students to the program;

"(B) academic rigor; and

"(C) the ability to offer hands-on learning opportunities.

"(4) DURATION AND AMOUNT.—

"(A) DURATION.—A grant under this subsection shall be 5 years in duration.

"(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to $1,000,000 for each year of the grant period.

"(5) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

"(A) recruit and retain new faculty;

"(B) develop core and specialized course content;

"(C) encourage collaboration between faculty and researchers in the nuclear science field; or

"(D) support outreach efforts to recruit students.

"(e) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—The Secretary, acting through the Director shall award up to 10 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in nuclear science.

"(2) CRITERIA.—Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in the nuclear sciences who enter into careers in nuclear-related fields.

"(3) DURATION AND AMOUNT.—

"(A) DURATION.—A grant under this subsection shall be 5 years in duration.

"(B) AMOUNT.—An institution of higher education that receives a grant under this subsection shall be eligible for up to $500,000 for each year of the grant period.

"(4) USE OF FUNDS.—An institution of higher education that receives a grant under this subsection may use the grant to—

"(A) increase the number of graduates in nuclear science that enter into careers in the nuclear science field;

"(B) enhance the teaching of advanced nuclear technologies;

"(C) aggressively pursue collaboration opportunities with industry and National Laboratories;

"(D) bolster or sustain nuclear infrastructure and research facilities of the institution of higher education, such as research and training reactors or laboratories; and

"(E) provide tuition assistance and stipends to undergraduate and graduate students.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) NUCLEAR SCIENCE PROGRAM EXPANSION GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (d)—

"(A) $3,000,000 for fiscal year 2007;

"(B) $9,000,000 for fiscal year 2008;

"(C) $13,000,000 for fiscal year 2009;

"(D) $18,000,000 for fiscal year 2010; and

"(E) $22,500,000 for fiscal year 2011.

"(2) NUCLEAR SCIENCE COMPETITIVENESS GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION.—There are authorized to be appropriated to carry out subsection (e)—

"(A) $5,000,000 for fiscal year 2007;

"(B) $11,000,000 for fiscal year 2008;

"(C) $16,500,000 for fiscal year 2009;

"(D) $22,000,000 for fiscal year 2010; and

"(E) $27,500,000 for fiscal year 2011.".

SEC. 2004. DEPARTMENT OF ENERGY EARLY-CAREER RESEARCH GRANTS.

(a) PURPOSE.—It is the purpose of this section to authorize research grants in the Department for early-career scientists and engineers for purposes of pursuing independent research.

(b) DEFINITION OF ELIGIBLE EARLY-CAREER RESEARCHER.—In this section, the term "eligible early-career researcher" means an individual who—

(1) completed a doctorate or other terminal degree not more than 10 years before the date of application for a grant authorized under this section, except as provided in subsection (c)(3); and

(2) has demonstrated promise in the field of science, technology, engineering, mathematics, computer science, or computational science.

(c) GRANT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall award not less than 65 grants per year to outstanding eligible early-career researchers to support the work of such researchers in the Department, particularly at the National Laboratories, or other federally-funded research and development centers.

(2) APPLICATION.—An eligible early-career researcher who desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(3) WAIVER.—The Secretary may find eligible a candidate who has completed a doctorate more than 10 years prior to the date of application if the candidate was unable to conduct research for a period of time because of extenuating circumstances, including military service or family responsibilities.

(4) DURATION AND AMOUNT.—

(A) DURATION.—A grant under this section shall be 5 years in duration.

(B) AMOUNT.—An eligible early career-researcher who receives a grant under this section shall receive up to $100,000 for each year of the grant period.

(5) USE OF FUNDS.—An eligible early career-researcher who receives a grant under this section shall use the grant funds for basic research in natural sciences, engineering, mathematics, or computer sciences at the Department, particularly the National Laboratories, or other federally-funded research and development center.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $6,500,000 for fiscal year 2007;

(B) $13,000,000 for fiscal year 2008;

(C) $19,500,000 for fiscal year 2009;

(D) $26,000,000 for fiscal year 2010; and

(E) $32,500,000 for fiscal year 2011.

SEC. 2005. ADVANCED RESEARCH PROJECTS AUTHORITY-ENERGY.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term "Advisory Board" means the Advisory Board established under subsection (d).

(2) AUTHORITY.—The term "Authority" means the Advanced Research Projects Authority—Energy established under subsection (b).

(3) DIRECTOR.—The term "Director" means the Director of the Authority appointed under subsection (c)(1).

(4) ENERGY TECHNOLOGY.—The term "energy technology" means technology, including carbon-neutral technology, used for

(A) fossil energy;

(B) carbon sequestration;

(C) nuclear energy;

(D) renewable energy;

(E) energy distribution; or

(F) energy efficiency technology.

(b) ESTABLISHMENT.—The Secretary shall establish an Advanced Research Projects Authority-Energy to overcome the long-term and high-risk technological barriers in the development of energy technologies.

(c) DIRECTOR.—

(1) APPOINTMENT.—The Secretary shall appoint a Director of the Authority.

(2) QUALIFICATIONS.—The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary on matters

pertaining to long-term, high-risk programs to overcome long-term and high-risk technological barriers to the development of energy technologies.

(3) DUTIES.—The Director shall—

(A) employ such qualified technical staff as are necessary to carry out the duties of the Authority, including providing staff for the Advisory Committee;

(B) serve as the selection official for proposals relating to energy technologies that are solicited within the Department;

(C) develop metrics to assist in developing funding criteria and for assessing the success of existing programs;

(D) terminate programs carried out under this section that are not achieving the goals of the programs; and

(E) perform such duties relating to long-term and high-risk technological barriers in the development of energy technologies as are determined to be appropriate by the Secretary.

(d) ADVISORY BOARD.—

(1) APPOINTMENT.—The Secretary shall, consistent with the Federal Advisory Committee Act (5 U.S.C. App.), establish, and appoint members to, an Advisory Board to make recommendations to the Secretary and the Director on actions necessary to carry out this section.

(2) QUALIFICATIONS.—The Advisory Board shall consist of individuals who, by reason of professional background and experience, are especially qualified to advise the Secretary and the Director on matters pertaining to long-term and high-risk technological barriers in the development of energy technologies.

(3) TERM.—A member of the Advisory Board shall be appointed for a term of 5 years.

(4) INFORMATION.—Each fiscal year, individuals who carry out energy technology programs of the Department and staff of the Authority shall provide to the Advisory Board written proposals and oral briefings on long-term and high-risk technological barriers that are critical to overcome for the successful development of energy technologies.

(5) DUTIES.—Each fiscal year, the Advisory Board shall—

(A) recommend to the Secretary and the Director—

(i) in order of priority, proposals of energy programs of the Department that are critical to overcoming long-term and high-risk technological barriers to enable the successful development of energy technologies; and

(ii) additional programs not covered in the proposals that are critical to overcoming the barriers described in clause (i); and

(B) based on the metrics described in subsection (c)(3)(C), make recommendations to the Secretary and the Directory concerning whether programs funded under this section are achieving the goals of the programs.

(e) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences under which the Academy shall—

(1) conduct reviews during each of calendar years 2009 and 2011 to determine the success of the activities carried out under this section; and

(2) submit to Congress, the Secretary, and the Director a report describing the results of each review.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2007 through 2011.

SEC. 2006. AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY FOR BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3)—

(A) by striking "$5,200,000,000" and inserting "$4,800,000,000"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(4) $4,945,000,000 for fiscal year 2010; and

"(5) $5,265,000,000 for fiscal year 2011.".

SEC. 2007. DISCOVERY SCIENCE AND ENGINEERING INNOVATION INSTITUTES.

(a) IN GENERAL.—The Secretary shall establish distributed, multidisciplinary institutes (referred to in this section as "Institutes") centered at National Laboratories to apply fundamental science and engineering discoveries to technological innovations related to the missions of the Department and the global competitiveness of the United States.

(b) TOPICAL AREAS.—The Institutes shall support scientific and engineering research and education activities on critical emerging technologies determined by the Secretary to be essential to global competitiveness, including activities related to—

(1) sustainable energy technologies;

(2) multi-scale materials and processes;

(3) micro- and nano-engineering;

(4) computational and information engineering; and

(5) genomics and proteomics.

(c) PARTNERSHIPS.—In carrying out this section, the Secretary shall establish partnerships between the Institutes and—

(1) institutions of higher education to—

(A) train undergraduate and graduate engineering and science students;

(B) develop innovative educational curricula; and

(C) conduct research within the topical areas described in subsection (b);

(2) private industry to develop innovative technologies within the topical areas described in subsection (b);

(3) State and local governments to promote regionally-based commercialization and entrepreneurship; and

(4) financing entities to guide successful technology commercialization.

(d) MERIT-BASED SELECTION.—The selection of Institutes under this section shall be merit-based and made through an open, competitive selection process.

(e) RESTRICTION.—Not more than 3 Institutes shall receive grants for a fiscal year.

(f) REVIEW.—The Secretary shall enter into an agreement with the National Academy of Sciences under which the Academy shall, not later than 3 and 6 years after the date of enactment of this Act—

(1) review the performance of the Institutes under this section; and

(2) submit to Congress and the Secretary a report describing the results of the review.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities of each Institute selected under this section $10,000,000 for each of fiscal years 2007 through 2011.

SEC. 2008. PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.

(a) DEFINITION OF ELIGIBLE STUDENT.—In this section, the term "eligible student" means a student who attends an institution of higher education that offers a doctoral degree in a field relevant to a mission area of the Department.

(b) ESTABLISHMENT.—The Secretary shall establish a graduate fellowship program for eligible students pursuing a doctoral degree in a mission area of the Department.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall award fellowships to eligible students under this section through a competitive merit review process (involving written and oral interviews) that will result in a wide distribution of awards throughout the United States.

(2) CRITERIA.—The Secretary shall establish selection criteria for awarding fellowships under this section that require an eligible student to—

(A) pursue a field of science or engineering of importance to the mission area of the Department;

(B) rank in the upper 10 percent of the class of the eligible student;

(C) demonstrate to the Secretary—

(i) the capacity to understand technical topics related to the fellowship that can be derived from the first principles of the technical topics;

(ii) imagination and creativity;

(iii) leadership skills in organizations or intellectual endeavors, demonstrated through awards and past experience; and

(iv) excellent verbal and communication skills to explain, defend, and demonstrate an understanding of technical subjects related to the fellowship; and

(D) be a citizen or legal permanent resident of the United States.

(d) AWARDS.—

(1) AMOUNT.—A fellowship awarded under this section shall—

(A) provide an annual living stipend; and

(B) cover—

(i) graduate tuition at an institution of higher education; and

(ii) incidental expenses associated with curricula and research at the institution of higher education (including books, computers and software).

(2) DURATION.—A fellowship awarded under this section shall be for a period of not greater than 5 years.

(3) PORTABILITY.—A fellowship awarded under this section shall be portable with the fellow.

(e) ADMINISTRATION.—The Secretary (acting through the Director of Mathematics, Science, and Engineering Education)—

(1) shall administer the program established under this section; and,

(2) may enter into a contract with a nonprofit entity to administer the program, including the selection and award of fellowships.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) FELLOWSHIPS.—There are authorized to be appropriated to award fellowships under this section—

(A) $4,500,000 for 100 fellowships for fiscal year 2007;

(B) $9,300,000 for 200 fellowships for fiscal year 2008 (including non-expiring fellowships for the prior fiscal year);

(C) $14,500,000 for 300 fellowships for fiscal year 2009 (including non-expiring fellowships for prior fiscal years);

(D) $25,000,000 for 500 fellowships for fiscal year 2010 (including non-expiring fellowships for prior fiscal years); and

(E) $35,500,000 for 700 fellowships for fiscal year 2011 (including non-expiring fellowships for prior fiscal years).

(2) ADMINISTRATION.—There are authorized to be appropriated for administrative expenses incurred in carrying out this section—

(A) $1,000,000 for fiscal year 2007;

(B) $1,000,000 for fiscal year 2008;

(C) $1,500,000 for fiscal year 2009;

(D) $2,500,000 for fiscal year 2010; and

(E) $3,500,000 for fiscal year 2011.

SEC. 2009. TITLE IX COMPLIANCE.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes actions taken by the Department of Energy to implement the recommendations in the report of the Government Accountability Office numbered 04–639.

(b) Compliance.—To comply with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Secretary of Energy shall annually conduct compliance reviews of at least 2 recipients of Department of Energy grants.

SEC. 2010. HIGH-RISK, HIGH-REWARD RESEARCH.

(a) Definition of High-Risk, High-Reward Research.—In this section, the term "high-risk, high reward research" means research that—

(1) has the potential for yielding results with far-ranging implications;

(2) is too novel or spans too diverse a range of disciplines to fare well in the traditional peer review process; and

(3) is supportive of the missions of the sponsoring agency.

(b) Establishment of Grant Programs.—

(1) Energy grant program.—The Secretary shall establish a grant program to encourage the conduct of high-risk, high-reward research at the Department.

(2) Geological grant program.—The Director of the United States Geological Survey shall establish a grant program to encourage the conduct of high-risk, high-reward research at the United States Geological Survey.

SEC. 2011. DISTINGUISHED SCIENTIST PROGRAM.

(a) Purpose.—The purpose of this section is to promote scientific and academic excellence through collaborations between institutions of higher education and the National Laboratories.

(b) Establishment.—The Secretary shall establish a program to support the joint appointment of distinguished scientists by institutions of higher education and National Laboratories.

(c) Qualifications.—Successful candidates under this section shall be persons who, by reason of professional background and experience, are able to bring international recognition to the appointing institution of higher education and National Laboratory in their field of scientific endeavor.

(d) Selection.—A distinguished scientist appointed under this section shall be selected through an open, competitive process.

(e) Appointment.—

(1) Institution of higher education.—An appointment by an institution of higher education under this section shall be filled within the tenure allotment of the institution of higher education at a minimum rank of professor.

(2) National laboratory.—An appointment by a National Laboratory under this section shall be at the rank of the highest grade of distinguished scientist or technical staff of the National Laboratory.

(f) Duration.—An appointment under this section shall be for 6 years, consisting of 2 3-year funding allotments.

(g) Use of Funds.—Funds made available under this section may be used for—

(1) the salary of the distinguished scientist and support staff;

(2) undergraduate, graduate, and post-doctoral appointments;

(3) research-related equipment;

(4) professional travel; and

(5) such other requirements as the Director determines are necessary to carry out the purpose of the program.

(h) Review.—

(1) In general.—The appointment of a distinguished scientist under this section shall be reviewed at the end of the first 3-year allotment for the distinguished scientist through an open peer-review process to determine whether the appointment is meeting the purpose of this section under subsection (a).

(2) Funding.—Funding of the appointment of the distinguished scientist for the second 3-year allotment shall be determined based on the review conducted under paragraph (1).

(i) Cost Sharing.—To be eligible for assistance under this section, an appointing institution of higher education shall pay at least 50 percent of the total costs of the appointment.

(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2007 (to support up to 15 appointments under this section);

(2) $30,000,000 for fiscal year 2008 (to support up to 30 such appointments);

(3) $60,000,000 for fiscal year 2009 (to support up to 60 such appointments); and

(4) $100,000,000 for each of fiscal years 2010 through 2011 (to support up to 100 such appointments).

DIVISION C—EDUCATION

SEC. 3001. FINDINGS.

Congress makes the following findings:

(1) A well-educated population is essential to retaining America's competitiveness in the global economy.

(2) The United States needs to build on and expand the impact of existing programs by taking additional, well-coordinated steps to ensure that all students are able to obtain the knowledge the students need to obtain postsecondary education and participate successfully in the workforce or the Armed Forces.

(3) The next steps must be informed by independent information on the effectiveness of current programs in science, technology, engineering, and mathematics education, and by identification of best practices that can be replicated.

(4) Teacher preparation and elementary school and secondary school programs and activities must be aligned with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the requirements of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(5) The ever increasing knowledge and skill demands of the 21st century require that secondary school preparation and requirements be better aligned with the knowledge and skills needed to succeed in postsecondary education and the workforce, and States need better data systems to track educational achievement from prekindergarten through baccalaureate degrees.

SEC. 3002. DEFINITIONS.

(a) ESEA Definitions.—Unless otherwise specified in this division, the terms used in this division have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) Other Definitions.—In this division:

(1) Critical foreign language.—The term "critical foreign language" means a foreign language that the Secretary determines, in consultation with the heads of such Federal departments and agencies as the Secretary determines appropriate, is critical to the national security and economic competitiveness of the United States.

(2) Secretary.—The term "Secretary" means the Secretary of Education.

TITLE I—TEACHER ASSISTANCE

Subtitle A—Teachers for a Competitive Tomorrow

SEC. 3111. PURPOSE.

The purpose of this subtitle is—

(1) to develop and implement programs to provide integrated courses of study in mathematics, science, engineering, or critical foreign languages, and teacher education, that lead to a baccalaureate degree with concurrent teacher certification; and

(2) to develop and implement 2- or 3-year part-time master's degree programs in mathematics, science, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and pedagogical skills.

SEC. 3112. DEFINITIONS.

In this subtitle:

(1) Children from low-income families.—The term "children from low-income families" means children described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)).

(2) Eligible recipient.—The term "eligible recipient" means an institution of higher education that receives grant funds under this subtitle on behalf of a department of mathematics, engineering, science, or critical foreign language for use in carrying out activities assisted under this subtitle.

(3) High-need local educational agency.—The term "high-need local educational agency" means a local educational agency or educational service agency—

(A)(i) that serves not fewer than 10,000 children from low-income families;

(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 6, 7, or 8, as determined by the Secretary; and

(B)(i) for which there is a high percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or

(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

(4) Highly qualified.—The term "highly qualified" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(5) Partnership.—The term "partnership" means a partnership that—

(A) shall include—

(i) an eligible recipient;

(ii) a department within the eligible recipient that provides a program of study in mathematics, engineering, science, or critical foreign languages;

(iii)(I) a school or department within the eligible recipient that provides a teacher preparation program; or

(II) a 2-year institution of higher education that has a teacher preparation offering or a dual enrollment program with the eligible recipient; and

(iv) not less than 1 high-need local educational agency and a public school or a consortium of public schools served by the agency; and

(B) may include a nonprofit organization that has the capacity to provide expertise or support to meet the purposes of this subtitle.

(6) TEACHING SKILLS.—The term "teaching skills" means the ability to—

(A) increase student achievement;

(B) effectively convey and explain academic subject matter;

(C) employ strategies that—

(i) are based on scientifically based research;

(ii) are specific to academic subject matter; and

(iii) focus on the identification of, and tailoring of academic instruction to, students' specific learning needs, particularly children with disabilities, students who are limited English proficient, and students who are gifted and talented;

(D) conduct ongoing assessment of student learning;

(E) effectively manage a classroom; and

(F) communicate and work with parents and guardians, and involve parents and guardians in their children's education.

SEC. 3113. PROGRAMS FOR BACCALAUREATE DEGREES IN MATHEMATICS, SCIENCE, ENGINEERING, OR CRITICAL FOREIGN LANGUAGES, WITH CONCURRENT TEACHER CERTIFICATION.

(a) PROGRAM AUTHORIZED.—From the amounts made available to carry out this section under section 3116(1) and not reserved under section 3115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable partnerships served by the eligible recipients to develop and implement programs to provide courses of study in mathematics, science, engineering, or critical foreign languages that—

(1) are integrated with teacher education; and

(2) lead to a baccalaureate degree with concurrent teacher certification.

(b) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall—

(1) describe the program for which assistance is sought;

(2) describe how a department of mathematics, science, engineering, or a critical foreign language participating in the partnership will ensure significant collaboration with a teacher preparation program in the development of undergraduate degrees in mathematics, science, engineering, or a critical foreign language, with concurrent teacher certification, including providing student teaching and other clinical classroom experiences;

(3) describe the high-quality research, laboratory, or internship experiences, integrated with coursework, that will be provided under the program;

(4) describe how members of groups that are underrepresented in the teaching of mathematics, science, or critical foreign languages will be encouraged to participate in the program;

(5) describe how program participants will be encouraged to teach in schools determined by the partnership to be most in need, and what assistance in finding employment in such schools will be provided;

(6) describe the ongoing activities and services that will be provided to graduates of the program;

(7) describe how the activities of the partnership will be coordinated with any activities funded through other Federal grants, and how the partnership will continue the activities assisted under the program when the grant period ends;

(8) describe how the partnership will assess the content knowledge and teaching skills of the program participants; and

(9) provide any other information the Secretary may reasonably require.

(c) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Each eligible recipient receiving a grant under this section shall use the grant funds to enable a partnership to develop and implement a program to provide courses of study in mathematics, science, engineering, or a critical foreign language that—

(A) are integrated with teacher education programs that promote effective teaching skills; and

(B) lead to a baccalaureate degree in mathematics, science, engineering, or a critical foreign language with concurrent teacher certification.

(2) PROGRAM REQUIREMENTS.—The program shall—

(A) provide high-quality research, laboratory, or internship experiences for program participants;

(B) provide student teaching or other clinical classroom experiences that—

(i) are integrated with coursework; and

(ii) lead to the participants' ability to demonstrate effective teaching skills;

(C) if implementing a program in which program participants are prepared to teach mathematics or science courses, include strategies for improving student literacy;

(D) encourage the participation of individuals who are members of groups that are underrepresented in the teaching of mathematics, science or critical foreign languages;

(E) encourage participants to teach in schools determined by the partnership to be most in need, and actively assist the participants in finding employment in such schools;

(F) offer training in the use of and integration of educational technology;

(G) collect data regarding and evaluate, using measurable objectives and benchmarks, the extent to which the program succeeded in—

(i) increasing the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in those schools determined by the partnership to be most in need;

(ii) improving student academic achievement in mathematics and science;

(iii) increasing the number of students in secondary schools enrolled in upper level mathematics and science courses; and

(iv) increasing the numbers of elementary school, middle school, and secondary school students enrolled in and continuing in critical foreign language courses;

(H) collect data on the employment placement of all graduates of the program, including information on how many graduates are teaching and in what kinds of schools;

(I) provide ongoing activities and services to graduates of the program who teach elementary school, middle school, or secondary school, by—

(i) keeping the graduates informed of the latest developments in their respective academic fields; and

(ii) supporting the graduates of the program who are employed in schools in the local educational agency participating in the partnership during the initial years of teaching through—

(I) induction programs;

(II) promotion of effective teaching skills; and

(III) providing opportunities for regular professional development; and

(J) develop recommendations to improve the teacher preparation program participating in the partnership.

(d) ANNUAL REPORT.—Each eligible recipient receiving a grant under this section shall collect and report to the Secretary annually such information as the Secretary may reasonably require, including—

(1) the number of participants in the program;

(2) information on the academic majors of participating students;

(3) the race, gender, income, and disability status of program participants;

(4) the employment placement of program participants as teachers in schools determined by the partnership to be most in need;

(5) the extent to which the program succeeded in meeting the objectives and benchmarks described in subsection (c)(2)(G); and

(6) the data collected under subparagraphs (G) and (H) of subsection (c)(2).

(e) TECHNICAL ASSISTANCE.—From the funds made available under section 3116(1), the Secretary may provide technical assistance to an eligible recipient developing a baccalaureate degree program with concurrent teacher certification, including technical assistance provided through a grant or contract awarded on a competitive basis to an institution of higher education or a technical assistance center.

SEC. 3114. PROGRAMS FOR MASTER'S DEGREES IN MATHEMATICS, SCIENCE, OR CRITICAL FOREIGN LANGUAGES EDUCATION.

(a) PROGRAM AUTHORIZED.—From the amounts made available to carry out this section under section 3116(2) and not reserved under section 3115(d) for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible recipients to enable the partnerships served by the eligible recipients to develop and implement 2- or 3-year part-time master's degree programs in mathematics, science, or critical foreign language education for teachers in order to enhance the teacher's content knowledge and teaching skills.

(b) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall describe—

(1) how a department of mathematics, science, or a critical foreign language will ensure significant collaboration with a teacher preparation program in the development of master's degree programs in mathematics, science, or a critical foreign language for teachers that enhance the teachers' content knowledge and teaching skills;

(2) the role of the local educational agency in the partnership in developing and administering the program and how feedback from the local educational agency, school, and participants will be used to improve the program;

(3) how the program will help increase the percentage of highly qualified mathematics, science, or critical foreign language teachers, including increasing the percentage of such teachers teaching in schools determined by the partnership to be most in need;

(4) how the program will—

(A) improve student academic achievement in mathematics and science and increase the number of students taking upper-level courses in such subjects; or

(B) increase the numbers of elementary school, middle school, and secondary school students enrolled and continuing in critical foreign language courses;

(5) how the program will prepare teachers to become more effective mathematics, science, or critical foreign language teachers;

(6) how the program will prepare teachers to assume leadership roles in their schools;

(7) how teachers who are members of groups that are underrepresented in the teaching of mathematics, science, or critical foreign languages and teachers from schools determined by the partnership to be most in need will be encouraged to apply for and participate in the program;

(8) the ongoing activities and services that will be provided to graduates of the program;

(9) how the partnership will continue the activities assisted under the grant when the grant period ends; and

(10) how the partnership will assess, during the program, the content knowledge and teaching skills of teachers participating in the program.

(c) AUTHORIZED ACTIVITIES.—Each eligible recipient receiving a grant under this section shall use the grant funds to develop and implement a 2- or 3-year part-time master's degree program in mathematics, science, or critical foreign language education for teachers in order to enhance the teachers' content knowledge and teaching skills. The program shall—

(1) promote effective teaching skills so the teachers participating in the program become more effective mathematics, science, or critical foreign language teachers;

(2) prepare teachers to assume leadership roles in their schools by participating in activities such as teacher mentoring, development of curricula that integrate state of the art applications of mathematics and science into the classroom, working with school administrators in establishing in-service professional development of teachers, and assisting in evaluating data and assessments to improve student academic achievement;

(3) use high-quality research, laboratory, or internship experiences for program participants that are integrated with coursework;

(4) provide student teaching or clinical classroom experience;

(5) if implementing a program in which participants are prepared to teach mathematics or science courses, provide strategies for improving student literacy;

(6) align the content knowledge in the master's degree program with challenging student academic achievement standards and challenging academic content standards established by the State in which the program is conducted;

(7) encourage the participation of—

(A) individuals who are members of groups that are underrepresented in the teaching of mathematics, science, or critical foreign languages; and

(B) teachers teaching in schools determined by the partnership to be most in need;

(8) offer tuition assistance, based on need, as appropriate; and

(9) evaluate and report on the impact of the program, in accordance with subsection (d).

(d) EVALUATION AND REPORT.—Each eligible recipient receiving a grant under this section shall evaluate, using measurable objectives and benchmarks, and provide an annual report to the Secretary regarding, the extent to which the program assisted under this section succeeded in increasing the following:

(1) The number and percentage of mathematics, science, or critical foreign language teachers who have a master's degree and meet 1 or more of the following requirements:

(A) Are teaching in schools determined by the partnership to be most in need, and taught in such schools prior to participation in the program.

(B) Are teaching in schools determined by the partnership to be most in need, and did not teach in such schools prior to participation in the program.

(C) Are members of a group underrepresented in the teaching of mathematics, science, or a critical foreign language.

(2) The retention of teachers who participate in the program.

SEC. 3115. GENERAL PROVISIONS.

(a) DURATION OF GRANTS.—The Secretary shall award each grant under this subtitle for a period of not more than 5 years.

(b) MATCHING REQUIREMENT.—Each eligible recipient that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (which may be provided in cash or in kind) to carry out the activities supported by the grant.

(c) SUPPLEMENT, NOT SUPPLANT.—Grant funds provided under this subtitle shall be used to supplement, and not supplant, other Federal or State funds.

(d) EVALUATION.—From amounts made available for any fiscal year under section 3116, the Secretary shall reserve such sums as may be necessary—

(1) to provide for the conduct of an annual independent evaluation, by grant or by contract, of the activities assisted under this subtitle, which shall include an assessment of the impact of the activities on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 3116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section $180,000,000 for fiscal year 2007, $210,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 3 succeeding fiscal years, of which—

(1)(A) 55.5 percent shall be available to carry out section 3113 for fiscal year 2007; and

(B) 57.1 percent shall be available to carry out section 3113 for fiscal year 2008 and each succeeding fiscal year; and

(2)(A) 44.5 percent shall be available to carry out section 3114 for fiscal year 2007; and

(B) 42.9 percent shall be available to carry out section 3114 for fiscal year 2008 and each succeeding fiscal year.

Subtitle B—Advanced Placement and International Baccalaureate Programs

SEC. 3121. PURPOSE.

It is the purpose of this subtitle—

(1) to raise academic achievement through Advanced Placement and International Baccalaureate programs by increasing, by 70,000, over a 5-year period beginning in 2007, the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(2) to increase, to 700,000 per year, the number of students attending high-need schools who—

(A) take and score a 3, 4, or 5 on an Advanced Placement examination in mathematics, science, or a critical foreign language administered by the College Board; or

(B) achieve a passing score on an examination administered by the International Baccalaureate Organization in such a subject;

(3) to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools; and

(4) to support statewide efforts to increase the availability of, and enrollment in, Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools.

SEC. 3122. DEFINITIONS.

In this subtitle:

(1) ADVANCED PLACEMENT OR INTERNATIONAL BACCALAUREATE COURSE.—The term "Advanced Placement or International Baccalaureate course" means a course of college-level instruction provided to middle or secondary school students, terminating in an examination administered by the College Board or the International Baccalaureate Organization, or another such examination approved by the Secretary.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State educational agency;

(B) a local educational agency; or

(C) a partnership consisting of—

(i) a national, regional, or statewide nonprofit organization, with expertise and experience in providing Advanced Placement or International Baccalaureate services; and

(ii) a State educational agency or local educational agency.

(3) LOW-INCOME STUDENT.—The term "low-income student" has the meaning given the term "low-income individual" in section 1707(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(3)).

(4) HIGH CONCENTRATION OF LOW-INCOME STUDENTS.—The term "high concentration of low-income students" has the meaning given the term in section 1707(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6537(2)).

(5) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term "high-need local educational agency" means a local educational agency or educational service agency described in 3112(3)(A).

(6) HIGH-NEED SCHOOL.—The term "high-need school" means a middle school or secondary school—

(A) with a pervasive need for Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages, or for additional Advanced Placement or International Baccalaureate courses in such a subject; and

(B)(i) with a high concentration of low-income students; or

(ii) designated with a school locale code of 6, 7 or 8, as determined by the Secretary.

SEC. 3123. ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS.

(a) PROGRAM AUTHORIZED.—From the amounts appropriated under subsection (l), the Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities to carry out the authorized activities described in subsection (g).

(b) Duration of Grants.—The Secretary may award grants under this section for a period of not more than 5 years.

(c) Coordination.—The Secretary shall coordinate the activities carried out under this section with the activities carried out under section 1705 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6535).

(d) Priority.—In awarding grants under this section, the Secretary shall give priority to eligible entities that are part of a statewide strategy for increasing the availability of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages, and pre-Advanced Placement or pre-International Baccalaureate courses in such subjects, in high-need schools.

(e) Equitable Distribution.—The Secretary, to the extent practicable, shall—

(1) ensure an equitable geographic distribution of grants under this section among the States; and

(2) promote an increase in participation in Advanced Placement or International Baccalaureate mathematics, science, and critical foreign language courses and examinations in all States.

(f) Application.—

(1) In general.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) Contents.—The application shall, at a minimum, include a description of—

(A) the goals and objectives for the project, including—

(i) increasing the number of teachers serving high-need schools who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(ii) increasing the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in the high-need schools;

(iii) increasing the number of Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages that are available to students attending high-need schools; and

(iv) increasing the number of students attending a high-need school, particularly low-income students, who enroll in and pass—

(I) Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(II) pre-Advanced Placement or pre-International Baccalaureate courses in such a subject (where provided in accordance with subparagraph (B));

(B) how the eligible entity will ensure that students have access to courses, including pre-Advanced Placement and pre-International Baccalaureate courses, that will prepare the students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(C) how the eligible entity will provide professional development for teachers assisted under this section;

(D) how the eligible entity will ensure that teachers serving high-need schools are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(E) how the eligible entity will provide for the involvement of business and community organizations and other entities, including institutions of higher education, in the activities to be assisted; and

(F) how the eligible entity will use funds received under this section, including how the eligible entity will evaluate the success of its project.

(g) Authorized Activities.—

(1) In general.—Each eligible entity that receives a grant under this section shall use the grant funds to carry out activities designed to increase—

(A) the number of qualified teachers serving high-need schools who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages; and

(B) the number of students attending high-need schools who enroll in, and pass, the examinations for such Advanced Placement or International Baccalaureate courses.

(2) Permissive activities.—The activities described in paragraph (1) may include—

(A) teacher professional development, in order to expand the pool of teachers in the participating State, local educational agency, or high-need school who are qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages;

(B) pre-Advanced Placement or pre-International Baccalaureate course development and professional development;

(C) coordination and articulation between grade levels to prepare students to enroll and succeed in Advanced Placement or International Baccalaureate courses in mathematics,. science, or critical foreign languages;

(D) purchase of instructional materials;

(E) activities to increase the availability of, and participation in, online Advanced Placement or International Baccalaureate courses in mathematics, science, and critical foreign languages;

(F) reimbursing low-income students attending high-need schools for part or all of the cost of Advanced Placement or International Baccalaureate examination fees;

(G) carrying out subsection (j), relating to collecting and reporting data;

(H) in the case of a State educational agency that receives a grant under this section, awarding subgrants to local educational agencies to enable the local educational agencies to carry out authorized activities described in subparagraphs (A) through (G); and

(I) providing salary increments or bonuses to teachers serving high-need schools who—

(i) become qualified to teach, and teach, Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; or

(ii) increase the number of low-income students, who take Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language with the goal of successfully passing such examinations.

(h) Matching Requirement.—

(1) In general.—Subject to paragraph (2), each eligible entity that receives a grant under this section shall provide, toward the cost of the activities assisted under the grant, from non-Federal sources, an amount equal to 200 percent of the amount of the grant, except that an eligible entity that is a high-need local educational agency shall provide an amount equal to not more than 100 percent of the amount of the grant.

(2) Waiver.—The Secretary may waive all or part of the matching requirement described in paragraph (1) for any fiscal year for an eligible entity described in subparagraph (A) or (B) of section 3122(2), if the Secretary determines that applying the matching requirement to such eligible entity would result in serious hardship or an inability to carry out the authorized activities described in subsection (g).

(i) Supplement Not Supplant.—Grant funds provided under this section shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (g).

(j) Collecting and Reporting Requirements.—

(1) Report.—Each eligible entity receiving a grant under this section shall collect and report to the Secretary annually such data on the results of the grant as the Secretary may reasonably require, including data regarding—

(A) the number of students enrolling in Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language, and pre-Advanced Placement or pre-International Baccalaureate courses in such a subject, and the distribution of grades those students receive;

(B) the number of students taking Advanced Placement or International Baccalaureate examinations in mathematics, science, or a critical foreign language, and the distribution of scores on those examinations;

(C) the number of teachers receiving training in teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language who will be teaching such courses in the next school year;

(D) the number of teachers becoming qualified to teach Advanced Placement or International Baccalaureate courses in mathematics, science, or a critical foreign language; and

(E) the number of qualified teachers who are teaching Advanced Placement or International Baccalaureate courses in mathematics, science, or critical foreign languages to students in a high-need school.

(2) Reporting of data.—Each eligible entity receiving a grant under this section shall report data required under paragraph (1)—

(A) disaggregated by subject area;

(B) in the case of student data, disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)); and

(C) to the extent feasible, in a manner that allows comparison of conditions before, during, and after the project.

(k) Evaluation and Report.—From the amount made available for any fiscal year under subsection (l), the Secretary shall reserve such sums as may be necessary—

(1) to conduct an annual independent evaluation, by grant or by contract, of the program carried out under this section, which shall include an assessment of the impact of the program on student academic achievement; and

(2) to prepare and submit an annual report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives.

(l) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $58,000,000 for each of the fiscal years 2007 and 2008, and such sums as may be necessary for each of the 3 succeeding fiscal years.

TITLE II—MATH NOW

SEC. 3201. MATH NOW FOR ELEMENTARY SCHOOL AND MIDDLE SCHOOL STUDENTS PROGRAM.

(a) Purpose.—The purpose of this section is to enable all students to reach or exceed grade-level academic achievement standards and to prepare the students to enroll in and pass algebra courses by—

(1) improving instruction in mathematics for students in kindergarten through grade 9 through the implementation of mathematics programs and the support of comprehensive mathematics initiatives that are based on the best available evidence of effectiveness; and

(2) providing targeted help to low-income students who are struggling with mathematics and whose achievement is significantly below grade level.

(b) Definition of Eligible Local Educational Agency.—In this section, the term "eligible local educational agency" means a high-need local educational agency (as defined in section 3112(3)) serving 1 or more schools—

(1) with significant numbers or percentages of students whose mathematics skills are below grade level;

(2) that are not making adequate yearly progress in mathematics under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); or

(3) in which students are receiving instruction in mathematics from teachers who do not have mathematical content knowledge or expertise in the teaching of mathematics.

(c) Program Authorized.—

(1) In general.—From the amounts appropriated under subsection (k) for any fiscal year, the Secretary is authorized to award grants, on a competitive basis, for not more than 5 years, to State educational agencies to enable the State educational agencies to award grants to eligible local educational agencies to carry out the activities described in subsection (e).

(2) Priority.—In awarding grants under this section, the Secretary shall give priority to applications for projects that will implement statewide strategies for improving mathematics instruction and raising the mathematics achievement of students, particularly students in grades 4 through 8.

(d) State Uses of Funds.—

(1) In general.—Each State educational agency that receives a grant under this section for a fiscal year—

(A) shall expend not more than a total of 10 percent of the grant funds to carry out the activities described in paragraphs (2) or (3) for the fiscal year; and

(B) shall use not less than 90 percent of the grant funds to award grants, on a competitive basis, to eligible local educational agencies to enable the eligible local educational agencies to carry out the activities described in subsection (e) for the fiscal year.

(2) Mandatory uses of funds.—A State educational agency shall use the grant funds made available under paragraph (1)(A) to carry out each of the following activities:

(A) Planning and administration.—Planning and administration, including—

(i) evaluating applications from eligible local educational agencies using peer review teams described in subsection (f)(1)(D);

(ii) administering the distribution of grants to eligible local educational agencies; and

(iii) assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this section, with respect to whether the activities have been effective in increasing the number of children—

(I) making progress toward meeting grade-level mathematics achievement; and

(II) meeting or exceeding grade-level mathematics achievement.

(B) Reporting.—Annually providing the Secretary with a report on the implementation of this section as described in subsection (i).

(3) Permissive use of funds; technical assistance.—

(A) In general.—A State educational agency may use the grant funds made available under paragraph (1)(A) for 1 or more of the following technical assistance activities that assist an eligible local educational agency, upon request by the eligible local educational agency, in accomplishing the tasks required to design and implement a project under this section, including assistance in—

(i) selecting and implementing a program of mathematics instruction, or materials and interventions, based on the best available evidence of effectiveness;

(ii) evaluating and selecting diagnostic and classroom based instructional mathematics assessments; and

(iii) identifying eligible professional development providers to conduct the professional development activities described in subsection (e)(1)(B).

(B) Guidance.—The technical assistance described in subparagraph (A) shall be guided by researchers with expertise in the pedagogy of mathematics, mathematicians, and mathematics educators from high-risk, high-achievement schools and eligible local educational agencies.

(e) Local Uses of Funds.—

(1) Mandatory uses of funds.—Each eligible local educational agency receiving a grant under this section shall use the grant funds to carry out each of the following activities:

(A) To implement mathematics instructional materials and interventions (including intensive and systematic instruction)—

(i) for students in the grades of a participating school as identified in the application submitted under subsection (f)(2)(A); and

(ii) that are based on the best available evidence of effectiveness.

(B) To provide professional development and instructional leadership activities for teachers and, if appropriate, for administrators and other school staff, on the implementation of comprehensive mathematics initiatives designed—

(i) to improve the achievement of students performing significantly below grade level;

(ii) to improve the mathematical content knowledge of the teachers, administrators, and other school staff;

(iii) to increase the use of effective instructional practices; and

(iv) to monitor student progress.

(C) To conduct continuous progress monitoring, which may include the adoption and use of assessments that—

(i) measure student progress and identify areas in which students need help in learning mathematics; and

(ii) reflect mathematics content that is consistent with State academic achievement standards in mathematics described in section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)).

(2) Permissive uses of funds.—An eligible local educational agency may use grant funds under this section to—

(A) adopt and use mathematics instructional materials and assessments;

(B) implement classroom-based assessments, including diagnostic or formative assessments;

(C) provide remedial coursework and interventions for students, which may be provided before or after school;

(D) provide small groups with individualized instruction in mathematics;

(E) conduct activities designed to improve the content knowledge and expertise of teachers, such as the use of a mathematics coach, enrichment activities, and interdisciplinary methods of mathematics instruction; and

(F) collect and report performance data.

(f) Applications.—

(1) State educational agency. Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. Each application shall include—

(A) an assurance that the core mathematics instructional materials or program, supplemental instructional materials, and intervention programs used by the eligible local educational agencies for the project, are based on the best available evidence of effectiveness and are aligned with State academic achievement standards;

(B) an assurance that eligible local educational agencies will meet the requirements described in paragraph (2);

(C) an assurance that local applications will be evaluated using a peer review process; and

(D) a description of the qualifications of the peer review teams, which shall consist of—

(i) researchers with expertise in the pedagogy of mathematics;

(ii) mathematicians; and

(iii) mathematics educators serving high-risk, high-achievement schools and eligible local educational agencies.

(2) Eligible local educational agency.—Each eligible local educational agency desiring a grant under this section shall submit an application to the State educational agency at such time and in such manner as the State educational agency may require. Each application shall include—

(A) an assurance that the eligible local educational agency will provide assistance to 1 or more schools that are—

(i) served by the eligible local educational agency; and

(ii) described in section 3201(b);

(B) a description of the grades kindergarten through grade 9, and of the schools, that will be served;

(C) information, on an aggregate basis, on each school to be served by the project, including such demographic, socioeconomic, and mathematics achievement data as the State educational agency may request;

(D) a description of the core mathematics instructional materials or program, supplemental instructional materials, and intervention programs or strategies that will be used for the project, including an assurance that the programs or strategies and materials are based on the best available evidence of effectiveness and are aligned with State academic achievement standards;

(E) a description of the activities that will be carried out under the grant, including a description of the professional development that will be provided to teachers, and, if appropriate, administrators and other school staff, and a description of how the activities will support achievement of the purpose of this section;

(F) an assurance that the eligible local educational agency will report to the State educational agency all data on student academic achievement that is necessary for the State educational agency's report under subsection (i);

(G) a description of the eligible entity's plans for evaluating the impact of professional development and leadership activities in mathematics on the content knowledge and expertise of teachers, administrators, or other school staff; and

(H) any other information the State educational agency may reasonably require.

(g) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—

(1) IN GENERAL.—In implementing this section, the Secretary shall not—

(A) endorse, approve, or sanction any mathematics curriculum designed for use in any school; or

(B) engage in oversight, technical assistance, or activities that will require the adoption of a specific mathematics program or instructional materials by a State, local educational agency, or school.

(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to authorize or permit the Department of Education, or a Department of Education contractor, to mandate, direct, control, or suggest the selection of a mathematics curriculum; supplemental instructional materials, or program of instruction by a State, local educational agency, or school.

(h) MATCHING REQUIREMENTS.—

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant, of which not more than 20 percent of such 50 percent may be provided by local educational agencies within the State.

(2) WAIVER.—The Secretary may waive all of or a portion of the matching requirement described in paragraph (1) for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the State educational agency; or

(B) providing a waiver best serves the purpose of the program assisted under this section.

(i) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

(1) INFORMATION.—Each State educational agency receiving a grant under this section shall collect and report to the Secretary annually such information on the results of the grant as the Secretary may reasonably require, including information on—

(A) mathematics achievement data that show the progress of students participating in projects under this section (including, to the extent practicable, comparable data from students not participating in such projects), based primarily on the results of State, school district wide, or classroom-based, assessments, including—

(i) specific identification of those schools and eligible local educational agencies that report the largest gains in mathematics achievement; and

(ii) evidence on whether the State educational agency and eligible local educational agencies within the State have—

(I) significantly increased the number of students achieving at grade level or above in mathematics;

(II) significantly increased the percentages of students described in section 1111(b)(2)(C)(v)(II) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)) who are achieving at grade level or above in mathematics;

(III) significantly increased the number of students making significant progress toward meeting grade-level mathematics achievement standards; and

(IV) successfully implemented this section;

(B) the percentage of students in the schools served by the eligible local educational agency who enroll in algebra courses and the percentage of such students who pass algebra courses; and

(C) the progress made in increasing the quality and accessibility of professional development and leadership activities in mathematics, especially activities resulting in greater content knowledge and expertise of teachers, administrators, and other school staff, except that the Secretary shall not require such information until after the third year of a grant awarded under this section.

(2) REPORTING AND DISAGGREGATION.—The information required under paragraph (1) shall be—

(A) reported in a manner that allows for a comparison of aggregated score differentials of student academic achievement before (to the extent feasible) and after implementation of the project assisted under this section; and

(B) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(3) PRIVACY PROTECTION.—The data in the report shall be reported in a manner that—

(A) protects the privacy of individuals; and

(B) complies with the requirements of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

(j) EVALUATION AND TECHNICAL ASSISTANCE.—

(1) EVALUATION.—

(A) IN GENERAL.—The Secretary shall conduct an annual independent evaluation, by grant or by contract, of the program assisted under this section, which shall include an assessment of the impact of the program on student academic achievement and teacher performance, and may use funds available to carry out this section to conduct the evaluation.

(B) REPORT.—The Secretary shall annually submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, a report on the results of the evaluation.

(2) TECHNICAL ASSISTANCE.—The Secretary may use funds made available under paragraph (3) to provide technical assistance to prospective applicants and to eligible local educational agencies receiving a grant under this section.

(3) RESERVATION OF FUNDS.—The Secretary may reserve not more than 2.5 percent of funds appropriated under subsection (k) for a fiscal year to carry out this subsection.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $146,700,000 for each of the fiscal years 2007 and 2008, and such sums as may be necessary for each of the 3 succeeding fiscal years.

TITLE III—FOREIGN LANGUAGE PARTNERSHIP PROGRAM

SEC. 3301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States faces a shortage of skilled professionals with higher levels of proficiency in foreign languages and area knowledge critical to the Nation's security.

(2) Given the Nation's economic competitiveness interests, it is crucial that our Nation expand the number of Americans who are able to function effectively in the environments in which critical foreign languages are spoken.

(3) Students' ability to become proficient in foreign languages can be addressed by starting language learning at a younger age and expanding opportunities for continuous foreign language education from elementary school through postsecondary education.

(b) PURPOSE.—The purpose of this title is to significantly increase—

(1) the opportunities to study critical foreign languages and the context in which the critical foreign languages are spoken; and

(2) the number of American students who achieve the highest level of proficiency in critical foreign languages.

SEC. 3302. DEFINITIONS.

In this title:

(1) ELIGIBLE RECIPIENT.—The term "eligible recipient" means an institution of higher education that receives grant funds under this title on behalf of a partnership for use in carrying out the activities assisted under this title.

(2) PARTNERSHIP.—The term "partnership" means a partnership that—

(A) shall include—

(i) an institution of higher education; and

(ii) 1 or more local educational agencies; and

(B) may include 1 or more entities that support the purposes of this title.

(3) SUPERIOR LEVEL OF PROFICIENCY.—The term "superior level of proficiency" means level 3, the professional working level, as measured by the Federal Interagency Language Roundtable (ILR) or by other generally recognized measures of superior standards.

SEC. 3303. PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants to eligible recipients to enable partnerships served by the eligible recipients to establish articulated programs of study in critical foreign languages that will enable students to advance successfully from elementary school through postsecondary education and achieve higher levels of proficiency in a critical foreign language.

(2) DURATION.—A grant awarded under paragraph (1) shall be for a period of not more than 5 years. A grant may be renewed for not more than 2 additional 5-year periods, if the Secretary determines that the partnership's program is effective and the renewal will best serve the purposes of this title.

(b) APPLICATIONS.—

(1) IN GENERAL.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—Each application shall—

(A) identify each local educational agency partner, including contact information and letters of commitment, and describe the responsibilities of each member of the partnership, including—

(i) how each of the partners will be involved in planning, developing, and implementing—

(I) program curriculum and materials; and

(II) teacher professional development;

(ii) what resources each of the partners will provide; and

(iii) how the partners will contribute to ensuring the continuity of student progress from elementary school through the postsecondary level;

(B) describe how an articulated curriculum for students will be developed and implemented, which may include the use and integration of technology into such curriculum;

(C) identify target proficiency levels for students at critical benchmarks (such as grades 4, 8, and 12), and describe how progress toward those proficiency levels will be assessed at the benchmarks, and how the program will use the results of the assessments to ensure continuous progress toward achieving a superior level of proficiency at the postsecondary level;

(D) describe how the partnership will—

(i) ensure that students from a program assisted under this title who are beginning postsecondary education will be assessed and enabled to progress to a superior level of proficiency;

(ii) address the needs of students already at, or near, the superior level of proficiency, which may include diagnostic assessments for placement purposes, customized and individualized language learning opportunities, and experimental and interdisciplinary language learning; and

(iii) identify and describe how the partnership will work with institutions of higher education outside the partnership to provide participating students with multiple options for postsecondary education consistent with the purposes of this title;

(E) describe how the partnership will support and continue the program after the grant has expired, including how the partnership will seek support from other sources, such as State and local governments, foundations, and the private sector; and

(F) describe what assessments will be used or, if assessments not available, how assessments will be developed.

(c) USES OF FUNDS.—Grant funds awarded under this title—

(1) shall be used to develop and implement programs at the elementary school level through postsecondary education, consistent with the purpose of this title, including—

(A) the development of curriculum and instructional materials; and

(B) recruitment of students; and

(2) may be used for—

(A) teacher recruitment (including recruitment from other professions and recruitment of native-language speakers in the community) and professional development directly related to the purposes of this title at the elementary school through secondary school levels;

(B) development of appropriate assessments;

(C) opportunities for maximum language exposure for students in the program, such as the creation of immersion environments (such as language houses, language tables, immersion classrooms, and weekend and summer experiences) and special tutoring and academic support;

(D) dual language immersion programs;

(E) scholarships and study-abroad opportunities, related to the program, for postsecondary students and newly recruited teachers who have advanced levels of proficiency in a critical foreign language, except that not more than 20 percent of the grant funds provided to an eligible recipient under this section for a fiscal year may be used to carry out this subparagraph;

(F) activities to encourage community involvement to assist in meeting the purposes of this title;

(G) summer institutes for students and teachers;

(H) bridge programs that allow dual enrollment for secondary school students in institutions of higher education;

(I) programs that expand the understanding and knowledge of historic, geographic, and contextual factors within countries with populations who speak critical foreign languages, if such programs are carried out in conjunction with language instruction;

(J) research on, and evaluation of, the teaching of critical foreign languages;

(K) data collection and analysis regarding the results of—

(i) various student recruitment strategies;

(ii) program design; and

(iii) curricular approaches; and

(L) the impact of the strategies, program design, and curricular approaches described in subparagraph (K) on increasing—

(i) the number of students studying critical foreign languages; and

(ii) the proficiency of the students in the critical foreign languages.

(d) MATCHING REQUIREMENT.—

(1) IN GENERAL.—An eligible recipient that receives a grant under this title shall provide, toward the cost of carrying out the activities supported by the grant, from non-Federal sources, an amount equal to—

(A) 20 percent of the amount of the grant payment for the first fiscal year for which a grant payment is made;

(B) 30 percent of the amount of the grant payment for the second such fiscal year;

(C) 40 percent of the amount of the grant payment for the third such fiscal year; and

(D) 50 percent of the amount of the grant payment for each of the fourth and fifth such fiscal years.

(2) NON-FEDERAL SHARE.—The non-Federal share required under paragraph (1) may be provided in cash or in-kind.

(3) WAIVER.—The Secretary may waive all or part of the matching requirement of paragraph (1), for any fiscal year, if the Secretary determines that—

(A) the application of the matching requirement will result in serious hardship for the partnership; or

(B) the waiver will best serve the purposes of this title.

(e) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this title shall be used to supplement, not supplant, other Federal and non-Federal funds available to carry out the activities described in subsection (c).

(f) TECHNICAL ASSISTANCE.—The Secretary shall enter into a contract to establish a technical assistance center to provide technical assistance to partnerships developing critical foreign language programs assisted under this section. The center shall—

(1) assist the partnerships in the development of critical foreign language instructional materials and assessments; and

(2) disseminate promising foreign language instructional practices.

(g) PROGRAM EVALUATION.—

(1) IN GENERAL.—The Secretary may reserve not more than 5 percent of the total amount appropriated for this title for any fiscal year to annually evaluate the programs under this title.

(2) REPORT.—The Secretary shall prepare and annually submit, to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committees on Appropriations of the Senate and House of Representatives, a report on the results of any program evaluation conducted under this subsection.

SEC. 3304. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there are authorized to be appropriated $22,000,000 for each of the fiscal years 2007 and 2008, and such sums as may be necessary for each of the 3 succeeding fiscal years.

TITLE IV—ALIGNMENT OF EDUCATION PROGRAMS

SEC. 3401. ALIGNMENT OF SECONDARY SCHOOL GRADUATION REQUIREMENTS WITH THE DEMANDS OF 21ST CENTURY POSTSECONDARY ENDEAVORS AND SUPPORT FOR P-16 EDUCATION DATA SYSTEMS.

(a) PURPOSE.—It is the purpose of this section—

(1) to promote more accountability with respect to preparation for higher education, the 21st century workforce, and the Armed Forces, by aligning—

(A) student knowledge, student skills, State academic content standards and assessments, and curricula, in elementary and secondary education, especially with respect to mathematics, science, reading, and, where applicable, engineering and technology; with

(B) the demands of higher education, the 21st century workforce, and the Armed Forces;

(2) to support the establishment or improvement of statewide P-16 education data systems that—

(A) assist States in improving the rigor and quality of elementary and secondary education content knowledge requirements and assessments;

(B) ensure students are prepared to succeed in—

(i) academic credit-bearing coursework in higher education without the need for remediation;

(ii) the 21st century workforce; or

(iii) the Armed Forces; and

(3) enable States to have valid and reliable information to inform education policy and practice.

(b) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(2) P–16 EDUCATION.—The term "P–16 education" means the educational system from prekindergarten through the conferring of a baccalaureate degree.

(3) STATEWIDE PARTNERSHIP.—The term "statewide partnership" means a partnership that—

(A) shall include—

(i) the Governor of the State or the designee of the Governor;

(ii) the heads of the State systems for public higher education, or, if such a position does not exist, not less than 1 representative of a public degree-granting institution of higher education;

(iii) not less than 1 representative of a technical school;

(iv) not less than 1 representative of a public secondary school;

(v) the chief State school officer;

(vi) the chief executive officer of the State higher education coordinating board;

(vii) not less than 1 public elementary school teacher employed in the State;

(viii) not less than 1 public elementary school teacher certified in early childhood education;

(ix) not less than 1 public secondary school teacher employed in the State;

(x) not less than 1 representative of the business community in the State; and

(xi) not less than 1 member of the Armed Forces; and

(B) may include other individuals or representatives of other organizations, such as a school administrator, a faculty member at an institution of higher education, a member of a civic or community organization, a representative from a private institution of higher education, a dean or similar representative of a school of education at an institution of higher education or a similar teacher certification or licensure program, or the State official responsible for economic development.

(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants, on a competitive basis, to States to enable each such State to work with a statewide partnership—

(1) to promote better alignment of content knowledge requirements for secondary school graduation with the knowledge and skills needed to succeed in postsecondary education, the 21st century workforce, or the Armed Forces; or

(2) to establish or improve a statewide P-16 education data system.

(d) PERIOD OF GRANTS; NON-RENEWABILITY.—

(1) GRANT PERIOD.—The Secretary shall award a grant under this section for a period of not more than 3 years.

(2) NON-RENEWABILITY.—The Secretary shall not award a State more than 1 grant under this section.

(e) AUTHORIZED ACTIVITIES.—

(1) GRANTS FOR P-16 ALIGNMENT.—Each State receiving a grant under subsection (c)(1)—

(A) shall use the grant funds for—

(i) identifying and describing the content knowledge and skills students who enter institutions of higher education, the workforce, and the Armed Forces need to have in order to succeed without any remediation based on detailed requirements obtained from institutions of higher education, employers, and the Armed Forces;

(ii) identifying and making changes that need to be made to a State's secondary school graduation requirements, academic content standards, academic achievement standards, and assessments preceding graduation from secondary school in order to align the requirements, standards, and assessments with the knowledge and skills necessary for success in academic credit-bearing coursework in postsecondary education, in the 21st century workforce, and in the Armed Forces without the need for remediation;

(iii) convening stakeholders within the State and creating a forum for identifying and deliberating on education issues that—

(I) involve prekindergarten through grade 12 education, postsecondary education, the 21st century workforce, and the Armed Forces; and

(II) transcend any single system of education's ability to address; and

(iv) implementing activities designed to ensure the enrollment of all elementary school and secondary school students in rigorous coursework, which may include—

(I) specifying the courses and performance levels necessary for acceptance into institutions of higher education; and

(II) developing curricula and assessments aligned with State academic content standards, which assessments may be used as measures of student academic achievement in secondary school as well as for entrance or placement at institutions of higher education, including through collaboration with institutions of higher education in, or State educational agencies serving, other States; and

(B) may use the grant funds for—

(i) developing and making available specific opportunities for extensive professional development for teachers, paraprofessionals, principals, and school administrators, including collection and dissemination of effective teaching practices to improve instruction and instructional support mechanisms;

(ii) identifying changes in State academic content standards, academic achievement standards, and assessments for students in grades preceding secondary school in order to ensure the students are adequately prepared when the students enter secondary school;

(iii) developing a plan to provide remediation and additional learning opportunities for students who are performing below grade level to ensure that all students will have the opportunity to meet secondary school graduation requirements; or

(iv) identifying and addressing teacher certification needs.

(2) GRANTS FOR STATEWIDE P-16 EDUCATION DATA SYSTEMS.—

(A) ESTABLISHMENT OF SYSTEM.—Each State that receives a grant under subsection (c)(2) shall establish a statewide P-16 education longitudinal data system that—

(i) provides each student, upon enrollment in a public elementary school or secondary school in the State, with a unique identifier, such as a bar code, that—

(I) does not permit a student to be individually identified by users of the system; and

(II) is retained throughout the student's enrollment in P-16 education in the State; and

(ii) meets the requirements of subparagraphs (B) through (E).

(B) IMPROVEMENT OF EXISTING SYSTEM.—Each State that receives a grant under subsection (c)(2) for the improvement of a statewide P-16 education data system may employ, coordinate, or revise an existing statewide data system to establish a statewide longitudinal P-16 education data system that meets the requirements of subparagraph (A), if the statewide longitudinal P-16 education data system produces valid and reliable data.

(C) DATA AND COMPLIANCE WITH FERPA.—The State, through the implementation of the statewide P-16 education data system, shall—

(i) ensure the implementation and use of valid and reliable secondary school dropout data; and

(ii) ensure that the statewide P-16 education data system meets the requirements of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

(D) REQUIRED ELEMENTS OF A STATEWIDE P-16 EDUCATION DATA SYSTEM.—The State shall ensure that the statewide P-16 education data system includes the following elements:

(i) PREKINDERGARTEN THROUGH GRADE 12 EDUCATION AND POSTSECONDARY EDUCATION.—With respect to prekindergarten through grade 12 education and postsecondary education—

(I) a unique statewide student identifier that does not permit a student to be individually identified by users of the system;

(II) student-level enrollment, demographic, and program participation information;

(III) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P-16 education programs;

(IV) the capacity to communicate with higher education data systems; and

(V) a State data audit system assessing data quality, validity, and reliability.

(ii) PREKINDERGARTEN THROUGH GRADE 12 EDUCATION.—With respect to prekindergarten through grade 12 education—

(I) yearly test records of individual students with respect to assessments under section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b));

(II) information on students not tested by grade and subject;

(III) a teacher identifier system with the ability to match teachers to students;

(IV) student-level transcript information, including information on courses completed and grades earned; and

(V) student-level college readiness test scores.

(iii) POSTSECONDARY EDUCATION.—With respect to postsecondary education, data that provide—

(I) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and

(II) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

(E) FUNCTIONS OF THE STATEWIDE P-16 EDUCATION DATA SYSTEM.—In implementing the statewide P-16 education data system, the State shall—

(i) identify factors that correlate to students' ability to successfully engage in and complete postsecondary-level general education coursework without the need for prior developmental coursework;

(ii) identify factors to increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework; and

(iii) use the data in the system to otherwise inform education policy and practice in order to better align student knowledge and skills, and curricula, with the demands of postsecondary education, the 21st century workforce, and the Armed Forces.

(f) APPLICATION.—

(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) APPLICATION CONTENTS.—Each application submitted under this section shall specify whether the State application is for the conduct P-16 education alignment activities, or the establishment or improvement of a statewide P-16 education data system. The application shall include, at a minimum, the following:

(A) A description of the activities and programs to be carried out with the grant funds and a comprehensive plan for carrying out the activities.

(B) A description of how the concerns and interests of the larger education community, including parents, students, teachers, teacher educators, principals, and school administrators will be represented in carrying out the authorized activities described in subsection (e).

(C) in the case of a State applying for funding for P-16 education alignment, a description of how the State will provide assistance to local educational agencies in implementing rigorous State content knowledge requirements through substantive curricula and other changes the State determines necessary, including scientifically based remediation and acceleration opportunities for students.

(D) in the case of a State applying for funding to establish or improve a statewide P–16 education data system—

(i) a description of and the timetable for the establishment or improvement of such system; and

(ii) an assurance that the State will continue to fund the statewide P–16 education data system after the end of the grant period.

(g) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, not supplant, other Federal, State, and local funds available to carry out the authorized activities described in subsection (e).

(h) MATCHING REQUIREMENT.—Each State that receives a grant under this section shall provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require States to provide raw data to the Secretary.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $80,000,000 for fiscal year 2007, $100,000,000 for fiscal year 2008, and such sums as may be necessary for fiscal year 2009.

DIVISION D—NATIONAL SCIENCE FOUNDATION

SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the National Science Foundation—

(1) $6,232,000,000 for fiscal year 2007;

(2) $6,808,000,000 for fiscal year 2008;

(3) $7,433,000,000 for fiscal year 2009;

(4) $8,446,000,000 for fiscal year 2010; and

(5) $11,200,000,000 for fiscal year 2011.

(b) PLAN FOR INCREASED RESEARCH.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Science Foundation, in consultation with the National Science Board, shall submit a comprehensive, multiyear plan that describes how the funds authorized in subsection (a) would be used, if appropriated, to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of Representatives.

(2) PLAN REQUIREMENTS.—The Director shall—

(A) develop the plan with a focus on strengthening the Nation's lead in physical science and technology, increasing overall workforce skills in physical science, technology, engineering, and mathematics at all levels, and strengthening innovation by expanding the focus of competitiveness and innovation policy at the regional and local level; and

(B) emphasize spending increased research funds appropriated pursuant to subsection (a) in areas of investment for Federal research and technology programs identified under section 1101(c) of this Act.

SEC. 4002. STRENGTHENING OF EDUCATION AND HUMAN RESOURCES DIRECTORATE THROUGH EQUITABLE DISTRIBUTION OF NEW FUNDS.

(a) PURPOSE.—The purpose of this section is to ensure the continued involvement of experts at the National Science Foundation in improving science, technology, engineering, and mathematics education at the elementary, secondary, and postsecondary school levels by providing annual funding increases for the education and human resources programs of the National Science Foundation that are proportional to the funding increases provided to the Foundation overall.

(b) EQUITABLE DISTRIBUTION OF NEW FUNDS.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated for the education and human resources programs of the National Science Foundation—

(1) $1,050,000,000 for fiscal year 2007; and

(2) for each of the fiscal years 2008 through 2011, an amount equal to $1,050,000,000 increased for each such fiscal year by an amount equal to the percentage increase in the appropriation for the National Science Foundation for such fiscal year above the amount appropriated to the National Science Foundation for fiscal year 2007.

SEC. 4003. GRADUATE FELLOWSHIPS AND GRADUATE TRAINEESHIPS.

(a) GRADUATE RESEARCH FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director of the National Science Foundation shall expand the Graduate Research Fellowship Program of the National Science Foundation so that an additional 1,250 fellowships are awarded to citizens or nationals of the United States or eligible lawful permanent residents under the Program during that period.

(2) EXTENSION OF FELLOWSHIP PERIOD.—The Director is authorized to award fellowships under the Graduate Research Fellowship Program for a period of up to 5 years.

(3) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated, to provide an additional 250 fellowships under the Graduate Research Fellowship Program during each of the fiscal years 2007 through 2011, the following:

(A) $12,000,000 for fiscal year 2007.

(B) $24,000,000 for fiscal year 2008.

(C) $36,000,000 for fiscal year 2009.

(D) $48,000,000 for fiscal year 2010.

(E) $60,000,000 for fiscal year 2011.

(b) INTEGRATIVE GRADUATE EDUCATION AND RESEARCH TRAINEESHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director shall expand the Integrative Graduate Education and Research Traineeship program of the National Science Foundation so that an additional 1,250 individuals who are citizens or nationals of the United States or eligible lawful permanent residents are awarded grants under the program during that period.

(2) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated, to provide grants to an additional 250 individuals under the Integrative Graduate Education and Research Traineeship program during each of the fiscal years 2007 through 2011, the following:

(A) $11,000,000 for fiscal year 2007.

(B) $22,000,000 for fiscal year 2008.

(C) $33,000,000 for fiscal year 2009.

(D) $44,000,000 for fiscal year 2010.

(E) $55,000,000 for fiscal year 2011.

(c) DEFINITION OF ELIGIBLE LAWFUL PERMANENT RESIDENT.—In this section, the term "eligible lawful permanent resident" means a lawful permanent resident of the United States who declares an intent—

(1) to apply for United States citizenship; or

(2) to reside in the United States for not less than 5 years after the completion of a graduate fellowship or traineeship awarded under this section.

SEC. 4004. PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS.

(a) CLEARINGHOUSE.—

(1) DEVELOPMENT.—The Director of the National Science Foundation shall establish a clearinghouse, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs and other advanced degree programs related to science, mathematics, technology, and engineering.

(2) AVAILABILITY.—The Director shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(b) PROGRAMS.—

(1) PROGRAMS AUTHORIZED.—The Director shall award grants to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs.

(2) APPLICATION.—A 4-year institution of higher education desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director may require. The application shall include

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional science master's degree program; and

(C) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable graduate fellowships and student financial assistance under titles IV and VII of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 1133 et seq.).

(3) PREFERENCE FOR APPLICANTS WITH ALTERNATIVE FUNDING SOURCES.—The Director shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to create or improve professional science master's degree programs, to those applicants that secure more than ⅔ of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) NUMBER OF GRANTS; TIME PERIOD OF GRANTS.—

(A) NUMBER OF GRANTS.—Subject to the availability of appropriated funds, the Director shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) TIME PERIOD OF GRANTS.—Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) EVALUATION AND REPORTS.—

(A) DEVELOPMENT OF PERFORMANCE BENCHMARKS.—Prior to the start of the grant program, the Director of the National Science Foundation, in collaboration with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall develop performance benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) Evaluation.—For each year of the grant period, the Director, in consultation with 4-year institutions of higher education (including applicable graduate schools and academic departments), and industries and Federal agencies that employ science-trained personnel, shall complete an evaluation of each program assisted by grants under this section. Any program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) Report.—Not later than 180 days after the completion of an evaluation described in subparagraph (B), the Director shall submit a report to Congress that includes—

(i) the results of the evaluation described in subparagraph (B); and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

(c) Institution of Higher Education Defined.—In this section, the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(d) Authorization of Appropriations.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2007;

(2) $15,000,000 for fiscal year 2008;

(3) $18,000,000 for fiscal year 2009; and

(4) $20,000,000 for each of the fiscal years 2010 and 2011.

SEC. 4005. INCREASED SUPPORT FOR SCIENCE EDUCATION THROUGH THE NATIONAL SCIENCE FOUNDATION.

(a) In General.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated to carry out the science, mathematics, engineering, and technology talent expansion program under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368, 116 Stat. 3042)—

(1) $33,000,000 for fiscal year 2007;

(2) $40,000,000 for fiscal year 2008;

(3) $45,000,000 for fiscal year 2009;

(4) $50,000,000 for fiscal year 2010; and

(5) $55,000,000 for fiscal year 2011.

(b) Promoting Outreach and High Quality.—Section 8(7)(C) of the National Science Foundation Authorization Act of 2002 (Public Law 107–368, 116 Stat. 3042) is amended—

(1) by redesignating clauses (i) through (vi) as subclauses (I) through (VI), respectively, and indenting appropriately;

(2) by striking "include those that promote high quality—" and inserting "include programs that—

"(i) promote high-quality—";

(3) in clause (i) (as inserted by paragraph (2))—

(A) in subclause (III) (as redesignated by paragraph (1)), by striking "for students;" and inserting "for students, especially underrepresented minority and female mathematics, science, engineering, and technology students;";

(B) in subclause (V) (as redesignated by paragraph (1)), by striking "and" after the semicolon;

(C) in subclause (VI) (as redesignated by paragraph (1)), by striking "students." and inserting "students; and"; and

(D) by adding at the end the following:

"(VII) outreach programs that provide middle and secondary school students and their science and math teachers opportunities to increase the students' and teachers' exposure to engineering and technology;"; and

(4) by adding at the end the following:

"(ii) finance summer internships for mathematics, science, engineering, and technology undergraduate students;

"(iii) facilitate the hiring of additional mathematics, science, engineering, and technology faculty; and

"(iv) serve as bridges to enable underrepresented minority and female secondary school students to obtain extra mathematics, science, engineering, and technology training prior to entering an institution of higher education.".

SEC. 4006. MEETING CRITICAL NATIONAL SCIENCE NEEDS.

(a) In General.—In addition to any other criteria, the Director of the National Science Foundation shall include consideration of the degree to which awards and research activities that otherwise qualify for support by the National Science Foundation may assist in meeting critical national needs in innovation, competitiveness, the physical and natural sciences, technology, engineering, and mathematics.

(b) Priority Treatment.—The Director shall give priority in the selection of awards and the allocation of National Science Foundation resources to proposed research activities, and grants funded under the National Science Foundation's Research and Related Activities Account, that can be expected to make contributions in physical or natural science, technology, engineering, or mathematics, or that enhance competitiveness or innovation in the United States.

(c) Limitation.—Nothing in this section shall be construed to restrict or bias the grant selection process against funding other areas of research deemed by the National Science Foundation to be consistent with its mandate nor to change the core mission of the National Science Foundation.

SEC. 4007. REAFFIRMATION OF THE MERIT-REVIEW PROCESS OF THE NATIONAL SCIENCE FOUNDATION.

Nothing in this division or division A, or the amendments made by this division or division A, shall be interpreted to require or recommend that the National Science Foundation—

(1) alter or modify its merit-review system or peer-review process; or

(2) exclude the awarding of any proposal by means of the merit-review or peer-review process.

SEC. 4008. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated to the National Science Foundation for the Experimental Program to Stimulate Competitive Research authorized under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g)—

(1) $125,000,000 for fiscal year 2007; and

(2) for each of fiscal years 2008 through 2011, an amount equal to $125,000,000 increased for each such year by an amount equal to the percentage increase in the appropriation for the National Science Foundation for such fiscal year above the total amount appropriated to the National Science Foundation for fiscal year 2007.

SEC. 4009. ENCOURAGING PARTICIPATION.

(a) Mentoring Program.—The Director of the National Science Foundation shall establish a program to recruit and provide mentors for women who are interested in careers in science, technology, engineering, and mathematics by pairing such women who are in science, technology, engineering, or mathematics programs of study in secondary school, community college, undergraduate or graduate school with mentors who are working in industry.

(b) Additional Learning Program.—The Director shall also establish a program to provide grants to community colleges to provide additional learning and other appropriate training to allow women to enter higher-paying technical jobs in fields related to science, technology, engineering, or mathematics.

(c) Applications.—An institution of higher education, including a community college, desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director may require.

(d) Program Evaluation.—The Director shall establish metrics to evaluate the success of the programs established under subsections (a) and (b) annually and report the findings and conclusions of the evaluations annually to Congress.

SEC. 4010. CYBERINFRASTRUCTURE.

In order to continue and expand efforts to ensure that research institutions throughout the Nation can fully participate in research programs of the National Science Foundation and collaborate with colleagues throughout the nation, the Director of the National Science Foundation, within 180 days after the date of enactment of this Act, shall develop and publish a plan that describes the current status of broadband access for scientific research purposes in States located in EPSCoR-eligible jurisdictions and outlines actions which can be taken to ensure that such connections are available to enable participation in those National Science Foundation programs which rely heavily on high-speed networking and collaborations across institutions and regions.

SEC. 4011. FEDERAL INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.

(a) Advanced Information and Communications Technology Research.—

(1) National science foundation information and communications technology research.—The Director of the National Science Foundation shall establish a program of basic research in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all people of the United States. In developing and carrying out the program, the Director shall consult with the Board established under paragraph (2).

(2) Federal advanced information and communications technology research board.—There is established within the National Science Foundation a Federal Advanced Information and Communications Technology Research Board (referred to in this subsection as "the Board") which shall advise the Director of the National Science Foundation in carrying out the program authorized under paragraph (1). The Board shall be composed of individuals with expertise in information and communications technologies, including representatives from the National Telecommunications and Information Administration, the Federal Communications Commission, the National Institute of Standards and Technology, and the Department of Defense, and representatives from industry and educational institutions.

(3) Grant program.—The Director of the National Science Foundation, in consultation with the Board, shall award grants for basic research into advanced information and communications technologies that will

contribute to enhancing or facilitating the availability and affordability of advanced communications services to all people of the United States. Areas of research to be supported through the grants include—

(A) affordable broadband access, including wireless technologies;

(B) network security and reliability;

(C) communications interoperability;

(D) networking protocols and architectures, including resilience to outages or attacks;

(E) trusted software;

(F) privacy;

(G) nanoelectronics for communications applications;

(H) low-power communications electronics;

(I) implementation of equitable access to national advanced fiber optic research and educational networks in noncontiguous States; and

(J) such other related areas as the Director, in consultation with the Board, finds appropriate.

(4) CENTERS.—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), nonprofit research institutions affiliated with institutions of higher education, or consortia thereof to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in communications and information technology research, including the research areas described in paragraph (3). Institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia receiving such grants may partner with 1 or more government laboratories or for-profit entities, or other institutions of higher education or nonprofit research institutions.

(5) APPLICATIONS.—The Director of the National Science Foundation, in consultation with the Board, shall establish criteria for the award of grants under paragraphs (3) and (4). Such grants shall be awarded under the programs on a merit-reviewed competitive basis. The Director shall give priority to grants that offer the potential for revolutionary rather than evolutionary breakthroughs.

(6) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $40,000,000 for fiscal year 2007;

(B) $45,000,000 for fiscal year 2008;

(C) $50,000,000 for fiscal year 2009;

(D) $55,000,000 for fiscal year 2010; and

(E) $60,000,000 for fiscal year 2011.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY RESPONSIBILITIES.—The Director of the National Institute of Standards and Technology shall continue to support research and support standards development in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all people of the United States, in order to implement the Institute's responsibilities under section 2(c)(12) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(12)). The Director shall support intramural research and cooperative research with institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and industry.

SEC. 4012. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1) is amended—

(1) in the section heading, by inserting "**TEACHER**" after "**NOYCE**";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "to provide scholarships, stipends, and programming designed";

(ii) by inserting "and to provide scholarships and stipends to students participating in the program" after "science teachers"; and

(iii) by inserting "Teacher" after "Noyce";

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking "encourage top college juniors and seniors majoring in" and inserting "recruit and prepare undergraduate students to pursue degrees in"; and

(bb) by striking "to become" and inserting "and become qualified as";

(II) in clause (ii)—

(aa) by striking "programs to help scholarship recipients" and inserting "academic courses and clinical teaching experiences designed to prepare students participating in the program";

(bb) by striking "programs that will result in" and inserting "such preparation as is necessary to meet requirements for"; and

(cc) by striking "licensing; and" and inserting "licensing;";

(III) in clause (iii)—

(aa) by striking "scholarship recipients" and inserting "students participating in the program";

(bb) by striking "enable the recipients" and inserting "enable the students"; and

(cc) by striking "; or" and inserting "; and"; and

(IV) by adding at the end the following:

"(iv) providing summer internships for freshman and sophomore students participating in the program; or"; and

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i)—

(aa) by striking "encourage" and inserting "recruit and prepare"; and

(bb) by inserting "qualified as" after "to become";

(II) by striking clause (ii) and inserting the following:

"(ii) offering academic courses and clinical teaching experiences designed to prepare stipend recipients to teach in elementary schools and secondary schools, including such preparation as necessary to meet requirements for teacher certification or licensing;"; and

(C) by adding at the end the following:

"(4) ELIGIBILITY REQUIREMENT.—To be eligible for an award under this section, an institution of higher education (or a consortium of such institutions) shall ensure that specific faculty members and staff from the mathematics, science, or engineering department of the institution (or a participating institution of the consortium) and specific education faculty members of the institution (or such participating institution) are designated to carry out the development and implementation of the program. An institution of higher education (or consortium) may also include teachers to participate in developing the pedagogical content of the program and to supervise students participating in the program in their field teaching experiences. No institution of higher education (or consortium) shall be eligible for an award unless faculty from the institution's mathematics, science, or engineering department are active participants in the program.";

(3) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking "scholarship or stipend";

(II) by inserting "and summer internships" after "number of scholarships"; and

(III) by inserting "the type of activities proposed for the recruitment of students to the program," after "intends to award,";

(ii) in subparagraph (B)—

(I) by striking "scholarship or stipend"; and

(II) by striking "; and" and inserting ", which may include a description of any existing programs at the applicant's institution that are targeted to the education of science and mathematics teachers and the number of teachers graduated annually from such programs;"; and

(iii) by striking subparagraph (C) and inserting the following:

"(C) a description of the academic courses and clinical teaching experiences required under subparagraph (A)(ii) or B)(ii) of subsection (a)(3), including—

"(i) a description of the undergraduate program that will enable a student to graduate in 4 years with a major in mathematics, science, or engineering and to obtain teacher certification or licensing;

"(ii) a description of clinical teaching experiences proposed; and

"(iii) evidence of agreements between the applicant and the schools or school districts that are identified as the locations at which clinical teaching experiences will occur;

"(D) a description of the programs required under subparagraph (A)(iii) or (B)(iii) of subsection (a)(3), including activities to assist new teachers in fulfilling their service requirements under this section; and

"(E) an identification of the applicant's mathematics, science, or engineering faculty and its education faculty who will carry out the development and implementation of the program as required under subsection (a)(4)."; and

(B) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively; and

(ii) by inserting after subparagraph (A) the following:

"(B) the extent to which the applicant's mathematics, science, or engineering faculty and its education faculty have worked or will work collaboratively to design new or revised curricula that recognize the specialized pedagogy required to teach mathematics and science effectively in elementary schools and secondary schools;";

(4) in subsection (c)—

(A) in paragraph (3)—

(i) by striking "$7,500" and inserting "$10,000"; and

(ii) by striking "of scholarship support" and inserting "of scholarship support, unless the Director establishes a policy by which part-time students may receive additional years of support"; and

(B) in paragraph (4), by inserting ", with a maximum service requirement of 4 years" after "was received";

(5) in subsection (d)—

(A) in paragraph (2), by inserting "and professional achievement" after "academic merit"; and

(B) in paragraph (4), by striking "for each year a stipend was received";

(6) in subsection (g)—

(A) in paragraph (1), by inserting "or stipend" after scholarship; and

(B) by striking paragraph (2) and inserting the following:

"(2) REPAYMENT FOR FAILURE TO COMPLETE SERVICE.—

"(A) LESS THAN 1 YEAR OF SERVICE.—If a circumstance described in paragraph (1) occurs before the completion of 1 year of a service obligation under this section, the sum of the total amount of awards received by the individual under this section shall be treated as a loan payable to the Federal Government, consistent with the provisions of part B or D of title IV of the Higher Education Act of 1965, and shall be subject to repayment in accordance with terms and conditions specified by the Secretary of Education in regulations promulgated to carry out this paragraph.

"(B) 1 YEAR OR MORE OF SERVICE.—If a circumstance described in subparagraph (D) or (E) of paragraph (1) occurs after the completion of 1 year of a service obligation under this section, an amount equal to ½ of the sum of the total amount of awards received by the individual under this section shall be treated as a loan payable to the Federal Government, consistent with the provisions of part B or D of title IV of the Higher Education Act of 1965, and shall be subject to repayment in accordance with terms and conditions specified by the Secretary of Education in regulations promulgated to carry out this paragraph.";

(7) by redesignating subsection (i) as subsection (k);

(8) by inserting after subsection (h) the following:

"(i) SCIENCE AND MATHEMATICS SCHOLARSHIP GIFT FUND.—In accordance with section 11(f) of the National Science Foundation Act of 1950, the Director is authorized to accept donations from the private sector to supplement, but not supplant, scholarships, stipends, or internships associated with the programs under this section.

"(j) ASSESSMENT OF TEACHER RETENTION.—Not later than 4 years after the date of enactment of the National Competitiveness Investment Act, the Director shall transmit to Congress a report on the effectiveness of the program carried out under this section regarding the retention of participants in the teaching profession beyond the service obligation required under this section.";

(9) in subsection (k) (as redesignated by paragraph (7))—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively;

(B) by inserting after paragraph (1) the following:

"(2) the term 'high-need local educational agency' means a local educational agency or educational service agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965)—

"(A)(i) that serves not less than 10,000 children from low-income families;

"(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

"(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency, and all of whose schools are designated with a school locale code of 6, 7, or 8, as determined by the Secretary of Education; and

"(B)(i) for which there is a higher percentage of teachers providing instruction in academic subject areas or grade levels for which the teachers are not highly qualified; or

"(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure;"; and

(C) in paragraph (4) (as redesignated by subparagraph (A)) by inserting "or had a career" after "is working"; and

(10) by adding at the end the following:

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Within the amounts authorized to be appropriated by section 4001 of the National Competitiveness Investment Act and except as provided in paragraph (2), there are authorized to be appropriated to the Director for the Robert Noyce Teacher Scholarship Program under this section—

"(A) $105,000,000 for fiscal year 2007, of which at least $15,000,000 shall be used for capacity building activities described in clauses (ii) and (iii) of subsection (a)(3)(A) and clauses (ii) and (iii) of subsection (a)(3)(B);

"(B) $117,000,000 for fiscal year 2008, of which at least $18,000,000 shall be used for such capacity building activities;

"(C) $130,000,000 for fiscal year 2009, of which at least $21,000,000 shall be used for such capacity building activities;

"(D) $148,000,000 for fiscal year 2010, of which at least $24,000,000 shall be used for such capacity building activities; and

"(E) $200,000,000 for fiscal year 2011, of which at least $27,000,000 shall be used for such capacity building activities.

"(2) EXCEPTION.—For any fiscal year for which the funding allocated for activities under this section is less than $105,000,000, the amount of funding available for capacity building activities described in subparagraphs (A) through (E) of paragraph (1) shall not exceed 15 percent of the allocated funds.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 4.—Section 4 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n note) is amended in the matter preceding paragraph (1) by striking "In this Act:" and inserting "Except as otherwise provided, in this Act:".

(2) SECTION 8.—Section 8(6) of the National Science Foundation Authorization Act of 2002 (Public Law 107-368) is amended—

(A) in the paragraph heading, by inserting "TEACHER" after "NOYCE"; and

(B) by inserting "Teacher" after "Noyce".

SEC. 4013. SENSE OF THE SENATE REGARDING THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAMS OF THE DEPARTMENT OF EDUCATION AND THE NATIONAL SCIENCE FOUNDATION.

It is the sense of the Senate that—

(1) although the mathematics and science education partnership program at the National Science Foundation and the mathematics and science partnership program at the Department of Education practically share the same name, the 2 programs are intended to be complementary, not duplicative;

(2) the National Science Foundation partnership programs are innovative, model reform initiatives that move promising ideas in education from research into practice to improve teacher quality, develop challenging curricula, and increase student achievement in mathematics and science, and Congress intends that the National Science Foundation peer-reviewed partnership programs found to be effective should be put into wider practice by dissemination through the Department of Education partnership programs; and

(3) the Director of the National Science Foundation and the Secretary of Education should have ongoing collaboration to ensure that the 2 components of this priority effort for mathematics and science education continue to work in concert for the benefit of States and local practitioners nationwide.

SEC. 4014. NATIONAL SCIENCE FOUNDATION TEACHER INSTITUTES FOR THE 21ST CENTURY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated by section 4001, there are authorized to be appropriated to carry out the teacher institutes for the 21st century under paragraphs (3) and (7) of section 9(a) of the National Science Foundation Authorization Act of 2002 (as amended by subsection (b)) (42 U.S.C. 1862n(a))—

(1) $76,000,000 for fiscal year 2007;

(2) $84,000,000 for fiscal year 2008;

(3) $94,000,000 for fiscal year 2009;

(4) $106,000,000 for fiscal year 2010; and

(5) $140,000,000 for fiscal year 2011.

(b) TEACHER INSTITUTES FOR THE 21ST CENTURY.—Section 9(a) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n(a)) is amended—

(1) in paragraph (3)(B), by striking "summer or" and inserting "teacher institutes for the 21st century, as described in paragraph (7),";

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

"(7) TEACHER INSTITUTES FOR THE 21ST CENTURY.—

"(A) IN GENERAL.—Teacher institutes for the 21st century carried out in accordance with paragraph (3)(B) shall—

"(i) be carried out in conjunction with a school served by the local educational agency in the partnership;

"(ii) be science, technology, engineering, and mathematics focused institutes that provide professional development to elementary school and secondary school teachers during the summer;

"(iii) serve teachers who are considered highly qualified (as defined in section 9101 of the Elementary and Secondary Education Act of 1965), teach high-need subjects, and teach in high-need schools (as described in section 1114(a)(1) of the Elementary and Secondary Education Act of 1965);

"(iv) focus on the theme and structure developed by the Director under subparagraph (C);

"(v) be content-based and build on school year curricula that are experiment-oriented, content-based, and grounded in current research;

"(vi) ensure that the pedagogy component is designed around specific strategies that are relevant to teaching the subject and content on which teachers are being trained, which may include training teachers in the essential components of reading instruction for adolescents in order to improve student reading skills within the subject areas of science, technology, engineering, and mathematics;

"(vii) be a multiyear program that is conducted for a period of not less than 2 weeks per year;

"(viii) provide for direct interaction between participants in and faculty of the teacher institute;

"(ix) have a component that includes the use of the Internet;

"(x) provide for followup training in the classroom during the academic year for a period of not less than 3 days, which may or may not be consecutive, for participants in the teacher institute, except that for teachers in rural local educational agencies, the followup training may be provided through the Internet;

"(xi) provide teachers participating in the teacher institute with travel expense reimbursement and classroom materials related to the teacher institute, and may include providing stipends as necessary; and

"(xii) establish a mechanism to provide supplemental support during the academic year for teacher institute participants to apply the knowledge and skills gained at the teacher institute.

"(B) OPTIONAL MEMBERS OF THE PARTNERSHIP.—In addition to the partnership requirement under paragraph (2), an institution of higher education or eligible nonprofit organization (or consortium) desiring a grant for a teacher institute for the 21st century may also partner with a teacher organization, museum, or educational partnership organization.

"(C) THEME AND STRUCTURE.—Each year, not later than 180 days before the application deadline for a grant under this section, the Director shall, in consultation with a broad group of relevant education organizations, develop a theme and structure for the teacher institutes of the 21st century supported under paragraph (3)(B).".

Mr. INOUYE. Mr. President, I am proud to join my colleagues from the Commerce, Energy, and Health, Education, Labor, and Pensions Committees in introducing the National Innovation Investment Act. This bill represents the culmination of nearly a year's work by three Committees. We examined the Nation's civilian research and education enterprises and their contributions to innovation and economic competitiveness.

By the broadest definition, the Committee on Commerce, Science, and Transportation is responsible for the economic and commercial health of the country. We have expertise that touches on multiple fields of industry from telecommunications to transportation; from the safety of the home to the security of the homeland; and from marine containers to marine mammals.

At the end of the day, our middle name is "science," and we brought that perspective to this bipartisan effort to use technology and innovation to address emerging challenges to our national economic competitiveness.

The lynchpin of continued innovation that will lead to economic competitiveness will be educating and inspiring young people to be educated and employed in science- and technology-related disciplines. This bill uses educational programs to inspire students from kindergarten through graduate school to pursue math and science. It also ensures that the Nation's enterprise research is well-funded and focused on the needs of the Nation.

This bill includes a 5-year authorization that would double funding for the National Science Foundation, NSF, and significantly increase funding for the National Institute of Standards and Technology, NIST. The Congress has increased funding for NSF before. This time, with the help of my colleagues and the administration, I hope we can actually provide those dollars to NSF, NIST, and the other priority agencies outlined in the bill.

I am pleased that the Commerce Committee and this group were able to include several provisions related to ocean and atmospheric research and education. The ocean truly is the last frontier on Earth and ocean research and technology may have broad implications for improving health and understanding our environment.

The U.S. Commission on Ocean Policy recognized this potential in their final report and dedicated three chapters to recommendations on ways to improve ocean education, basic research, and technological innovation. Recognizing the allure that the oceans hold for many young people, the Commission viewed ocean education as a tool that could be used to increase general science and math literacy in the U.S., and we have incorporated that notion into this bill.

The United States can and must remain strong and competitive in the face of emerging challenges from the rest of the world. This bill is not the final answer, but it is a starting point. We will begin by strengthening science research and improving education to generate the ideas that U.S. companies can transform into the next breakthrough product.

I would be remiss if I did not mention that this bill contains input from the leadership, the Chairs and ranking members of three major committees, Senators DOMINICI, BINGAMAN, STEVENS, ENZI, KENNEDY, and myself, as well as Senators ENSIGN, LIEBERMAN, ALEXANDER, MIKULSKI, HUTCHISON, and BILL NELSON.

However, the Senate, at large, also must be involved in the process of considering and improving the bill. From the beginning, we have been assured that the bill would be considered in an open process. I support the bill and look forward to its thorough consideration by the Senate.

Mr. KENNEDY. Mr. President, families across America are facing serious challenges in today's global economy. The value of their wages is declining, the cost of living is going up, and many of their jobs are being shipped overseas.

We must respond to this challenge to ensure that our citizens can achieve the American dream once again. We have the best workers in the world, and we must prepare them to compete and succeed in the global economy.

America has long been at the forefront in innovation, invention, and education. But other countries are catching up and surpassing us.

We are now ranked 28th out of 40 nations in math education.

Since 1975, we have dropped from 3rd to 15th in the world in producing scientists and engineers.

A recent report shows that high school and college graduation rates in the United States have dropped below the average for other developed countries.

Federal investment in research and development has been shrinking as a share of the economy, and government research programs at the National Institutes of Health, the National Science Foundation and the Department of Energy all have less funding this year than they did three years ago.

At the same time, fast-growing countries like China, Ireland and South Korea are realizing the potential for economic growth that comes with investing in innovation. For example, China's total research and development investments rose from $12.4 billion in 1991 to $84.6 billion in 2003, an average increase of 17 percent a year. Over the same period, the increase in U.S. investment averaged only 4 to 5 percent annually.

Study after study tells us that we need major new investments in education and research and development to stay ahead. We cannot just tinker at the margins and expect to master our own destiny in the global economy. We have a responsibility to make the investments that are necessary to our progress—a responsibility to our families, to our economy, to our Nation, and to our national security.

Last year, the Council on Competitiveness urged a focus on lifelong skill development—through elementary, secondary and higher education, and workforce training and support, as essential to keeping America on the cutting edge of innovation.

The recent report by the National Academy of Sciences, "Rising Above the Gathering Storm," emphasized these recommendations. Two of the report's four major recommendations involved education as the solution to meeting the global challenge. The report set out a broad roadmap for keeping America competitive, but it prioritized investment in education over all other recommendations.

The National Association of Manufacturers also issued a report urging renewed focus on education and training to keep American businesses competitive.

It is clear that we must act, and today we are taking a step toward putting America back on the right track.

I am pleased to join with a bipartisan group of my colleagues today to introduce the National Competitiveness Investment Act. It is a modest proposal, but it represents an important downpayment on the commitment and sustained investment needed to keep America competitive in the years to come.

The legislation responds to many of the recommendations in the "Gathering Storm" and other recent reports and includes many provisions based on those in the Right TRACK Act, which I introduced earlier this year.

The bill takes important steps to encourage innovation in America as a way to create jobs and move our economy forward. It is often federally funded research that primes the pump for technological, medical and scientific breakthroughs, and the bill doubles basic research funding by the National Science Foundation over the next five years. It also puts us on a strong course to doubling basic research funding at the Department of Energy as well.

The legislation also creates a President's Council on Innovation and Competitiveness, based on successful models being used in established and emerging economies in Europe and Asia. The council will bring together the heads of Federal agencies with leaders in business and academia to develop a comprehensive agenda to promote innovation. Japan for some time has had a similar council, and Ireland, known as the Celtic Tiger, has already had success in expanding its R&D strength since it established its council last year.

The bill also strengthens programs at college and universities to encourage a renewed interest in nuclear science. Massachusetts has long been a leader in nuclear research. There are only three dozen licensed nuclear reactors in the United States, and three of them are located at Massachusetts universities—University of Massachusetts Lowell, Worcester Polytechnic Institute and MIT. These colleges will have a vital role as nuclear science expands, and this bill will help expand their programs and establish new ones to meet the growing demand.

These are important investments, but there is more we can do. We should act to renew the research and development tax credit as soon as possible. The incentive provided by the tax credit has led to quality jobs, better, safer products, greater productivity and a stronger, more robust national economy. A growing number of countries who recognize the importance of research and development spending to future economic growth now offer more generous R&D tax incentives than the United States. The top 6 pharmaceutical companies, and American high tech companies like Microsoft, Intel and GE have all opened advanced R&D facilities in India. We must give American companies the certainty that these incentives will continue to be there, so that they can choose to maintain these high-skilled jobs here at home, to keep America at the cutting edge as a leader in innovation in the global economy.

These investments also depend on a talented pool of well-trained individuals who can make discoveries and scientific breakthroughs. Jobs in science and engineering are expected to increase 70 percent faster than those in other fields over the next 6 years. To ensure Americans are prepared to hold these jobs, we must improve education at all levels—from the very early years in a child's life all the way through doctoral study and beyond—especially in math, science, engineering and technology.

Although international comparisons of student achievement show that the United States is slipping behind other countries, a closer look shows that the picture is more complex. The real problem lies in the serious and pervasive achievement gap in this country between higher income students and lower income students.

On the most recent test comparing student achievement in industrialized nations, white students in the United States performed better than the average for all countries in both math literacy and problem solving, while their Hispanic and African American peers did worse. Low-income students in the U.S. performed worse than their high-income peers, and also performed worse than other low-income students in over half of the developed countries surveyed.

If we close this achievement gap, and guarantee all children in this country a world-class education, we can put America back at the top of the list. To do so, we should fully fund the No Child Left Behind Act.

We must also invest in teachers. The National Competitiveness Investment Act recognizes and responds to the critical need to recruit and train high quality math, science, technology and engineering teachers to teach in the schools with the greatest need so that we can begin to close the achievement gap and ensure that all American students can compete on a level playing field with their peers in other nations.

Research shows that having a high quality teacher is one of the most important factors in a child's success in school. But almost half of math classes taught in high poverty and high minority schools are taught by teachers without a college major or minor in math or a related field, such as math education, physics or engineering. The problem is even more serious in middle schools—70 percent of math classes in these schools are taught by a teacher who doesn't even have a minor in math or a related field.

The bill provides a 10-fold increase in the Robert Noyce Teacher Scholarship program at the National Science Foundation to recruit math, science, engineering and technology students and professionals to become teachers in high need school districts.

It provides grants to institutions of higher education to create undergraduate programs that integrate the study of math, science, engineering, or critical need foreign language with teacher education, modeled on the successful U-Teach program at the University of Texas. It also helps institutions create part-time master's degree programs to improve the content knowledge and teaching skills of current teachers. In both of these programs, universities would partner with high-need school districts to ensure that these resources will go where they are needed most.

The bill expands the Teacher Institutes for the 21st Century program at the National Science Foundation to provide cutting-edge summer professional development programs for teachers who teach in high-need schools. It also creates a summer institute program in the Department of Energy to strengthen the math and science teaching skills of elementary and secondary school teachers.

Recruitment and training are the first steps, but we must also do more to see that teachers have an incentive to stay in classrooms once they are there. We should provide financial incentives—through fellowships or salary increases—to teachers who commit to teach in the highest need schools, where the unique challenges make the schools the hardest to staff. I look forward to working with my colleagues as the bill moves forward to add this critical component to the effort.

In addition to providing a high quality teacher in every classroom, we must also ensure that children in low income school districts have access to the same college preparatory classes that more affluent school districts are able to provide—and, importantly, that they have the preparation they need to succeed in those classes. To do so, the bill expands access to Advanced Placement and International Baccalaureate classes as well as pre-AP and pre-IB courses, especially in high need schools, and creates a program to improve instruction in math for elementary and middle school students and provide targeted help to students struggling with the subject.

The bill also addresses the critical need to ensure our education system is preparing students for the challenges they face after graduation from high school. According to a recent study, the Nation loses over $3.7 billion a year in the cost of remedial education and lost earning potential because students are not adequately prepared to enter college when they leave high school.

Many States have recognized the need to better align elementary and secondary school standards, curricula, and assessments with the demands of college, the 21st century workforce and the Armed Forces. This bill provides grants to assist States in those efforts. The grants would support state PreK–16 councils that bring together stakeholders from all levels of the education community, from the business sector, and from the military to improve the rigor of elementary and secondary education and prepare students for the postsecondary challenges they will face.

These provisions will help spur the development of more rigorous standards and innovative curricula that engages our children in learning to inspire a new generation of scientists and engineers. It will assist states in the work they are doing to create new disciplines in engineering and technology at the elementary school level that allow students to learn the practical applications of math and science. I am proud that the National Center for Technological Literacy at the Museum of Science, Boston is at the forefront of these efforts.

In addition to the education programs at the Department of Education and the National Science Foundation, the legislation relies on the resources of the Department of Energy to assist in the effort to improve math and science education. The National Labs at the Department of Energy can have a critical role in these efforts, and so can the more than 300 colleges and universities across the country conducting research supported by the Department of Energy. I appreciate my colleagues' efforts to ensure that the resources of the Department of Energy are used to enhance educational opportunities for children not only in the states that host National Labs, but across the country.

It is also becoming increasingly important for students to become exposed to and immersed in critical foreign languages and cultures. In recent years, foreign language needs have significantly increased throughout the public and private sector due to the presence of a wider range of security threats, the emergence of new nation states, and the globalization of the U.S. economy. American businesses increasingly need employees experienced in foreign languages and international cultures to manage a culturally diverse workforce. But if students are to become proficient in these critical foreign languages, they must have access to a sustained course of study, beginning in the early grades.

To address these needs, the bill provides grants to enable institutions of higher education and local educational agencies working in partnership to create programs of study in critical foreign languages for students from elementary school through postsecondary education.

All of these programs and investments will help prepare our students to compete in the 21st century, but if we are serious about keeping America competitive, there is more we can and must—do.

A college degree is fast becoming the price of admission to participation in the global economy. Eighty percent of the fastest growing jobs in this country will require some postsecondary education. A recent study by the Organisation for Economic Co-operation and Development shows that in the United States, earnings of people with a post-secondary degree are 72 percent higher on average than for those with only a high school diploma.

But with soaring costs and stagnant financial aid, college is increasingly out of reach for students and families. Research shows that 400,000 students a year do not go to a four year college because they cannot afford it.

When our troops returned home from World War II, we created the GI Bill and sent them to college to learn the skills they would need in the changing world. The economy reaped an estimated $7 in benefit for every dollar invested in that effort.

In recent decades however, Federal grant aid has dwindled and the grants provided don't go as far as they used to. Thirty years ago, 77 percent of the federal assistance provided to students was in the form of grants, but in recent years it's 20 percent. The Pell Grant now covers less than 35 percent of the cost of attending college.

To ensure the prosperity of our families and the nation, we must open the doors of college to all by restoring the Pell Grant as the foundation of the student aid system.

Earlier this year, Congress squandered an opportunity to significantly increase aid for low income students. The Senate passed a bill that would have immediately increased the Pell grant from $4,050 to $4,500. But this increase was rejected, and the funds instead were used to pay for tax giveaways for the wealthiest Americans.

I know many of my colleagues agree that higher education is the key to keeping America competitive, and I look forward to working with them to ensure that the cost of college is not a barrier to full participation in the new economy.

We must also do more to address the devastating impacts of the global economy on American workers and their families.

American workers are facing global competition that is fundamentally unfair, but this bill does nothing to level the playing field or to help ease the burden of their transition to the global economy. To truly improve our national competitiveness, we must address all aspects of this challenge. We cannot continue to ignore the plight of working Americans.

First, we need to level the playing field in the competition for good jobs. Americans have nothing to fear from competition that's fair. But it's not fair when Americans are competing with foreign workers who lack even basic labor standards, like child labor laws, a minimum wage, or the right to organize. And it's not fair when companies cut costs by exploiting and abusing foreign workers.

We need to exercise global leadership in promoting fair wages and safe working conditions for workers around the world, reward companies that treat their foreign workforces fairly, and be a strong voice in sanctioning those countries that will not play by the rules

Beyond these basic steps to level the playing field, we owe a particular duty to those American workers who are losing their jobs because of trade. We all benefit from the lower prices and variety of products that globalization provides, but many of our most vulnerable workers are paying the price. In the manufacturing sector alone, we've lost nearly 3 million manufacturing jobs since 2001, and service sector jobs are now moving overseas as well. These are good, middle-class jobs, with decent wages and benefits that form the core of the American middle class.

Our response to globalization must address the disappearance of good jobs. We must create the good jobs of the future. We must eliminate tax incentives for companies to ship jobs overseas. We must give workers who are at risk of losing their jobs to overseas competition fair warning so that they can plan for their futures. We must strengthen our commitment to help workers who lose their jobs adjust to the new economy, with well-funded training and income assistance programs that ease the transition to new employment.

Fulfilling our commitment to American workers also demands that we give them their fair share of the economic growth that globalization brings. We must raise the minimum wage to $7.25 an hour, and give workers a stronger voice in the new economy by protecting their right to organize and form a union.

If we truly want to be competitive in the global economy, we need to address these challenges facing the American workforce head on, and give workers greater job security in the present, and better opportunities in the future. I hope that the same bipartisan coalition that has worked together so effectively on this bill can also work together to address these important issues for America's working families.

The legislation we are introducing today is not a complete package. It represents only the beginning of a strong commitment that we will need to build on and sustain if America is to remain competitive in the years ahead. I am proud that the bill has strong bipartisan support, and that support is critical to ensuring these proposals become a reality.

In 2001, there was strong bipartisan support to significantly increase funding to improve our schools through the No Child Left Behind Act. But President Bush's budget this year would mean a cumulative shortfall of $56 billion in funding since that bill was enacted, and this year he proposed cutting education funding by $2 billion.

In 2002, we promised to double NSF funding, but last year's appropriation was only two-thirds the level we agreed to four years ago—nearly $3 billion short of staying on track to that goal.

Words alone will not keep America competitive. This legislation must be more than a promise. I look forward to working with my colleagues as the bill moves forward to ensure that Congress provides the new investments needed to fully support these important proposals.

Americans know how to rise to challenges and come out ahead. We've done it before and we can do it again. When we were called into action in 1957 with the Soviet Sputnik launch, we rose to the challenge by passing the National Defense Education Act and inspiring the nation to ensure that the first footprint on the moon was by an American. We doubled the federal investment in education.

We need the same bold commitment to help the current generation meet and master the global challenges of today and tomorrow. The National Competitiveness Investment Act will start to put America back on track. I look forward to working with my colleagues to improve upon the bill as it moves forward and to expand on these efforts in the months to come.

Mrs. HUTCHISON. Mr. President, several of my colleagues and I have joined with the Senate leadership today in introducing important legislation to address the challenges of innovation and competitiveness that our Nation faces. Among the provisions of this legislation is the recognition and expansion of the significant role that NASA plays in our Nation's search for knowledge and excellence.

NASA already has an outstanding track record of achievement in this area. That record exists because individuals and organizations within NASA have taken the initiative over the years to reach for excellence in their work, just as the agency has sought to reach the stars. I am especially proud that the Johnson Space Center in Houston has played a leading role in these efforts. We all know that it takes dedicated and inspired people to make things happen in any great undertaking.

I would like to recognize the dedicated efforts of one of those people, Gregory W. Hayes, who is retiring at the end of the month from NASA after nearly 34 years at the agency and nearly 25 years of supervisory and managerial experience at the Johnson Space Center in Houston.

Mr. Hayes has made significant and lasting contributions to the Nation's civilian space agency. A few examples will illustrate how the American taxpayer has benefited from Mr. Hayes' distinguished public service career:

His commitment to innovative management of the center's human resources over the decades, including the selection and recruitment of our astronauts as well as the pursuit of innovative workforce practices, has contributed to ensuring that JSC attracts the best and brightest from the Nation's technical talent pool.

His lifelong dedication to encouraging young people's interest in space exploration has taken many forms including partnering with a local Houston school district to develop a new program in which more than 100 JSC employees volunteer to serve as technical advisors to local schools for math, science, and technology.

His instrumental role in establishing the Aerospace Academy—a partnership among community educational systems that helps to increase the number of technical employees and the number of math and science teachers in the area.

His collaboration with the State of Texas to secure funding for the Texas Aerospace Scholars, a program designed to provide hands-on experience at JSC to high school and college students that will ensure the development of a technical workforce ready for the challenges of the 21st century.

Mr. Hayes also set a compelling example for his colleagues by reaching out to the local community. He served on the Bay Area Houston Economic Partnership board for several years, as well as serving as an advisor on its various task forces; his work promoted the health of the community and the Nation's space program.

In recognition of Mr. Hayes' formidable leadership skills, it is not surprising that the Office of the NASA Administrator recruited him to take a leadership role in establishing and executing the agency's path-finding effort known as the Freedom to Manage, F2M, Task Force for Human Resources. That activity was designed to fulfill the President's Management Agenda charter to identify and remove impediments to efficient and effective ways of doing business. In the course of its work, the task force identified more than 100 potential areas for improvement in human resources—dozens of which were immediately implemented through changes to internal policies and practices.

In addition to his extraordinary contributions to the human resources and education fields, Mr. Hayes, in his capacity as JSC Director of External Relations, demonstrated great initiative and vision in his efforts to proactively reach out to the emerging commercial space sector and seek innovative collaborative arrangements. Recent examples include his efforts to pursue cooperative agreements with companies such as Bigelow Aerospace, which this past summer launched a pioneering low earth orbiting expandable habitat and has opened a satellite office near JSC; as well as an engineering collaboration with SpaceX—one of the winners of the recently concluded COTS awards. These are but two examples of several other significant partnerships with the entrepreneurial space sector that Mr. Hayes has pursued.

These activities not only support the expanding efforts to enhance innovation and competitiveness but are also consistent with the NASA Authorization Act which I introduced last year and which was signed into law last December. This act strongly encourages the pursuit of partnerships with the commercial space sector. Mr. Hayes has left a legacy for his successors as they continue policies of encouraging effective partnerships with the emerging commercial space industry.

Given his impressive record as public servant, it is not surprising that Mr. Hayes has been the recipient of the Presidential Meritorious Executive Rank Award as well as NASA's Outstanding Leadership Medal.

On the occasion of Mr. Hayes' departure from his beloved NASA, he can leave knowing that he has left a remarkable record of accomplishment. He serves as an inspiration to NASA's next generation of space leaders who will ensure that the agency utilizes the space shuttle and International Space Station to the fullest extent possible, while developing the next generation human space transportation system and laying the groundwork for the agency's new human space exploration goals of returning to the Moon and then moving on to Mars.

I know I speak for many of my colleagues in paying tribute to the kind of dedication and excellence Mr. Hayes has brought to his government service and in wishing him continued success as he enters a well-deserved new chapter in his remarkable life.

Mr. President, I am delighted to join our distinguished majority and minority leaders in introducing and cosponsoring the National Competitiveness Investment Act. This is an essential and important first step in addressing critical challenges facing our Nation in an increasingly competitive global economy. America must be a leader in scientific research and education. It is in the best interest of both our national and economic security.

This bill renews and expands our national focus on strengthening key areas of research, education, and innovation. It is the product of a truly bipartisan effort, undertaken with the blessing and encouragement of the Senate leadership and by the leadership of the three principal committees with jurisdiction over these matters: the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Health, Education, Labor, and Pensions. I am proud to be part of this bipartisan initiative to provide new resources to support these competitiveness programs.

This legislation increases research investment by doubling the authorized funding levels for the National Science Foundation, NSF, from approximately $5.6 billion in fiscal year 2006 to $11.2 billion in fiscal year 2011. It doubles funding for the Department of Energy's Office of Science over 5 years, from $3.6 billion in Fiscal Year 2006 to over $5.2 billion in Fiscal Year 2011.

Another vital focus of the bill is to strengthen educational opportunities in science, technology, engineering, mathematics and critical foreign languages. It authorizes competitive grants to States to promote better coordination of elementary and secondary education with the knowledge and skills needed for success in postsecondary education, the workforce, and the U.S. Armed Forces. Another key emphasis is strengthening the skills of thousands of math and science teachers through support for the Teachers Institutes for the 21st Century Program at NSF.

As chair of the Science and Space Subcommittee of the Commerce Committee, I am especially pleased that this legislation ensures that both NASA and NSF are able to expand their strong traditional roles in fostering technological and scientific excellence. The language we have crafted increases essential NASA funding to support basic research and foster new innovation by calling for full use of existing budget authority that we provided within the 2005 NASA Authorization Act. Under the terms of this legislation, the President could request an additional $1.4 billion dollars in Fiscal Year 2008 for application toward these activities. By directing NASA's full participation in interagency efforts for competitiveness and innovation—under the more widely known term of the American Competitiveness Initiative—this legislation points the way for the administration to now make use of that additional authority in supporting projects that can help meet these important competitiveness and innovation goals.

Mr. President, this bill represents an important first step in our efforts to meet the increasing challenges to our Nation's competitive posture. I encourage all of my colleagues to join in cosponsoring this bill and working with us at the appropriate time to ensure its passage by this body and its enactment into law.

By Mr. CRAPO:

S. 3938. An original bill to reauthorize the Export-Import Bank of the United States; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

Mr. CRAPO. Mr. President, I want to thank my fellow Banking Committee members for working with me to reauthorize and reform the Export-Import Bank that reflects broad bipartisan agreement among our Committee. I am especially appreciative to Chairman SHELBY, Ranking Member SARBANES, Senator BAYH, and their staffs for all their diligence and hard work.

The Export-Import Bank is the official export credit agency of the United States and the current authorization ends on September 30. Financing is a key element in global trade competition and extending the Bank's programs for five years is a vital and integral component in supporting the export of American-made goods and American provided services for both small and large companies.

At the same time we need to ensure that the Bank's support for transactions not only helps U.S. exports but does not negatively impact domestic companies. The current system still has problems, which has been demonstrated on loan guarantees involving semiconductors, steel, ethanol, and soda ash. This legislation seeks to improve the process by making it more predictable, transparent, and by involving interested stakeholders in the process. First, it would require the Bank to maintain a list of sensitive areas where export financing is unlikely to be provided. Second, it requires detailed information to the public regarding the proposed financing at an early stage and in an adequate way so that input can be brought to bear by those who have the expertise on the specific proposal and industries involved. Third, it establishes protections against circumvention of U.S. trade remedy orders.

There is also a lot of concern that the Bank has not met its 20 percent small business mandate and this legislation builds upon structural changes to make sure the small business community has an advocate to advance its needs and address its concerns. First, it establishes a Small Business Division, headed by a Senior Vice President who reports directly to the Bank President. Second, it establishes a Small Business Committee, chaired by the Senior Vice President of the Small Business Division. Third, it requires Ex-Im to authorize banks to process medium-term transactions on behalf of Ex-Im to facilitate the approval of such transactions.

Additionally this section would also require that Ex-Im's Senior Vice President be notified of any staff recommendations for denial or withdrawal of an application for support involving a small business at least two days prior to a final decision. I would like to thank Senator HAGEL for his work to make sure that Ex-Im does not deny small business transactions without giving the Senior Vice President for small business an opportunity to advocate on behalf of the small businesses.

Due to Senator HAGEL's efforts, Ex-Im has pledged that it will further strengthen this notification provision by administratively granting the Senior Vice President of the Small Business Division the authority to request an additional two days to review notices of staff recommendations for denial or withdrawal.

Finally, the legislation clarifies that case-by-case decisions on whether to award tied aid credits shall be made by the Board of Directors of Ex-Im, subject to a veto by the President of the United States. It is very troubling that no tied aid has been approved since the last reauthorization.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export-Import Bank Reauthorization Act of 2006".

SEC. 2. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "2006" and inserting "2011".

SEC. 3. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.

Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by striking "2006" and inserting "2011".

SEC. 4. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103-428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking "2001" and inserting "2011".

SEC. 5. DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended by adding at the end the following new paragraph:

"(5) DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.—Not later than 120 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.".

SEC. 6. INCREASING EXPORTS BY SMALL BUSINESS.

(a) IN GENERAL.—Section 3 of the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is amended by adding at the end the following:

"(f) SMALL BUSINESS DIVISION.—

"(1) ESTABLISHMENT.—There is established a Small Business Division (in this subsection referred to as the ‘Division’) within the Bank in order to—

“(A) carry out the provisions of subparagraphs (E) and (I) of section 2(b)(1) relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns;

“(B) advise and seek feedback from small business concerns on the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, enhancing the tailoring of products to small business needs and increasing loans to small business concerns;

“(C) maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; and

“(D) provide oversight of the development, implementation, and operation of technology improvements to strengthen small business outreach, including the technology improvement required by section 2(b)(1)(E)(x).

“(2) MANAGEMENT.—The President of the Bank shall appoint an officer, who shall rank not lower than senior vice president and whose sole executive function shall be to manage the Division. The officer shall—

“(A) have substantial recent experience in financing exports by small business concerns; and

“(B) advise the Board, particularly the director appointed under section 3(c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business.

“(3) STAFF.—

“(A) DEDICATED PERSONNEL.—The President of the Bank shall ensure that each operating division within the Bank has staff that specializes in processing transactions that primarily benefit small business concerns.

“(B) RESPONSIBILITIES.—The small business specialists shall be involved in all aspects of processing applications for loans, guarantees, and insurance to support exports by small business concerns, including the approval or disapproval, or staff recommendations of approval or disapproval, as applicable, of such applications. In carrying out these responsibilities, the small business specialists shall consider the unique business requirements of small businesses and shall develop exporter performance criteria tailored to small business exporters.

“(C) APPROVAL AUTHORITY.—In an effort to maximize the speed and efficiency with which the Bank processes transactions primarily benefitting small business concerns, the small business specialists shall be authorized to approve applications for working capital loans and guarantees, and insurance in accordance with policies and procedures established by the Board.

“(D) IDENTIFICATION.—The Bank shall prominently identify the small business specialists on its website and in promotional material.

“(E) EMPLOYEE EVALUATIONS.—The evaluation of staff designated by the President of the Bank under subparagraph (A), including annual reviews of performance of duties related to transactions in support of exports by small business concerns, and any resulting recommendations for salary adjustments, promotions, and other personnel actions, shall address the criteria established pursuant to subsection (g)(2)(B)(iii) and shall be conducted by the manager of the relevant operating division following consultation with the senior vice president of the Division.

“(F) STAFF RECOMMENDATIONS.—Staff recommendations of denial or withdrawal for medium-term applications, exporter held multi-buyer policies, single buyer policies, and working capital applications processed by the Bank shall be transmitted to the Senior Vice President of the Division not later than 2 business days before a final decision.

“(4) RULE OF INTERPRETATION.—Nothing in this Act shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and (I) of section 2(b)(1).

“(g) SMALL BUSINESS COMMITTEE.—

“(1) ESTABLISHMENT.—There is established a management committee to be known as the ‘Small Business Committee’.

“(2) PURPOSE AND DUTIES.—

“(A) PURPOSE.—The purpose of the Small Business Committee shall be to coordinate the Bank's initiatives and policies with respect to small business concerns, including the timely processing and underwriting of transactions involving direct exports by small business concerns, and the development and coordination of efforts to implement new or enhanced Bank products and services pertaining to small business concerns.

“(B) DUTIES.—The duties of the Small Business Committee shall be determined by the President of the Bank and shall include the following:

“(i) Assisting in the development of the Bank's small business strategic plans, including the Bank's plans for carrying out section 2(b)(1)(E) (v) and (x), and measuring and reporting in writing to the President of the Bank, at least once a year, on the Bank's progress in achieving the goals set forth in the plans.

“(ii) Evaluating and reporting in writing to the President of the Bank, at least once a year, with respect to—

“(I) the performance of each operating division of the Bank in serving small business concerns;

“(II) the impact of processing and underwriting standards on transactions involving direct exports by small business concerns; and

“(III) the adequacy of the staffing and resources of the Small Business Division.

“(iii) Establishing criteria for evaluating the performance of staff designated by the President of the Bank under section 3(f)(3)(A).

“(iv) Coordinating with other United States Government departments and agencies the provision of services to small business concerns.

“(3) COMPOSITION.—

“(A) CHAIRPERSON.—The Chairperson of the Small Business Committee shall be the senior vice president of the Small Business Division. The Chairperson shall have the authority to call meetings of the Small Business Committee, set the agenda for Committee meetings, and request policy recommendations from the Committee's members.

“(B) OTHER MEMBERS.—Except as otherwise provided in this subsection, the President of the Bank shall determine the composition of the Small Business Committee, and shall appoint or remove the members of the Small Business Committee. In making such appointments, the President of the Bank shall ensure that the Small Business Committee is comprised of—

“(i) the senior managing officers responsible for underwriting and processing transactions; and

“(ii) other officers and employees of the Bank with responsibility for outreach to small business concerns and underwriting and processing transactions that involve small business concerns.

“(4) REPORTING.—The Chairperson shall provide to the President of the Bank minutes of each meeting of the Small Business Committee, including any recommendations by the Committee or its individual members.”.

(b) ENHANCE DELEGATED LOAN AUTHORITY FOR MEDIUM TERM TRANSACTIONS.—

(1) IN GENERAL.—The Export-Import Bank of the United States shall seek to expand the exercise of authority under section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 (6 U.S.C. 635(b)(1)(E)(vii)) with respect to medium term transactions for small business concerns.

(2) CONFORMING AMENDMENT.—Section 2(b)(1)(E)(vii)(III) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(vii)(III)) is amended by inserting “or other financing institutions or entities” after “consortia”.

(3) DEADLINE.—Not later than 180 days after the date of the enactment of this Act, the Export-Import Bank of the United States shall make available lines of credit and guarantees to carry out section 2(b)(1)(E)(vii) of the Export-Import Bank Act of 1945 pursuant to policies and procedures established by the Board of Directors of the Export-Import Bank of the United States.

SEC. 7. ANTI-CIRCUMVENTION.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended—

(1) by inserting after paragraph (1), the following flush paragraph:

“In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce commodities in addition to or other than the commodity specified in the application and whether the production of the additional commodities may cause substantial injury to United States producers of the same, or a similar or competing, commodity.”;

(2) in paragraph (2), by adding at the end the following:

“(E) ANTI-CIRCUMVENTION.—The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of a trade law order or determination referred to in subparagraph (A).”; and

(3) by adding at the end the following:

“(5) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.”.

SEC. 8. TRANSPARENCY.

(a) IN GENERAL.—Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)), as amended by section 7 of this Act, is amended by adding at the end the following:

“(6) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

“(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—

"(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the views of the public and interested parties.

"(B) NOTICE AND COMMENT REQUIREMENTS.—

"(i) IN GENERAL.—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A) and (B) of paragraph (1). In addition, the Bank shall seek comments on the effects from the Department of Commerce, the International Trade Commission, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

"(ii) CONTENT OF NOTICE.—The notice shall include appropriate, nonproprietary information about—

"(I) the country to which the goods involved in the transaction will be shipped;

"(II) the type of goods being exported;

"(III) the amount of the loan or guarantee involved;

"(IV) the goods that would be produced as a result of the provision of the loan or guarantee;

"(V) the amount of increased production that will result from the transaction;

"(VI) the potential sales market for the resulting goods; and

"(VII) the value of the transaction.

"(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

"(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

"(II) MATERIAL CHANGE DEFINED.—In subclause (I), the term 'material change', with respect to an application, includes—

"(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

"(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

"(C) REQUIREMENT TO ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee to which this section applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

"(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

"(E) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

"(F) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.".

(b) CONFORMING AMENDMENT.—Section 2(e)(2)(C) of such Act (12 U.S.C. 635(e)(2)(C)) is amended by inserting "of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)" after "comment period".

SEC. 9. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Subparagraph (E) of section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended to read as follows:

"(E) during fiscal year 2006, and each fiscal year thereafter through fiscal 2011.".

SEC. 10. TIED AID CREDIT PROGRAM.

Section 10(b)(5)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(b)(5)(B)(ii)) is amended to read as follows:

"(ii) PROCESS.—In handling individual applications involving the use or potential use of the Tied Aid Credit Fund the following process shall exclusively apply pursuant to subparagraph (A):

"(I) The Bank shall process an application for tied aid in accordance with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

"(II) Twenty days prior to the scheduled meeting of the Board of Directors at which an application will be considered (unless the Bank determines that an earlier discussion is appropriate based on the facts of a particular financing), the Bank shall brief the Secretary on the application and deliver to the Secretary such documents, information, or data as may reasonably be necessary to permit the Secretary to review the application to determine if the application complies with the principles and standards developed pursuant to subparagraph (A) and clause (i) of subparagraph (B).

"(III) The Secretary may request a single postponement of the Board of Directors' consideration of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

"(IV) Case-by case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.

"(V) The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of the application (or related commitment letter) that was the subject of such appeal shall become final.".

SEC. 11. PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.

Section 2(b) of the Export-Import Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following new paragraph:

"(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.".

By Mr. SANTORUM:

S. 3941. A bill to amend the Internal Revenue Code of 1986 to fully allow students to live in units eligible for the low-income housing credit, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise today to introduce legislation that will allow families across the country to climb the economic ladder of success without fear of losing their affordable housing.

The Low Income Housing Tax Credit (LIHTC) program is currently the largest Federal program for producing new affordable rental housing. It is also a "go-to" program for preserving and revitalizing aging HUD and rural properties. As this program becomes an increasingly important option for serving the housing needs of low-income families, there is an unintended nuance in the occupancy requirements that must be addressed.

When Congress created the LIHTC, it properly intended that this housing should be available to low-income families in need of an affordable apartment. Congress included strict occupancy restrictions to ensure that these properties did not become cheap off-campus housing for college students. Therefore, households made up entirely of full-time students were prohibited from living in LIHTC apartments. Only four narrow exceptions exist for families: those who are receiving Temporary Assistance for Needy Families (TANF); those enrolled in a Federal, State or local job training program; single parents and their children, provided that such parents and children are not dependents of another individual; or married full-time students who file a joint return.

While well-intentioned, the occupancy restrictions for full-time student households are penalizing low-income families trying to get ahead. One of the most common unintended consequences of the current policy is that it disqualifies from LIHTC eligibility single parents who have returned to school full-time and have school-aged children. Under the current law, children in grades K-12 count toward the determination of whether family is a full-time student household. Therefore, a single mother who has returned to school full-time and whose children, in grades K–12, were claimed as dependents on the ex-husband's tax return becomes ineligible for LIHTC housing. This family cannot be allowed to move into the unit or, if they live there already, they have to move out. This policy is just plain wrong, and it needs to be corrected. It is also contrary to the No Child Left Behind Act's commitment to ensure our children receive a quality education. Low-income families should not have to choose between obeying the law by educating children or losing their housing. And it is not just students enrolled in four-year programs who have been disqualified from LIHTC eligibility. Working adults trying to complete the requirements for a high school education have also been adversely affected. Even an elderly adult pursuing a GED can be denied occupancy in a LIHTC apartment or lose their eligibility to remain in the unit.

Whenever practical, affordable housing should be used as a stepping stone to self-sufficiency. This bill updates the LIHTC program so that low-income families can achieve the education necessary to land higher-paying jobs and eventually own a home or rent a market-rate apartment. It makes three specific statutory changes which specify that minor children in grades K–12 should not count toward the determination of who is a full-time student household; it strikes the requirement that single parents and their children must not have been claimed as dependents of another individual to qualify for the single parent with children exemption; and it adds a new exemption for working adults who are full-time students pursuing a high school diploma or GED.

These updates are consistent with the original legislative intent of the student restrictions. At the same time, they recognize current economic and workplace realities and the role of education in encouraging self-sufficiency. I ask for my colleagues' support to move this legislation forward.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 3942. A bill to establish the Paterson Great Falls National Park in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LAUTENBERG. Mr. President, I rise today with great pride to introduce legislation which would create a national park in my hometown, Paterson, NJ. The Paterson Great Falls National Park Act of 2006 would bring long-deserved recognition and accessibility to one of our Nation's most beautiful and historic landmarks. I am pleased that my colleague from New Jersey, Senator MENENDEZ, is cosponsoring this legislation.

The Great Falls are located where the Passaic River drops nearly 80 feet straight down, on its course towards New York Harbor. It is one of the tallest and most spectacular waterfalls on the east coast, but the incredible natural beauty of the falls should not overshadow its tremendous importance as the powerhouse of industry in New Jersey and the infant United States. Indeed, in 1778, Alexander Hamilton visited the Great Falls and immediately realized the potential of the falls for industrial applications and development. Hamilton was instrumental in creating the planned community in Paterson—the first of its kind nationwide—centered on the Great Falls, and industry thrived on the power generated by the falls. Rogers Locomotive Works, the premier steam locomotive manufacturer of the 19th century, was located in the shadow of the falls, as were many other vitally important manufacturing enterprises.

President Ford recognized the importance of the area by declaring the falls and its surroundings a "National Historic Landmark" in 1976; he called the falls "a symbol of the industrial might which helps to make the United States the most powerful nation in the world." Now, it is time that we recognize the importance of this historic area by making it New Jersey's first national park. This would be of special importance because so few of our national parks are in urban areas. I believe that it is time we acknowledge that many of our most significant national treasures are located in densely populated areas.

Mr. President, I grew up in Paterson, and I have appreciated the majesty and beauty of the Great Falls for many years. By creating a national park in Paterson, more Americans can be exposed to the exceptional cultural, natural, and historic significance of the Great Falls, and that is why I will passionately advocate for the passage of this bill. I have been delighted to work with my good friend, Congressman BILL PASCRELL—another longtime resident of Paterson—on this issue and with a bipartisan group of lawmakers from my home State, all of whom believe strongly in this cause. I urge my colleagues to support the passage of this legislation, which is so important to New Jersey and all of America.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. CLINTON, Mr. SCHUMER, Mr. OBAMA, Mr. DURBIN, and Mr. NELSON of Florida):

S. 3944. A bill to provide for a one year extension of programs under title XXVI of the Public Health Service Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, I rise to talk about my bill to provide a temporary reauthorization of the Ryan White Care Act.

I want to thank my colleagues, Senators MENENDEZ, CLINTON, SCHUMER, OBAMA, DURBIN, and BILL NELSON, for cosponsoring this important and lifesaving measure.

I was an original cosponsor of the Ryan White CARE Act and I have been an active supporter of this legislation for many years now. Never have I been as concerned about the future as I am right now.

The Ryan White CARE Act Reauthorization legislation that has been proposed in both the House and the Senate actually attempts to shift already inadequate Ryan White money away from States like New Jersey, where the epidemic first appeared and the need is still growing, to States where the epidemic is emerging.

The Committee bill pits cities against cities, States against States, women against men, and urban areas against rural. This is not the way to go. We need to fully fund the Ryan White CARE Act to realize the promise of its original intentions.

Today I am introducing an alternative bill to reauthorize Ryan White. My bill has something for everyone in it. This legislation to reauthorize the Ryan White Care Act includes provisions that would help remedy funding disparities and permit a temporary extension to allow negotiations to continue.

My bill would simply extend current law through Fiscal Year 2007. Additionally it would provide for a 3.7 percent increase in authorizations over the 2006 amounts to account for inflation. Importantly, my bill also protects States that have not yet transitioned to "names based" reporting for HIV cases by giving them an extra year to make that change. Without this protection these States would lose significant money.

Finally, I recognize the need of those States who have a growing incidence of HIV, which is why I include a one-time emergency authorization of $30 million to be distributed to those States who have unmet need and no Title I entities.

The original Ryan White CARE Act provides critical funding to help provide health care and support services for low-income individuals and families affected by HIV or AIDS. Since its enactment in 1990, Ryan White funds have helped millions of HIV/AIDS patients receive the care and treatment services they need to live healthy and productive lives.

The Senate and House bills to reauthorize the Ryan White Care Act are named the "Ryan White HIV/AIDS Treatment Modernization Act." Ironically, it does not modernize the care of folks living with HIV/AIDS in our communities. Rather, it will bring us back to the early 1990s when the disease was spreading even more rampantly than it is now, and people were dying quickly.

I know firsthand that many of the stakeholder groups, those people who are on the ground providing and receiving services funded by the Ryan White CARE Act, are terrified of what will happen to our system of care should this reauthorization move forward.

In my home State of New Jersey, we have the highest proportion of cumulative AIDS cases in women, and we rank third in cumulative pediatric AIDS cases. Furthermore, we have consistently ranked fifth in overall cumulative AIDS cases since the beginning of this epidemic. And yet, under the reauthorization proposal we stand to lose millions of dollars.

That is unacceptable. It is not acceptable for us simply to say that this is a formula fight and there will undoubtedly be winners and losers. With the Ryan White CARE Act, when we talk about losers, we are talking about lives being lost. I, for one, am not willing to settle for such an outcome.

It's not just my State that stands to lose money, either. New York, Florida, and Illinois all stand to lose millions of dollars under this proposal. All those states that have substantial need.

My bill is clearly not meant to be a permanent substitute for reauthorizing Ryan White. It is meant to give us all more time to continue our negotiations and try to work out a compromise that may keep all of our systems of care in tact.

I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 3944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ONE-YEAR EXTENSION OF PROGRAMS.

(a) Authorizations of Appropriations for Fiscal Year 2007.—Notwithstanding any provision of title XXVI of the Public Health Service Act:

(1) For the purpose of carrying out part A of such title, there is authorized to be appropriated $634,209,704 for fiscal year 2007.

(2) For the purpose of carrying out part B of such title, there is authorized to be appropriated $1,247,000,000 for fiscal year 2007.

(3) For the purpose of grants to States that demonstrate unmet needs with respect to HIV/AIDS and that do not have any areas that receive grants under part A of such title for fiscal year 2007, there is authorized to be appropriated $30,000,000 for fiscal year 2007.

(4) For the purpose of carrying out part C of such title, there is authorized to be appropriated $218,600,000 for fiscal year 2007.

(5) For the purpose of carrying out part D of such title, there is authorized to be appropriated $75,385,648 for fiscal year 2007.

(6) For purposes of AIDS Education and Training Centers under section 2692 of part F of such title, there is authorized to be appropriated $35,983,900 for fiscal year 2007.

(7) For purposes of dental programs under section 2692 of part F of such title, there is authorized to be appropriated $13,570,182 for fiscal year 2007.

Amounts appropriated under this subsection are available to the Secretary until the end of fiscal year 2009.

(b) Names-Based Reporting of Cases; Other Changes Regarding Methodology for Counting Cases.—Notwithstanding any provision of title XXVI of the Public Health Service Act, the Secretary may not, in determining the amounts of formula grants under such title for fiscal year 2007, use a methodology for counting the number of cases of acquired immune deficiency syndrome, or the number of cases of HIV, that is different than the methodology used by the Secretary for such purposes for fiscal year 2006.

(c) Definitions.—For purposes of this section, the terms "HIV" and "Secretary" have the meanings that apply to such terms under title XXVI of the Public Health Service Act.

Mr. MENENDEZ. Mr. President, I rise today to join Senator Lautenberg, and Senators from New York, Illinois and Florida, in support of a one year reauthorization of the Ryan White CARE Act, and to raise my serious reservations about the current committee proposal. I recognize and respect the dedication and hard work of Senators Enzi and Kennedy, Congressmen Barton and Dingell and their staff to reauthorization this vital program. But unfortunately, their proposal, as it currently stands, threatens lives by destroying networks of care in New Jersey and in other States across the country.

In reviewing the committee's proposal, I cannot help but wonder why we are not doing more and providing additional resources to address a growing need in our communities. More people are getting infected and more communities are having to provide care for individuals with HIV/AIDS, which means we need more resources, not less. We need to address the growing need for care. Unfortunately, this legislation doesn't address the spread of the disease; it simply spreads already limited funding even thinner.

In New Jersey, we are still struggling with the HIV/AIDS battle and unfortunately, at this point, we are not winning the war. It is a sad reality, but New Jersey continues to rank fifth in the country for overall AIDS cases. We have the highest proportion of AIDS cases in women, and rank third in pediatric AIDS cases. We have not yet won the battle—we are still fighting. And we need weapons, in terms of funding, to win.

New Jersey has stepped-up to the plate to develop a comprehensive array of medical services, which are funded in part by the CARE Act. People infected with HIV/AIDS living in New Jersey have access to one of the most effective ADAP programs in the nation, as well as primary medical care, mental health service, substance abuse services, oral health, case management, and nutritional services. I'm proud of our State's networks of care, and recognize how important they are to the well-being of countless New Jerseyans. But in order to help this program to grow and be effective, we must maintain our Federal support.

During the debate surrounding the reauthorization some are saying we should cut funding for certain States and their HIV/AIDS services. I disagree and so do New Jerseyans. I am proud of the strong voice of New Jersey's advocates. Beneficiaries from across the State, members of our HIV Health Services Planning Councils from our eligible metropolitan areas or EMAs, representatives from all counties that are part of the Philadelphia EMA, and individuals from the consortiums of the remaining counties have been fully engaged in this reauthorization process.

Our elected officials, the Governor's office, and our entire New Jersey delegation have all been supportive of making sure New Jersey has the resources to continue fighting this battle. Our State—but apparently not this Congress—is united in providing care, saving lives and ending this epidemic once and for all.

Unfortunately, the committee's proposed reauthorization threatens to destroy and dismantle critical networks of care that are keeping people alive and healthy in New Jersey. With our current network of care, our healthcare providers have been instrumental in helping prevent people with HIV from developing full-blown AIDS. Without these services, the impact will be devastating for patients, their ability to work and provide for their families and most importantly, their lives.

My concerns continue to grow. Most recently, the U.S. Centers for Disease Control and Prevention recommended routine HIV testing for all Americans ages 13 to 64, saying that an HIV test should be as common as a cholesterol check. The CDC estimates 250,000 Americans are infected and don't even know it. At a time when we are identifying more and more individuals with HIV, our country is destroying the very networks of care that will help educate and care for these individuals. We need testing, but we also need so much more.

That is why I propose that we try again—and this time, get it right. That we try to find a way to build on our networks of care, and provide the services that our entire Nation needs to win the war on HIV/AIDS.

Today, I join Senator Lautenberg in offering a proposal that would provide a 1-year reauthorization of the Ryan White CARE Act under current law. It would provide a 3.7 percent increase in authorization levels through 2007, while preventing funding from reverting back to the Treasury. This bill would provide a 1-year extension of the names-based reporting requirement set to go into effect beginning October 1, 2006. In addition, it would provide $30 million under Title II for States who have an "unmet need" and "no title I entities." This proposal would help all States across the country without doing any harm. Instead of 5 years of a detrimental reauthorization, I support another year to get it right.

I believe America can do better, and today I am standing up for the HIV/AIDS community across the country. Today is a day to make our country's budget reflect our values by expanding funding for this important program. I call on my colleagues to save the Ryan White CARE Act. Wait to implement formula changes that could destroy existing networks of care, and instead, work out a solution that addresses the needs of the entire country. Please join me in supporting this legislation.

Mrs. CLINTON. Mr. President, I rise today to express my strong support for the Ryan White CARE Act. The programs funded through this law have, for more than 15 years, enabled hundreds of thousands of people living with HIV and AIDS to access essential care and treatment services.

Yet the reauthorization proposals currently under consideration by both the House and the Senate would unfairly shift funding from the hardest-hit areas of the epidemic, devastating the ability of providers and organizations to offer life-extending services. The more than 100,000 people living with HIV and AIDS in New York would be adversely affected by the millions of dollars in cuts they would face if these reauthorizations were to go through.

I understand that the White House and the Republican leadership are pressuring many of my colleagues, particularly those from code-based States, that if they don't reauthorize the bill this year, they will face cuts in funding next year. But approving a fundamentally flawed bill under pressure is not the right thing to do. We should be working to strengthen the CARE Act for everyone, not decimate it.

Today, I, along with my colleagues from New Jersey, Illinois, and Florida, will be introducing legislation that provides for a 1-year extension of programs funded by the Ryan White CARE Act, to give us more time to address the concerns of many that were raised during this reauthorization process. It will increase authorization levels across titles by 3.7 percent, and will set up a grant program to address unmet need in States that do not receive title I funding, in order to address the need in rural areas where HIV incidence has increased. It will also delay the switch from code-based to names-based reporting for 1 year, in order to give us time to address many of the issues that these States are facing in making this switch.

I believe in the reauthorization of the CARE Act, but I believe in reauthorizing the CARE Act the right way—in a way that will help, not hurt, all of the people living with HIV and AIDS in this country. Our bill will help that process, and I would urge all of my colleagues to support it.

By Mrs. CLINTON (for herself, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. BOXER, Mr. MENENDEZ, Ms. CANTWELL, Mr. KENNEDY, Mr. INOUYE, Mr. KERRY, Mr. JEFFORDS, and Mr. CHAFEE):

S. 3945. A bill to provide for the provisions by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am proud to introduce the Compassionate Assistance for Rape Emergencies Act, a bill that will help sexual assault survivors across the country get the medical care they need and deserve.

It is hard to argue against this commonsense legislation. Rape—by definition—could never result in an intended pregnancy. Emergency contraception is a valuable tool that can prevent unintended pregnancy. This bill makes emergency contraception available for survivors of sexual assault at any hospital receiving public funds.

Every 2 minutes, a woman is sexually assaulted in the United States, and each year, 25,000 to 32,000 women become pregnant as a result of rape or incest. According to a study published in the American Journal of Obstetrics and Gynecology, 50 percent of those pregnancies end in abortion.

By providing access to emergency contraception, up to 95 percent of those unintended pregnancies could be prevented if emergency contraception is administered within the first 24 to 72 hours. In addition, emergency contraception could also give desperately needed peace of mind to women in crisis.

I am proud that for 3 years, this has already been law in New York State. Survivors of sexual assault and rape receive information and access to emergency contraception at every hospital in the State. As a result, victims are getting better care than they ever have before in New York. This bill will allow women nationwide to benefit from the same standard of care New Yorkers receive.

In New York City, women are benefiting from Mayor Bloomberg's significant initiative to expand access to emergency contraception and family planning services and improve maternal and infant outcomes. I applaud this focus on increasing awareness about emergency contraception—to all women—so that we can work together at decreasing the rate of unintended pregnancy in this country.

The FDA recently made EC available over the counter for women 18 years of age and older. Despite the ideologically driven agenda against this drug, the research has been consistently clear—this drug is safe and effective for preventing pregnancy. The FDA's own scientific advisory committees and more than 70 major medical organizations, including the American Academy of Pediatrics and the American Medical Association recommended EC be made available without a prescription. If pharmacies stock this drug for any citizen of age, surely hospitals should provide women in crisis with the information necessary to evaluate this option for themselves.

Women deserve access to EC. For millions of women, it represents peace of mind. For survivors of rape and sexual assault, it offers hope for healing and a tomorrow free of painful reminders of the past. Let us recommit ourselves to the fight to better protect and serve our Nation's sexual assault survivors.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 585—COMMENDING THE NEW ORLEANS SAINTS OF THE NATIONAL FOOTBALL LEAGUE FOR WINNING THEIR MONDAY NIGHT FOOTBALL GAME ON MONDAY, SEPTEMBER 25, 2006 BY A SCORE OF 23 TO 3

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 585

Whereas the City of New Orleans and the State of Louisiana and the Gulf Coast were severely impacted by Hurricane Katrina on August 29, 2005 and the subsequent levee breaks which occurred;

Whereas southwestern Louisiana and the State of Louisiana were severely impacted by Hurricane Rita on September 24, 2005;

Whereas the New Orleans Saints and the Louisiana Superdome have always been special symbols of pride to the City of New Orleans and to the State of Louisiana;

Whereas, due to the leadership and hard work of the men and women who rebuilt the Superdome, as well as to the partnership of the National Football League, the State of Louisiana and the Federal Emergency Management Agency, the Louisiana Superdome was able to reopen on Monday, September 25, 2006—13 months since the last New Orleans Saints home game was played there;

Whereas the return of the New Orleans Saints to the Louisiana Superdome serves as a symbol of hope for the great rebuilding of the City of New Orleans, the State of Louisiana and the Gulf Coast region;

Whereas the City of New Orleans and the State of Louisiana showed its pride and support for the New Orleans Saints with an attendance of 70,003 fans at the September 25, 2006 game;

Whereas the New Orleans Saints won their first game in the Louisiana Superdome since Hurricanes Katrina and Rita by defeating the Atlanta Falcons, 23 to 3;

Whereas with the win over the Atlanta Falcons on Monday, September 25, 2006, the

New Orleans Saints improve their record for the 2006–2007 season to a total of 3 wins and 0 losses, matching its win total from the 2005–2006 season and is one of just six National Football League teams with a record of 3 wins and 0 losses; Whereas Head Coach Sean Payton led the New Orleans Saints to win their first three games of the 2006–2007 season and showed his appreciation to the City of New Orleans by giving the game ball to the city;

Whereas wide receiver Devery Henderson scored a touchdown on an 11 yard run in the game;

Whereas cornerback Curtis Deloach scored a touchdown following the blocked punt by Steve Gleason;

Whereas place kicker John Karney kicked three field goals in the game;

Whereas the New Orleans Saints defense held the Atlanta Falcons to 229 total yards in the game and had 5 sacks on the quarterback;

Whereas quarterback Drew Brees completed 20 of28 pass attempts for a total of 191 yards in the game;

Whereas running back Deuce McAllister had 81 rushing yards and running back Reggie Bush had 53 rushing yards in the game;

Whereas the entire team and organization should be commended for the work together over the past 13 months;

Whereas the New Orleans Saints have demonstrated their excellence in athletics and strength and has shown their commitment to the City of New Orleans and to the State of Louisiana through their hard work and sportsmanship; and

Whereas with the triumphant return of the New Orleans Saints, the City of New Orleans and the State of Louisiana have proven to be open for business and ready to continue the recovery of the city, state and region: Now, therefore be it

Resolved, That the Senate commends the New Orleans Saints of the National Football League for (1) winning their Monday, September 25, 2006 National Football League game with the Atlanta Falcons, by a score of 23 to 3. (2) And we commend League Commissioner Paul Tagliabue for demonstrating exemplary leadership and commitment to the City of New Orleans.

Ms. LANDRIEU. Mr. President, I came to the floor today to speak about something we can actually all agree on, something that has lifted the spirits of New Orleans and the region, and Louisiana, and the gulf coast, and that is the extraordinary victory of the New Orleans Saints against the Atlanta Falcons last night, in the super game, the first game in over 13 months and surely a game that will go down in history for many reasons.

At this time I would submit a resolution to the desk in honor of the New Orleans Saints in behalf of myself and others.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Ms. LANDRIEU. I will read the resolution, if I could, because it expresses so many of the feelings of so many throughout New Orleans and the gulf coast:

Whereas the City of New Orleans and the State of Louisiana and the Gulf Coast were severely impacted by Hurricane Katrina on August 29, 2005 and the subsequent levee breaks which occurred;

Whereas southwestern Louisiana and the State of Louisiana were severely impacted by Hurricane Rita on September 24, 2005;

Whereas the New Orleans Saints and the Louisiana Superdome have always been special symbols of pride to the City of New Orleans and to the State of Louisiana;

Whereas, due to the leadership and hard work of the men and women who rebuilt the Superdome, as well as to the partnership of the National Football League, the State of Louisiana and the Federal Emergency Management Agency, the Louisiana Superdome was able to reopen on Monday, September 25, 2006—13 months since the last New Orleans Saints home game was played there;

Whereas the return of the New Orleans Saints to the Louisiana Superdome serves as a symbol of hope for the great rebuilding of the City of New Orleans, the State of Louisiana and the Gulf Coast region;

Whereas the City of New Orleans and the State of Louisiana showed its pride and support for the New Orleans Saints with an attendance of 70,003 fans at the September 25, 2006 game;

Whereas the New Orleans Saints won their first game in the Louisiana Superdome since Hurricanes Katrina and Rita by defeating the Atlanta Falcons, 23 to 3;

Whereas with the win over the Atlanta Falcons on Monday, September 25, 2006, the New Orleans Saints improve their record for the 2006–2007 season to a total of 3 wins and 0 losses, matching its win total from the 2005–2006 season and is one of just six National Football League teams with a record of 3 wins and 0 losses; Whereas Head Coach Sean Payton led the New Orleans Saints to win their first three games of the 2006–2007 season and showed his appreciation to the City of New Orleans by giving the game ball to the city;

Whereas wide receiver Devery Henderson scored a touchdown on an 11 yard run in the game;

Whereas cornerback Curtis Deloach scored a touchdown following the blocked punt by Steve Gleason;

Whereas place kicker John Karney kicked three field goals in the game;

Whereas the New Orleans Saints defense held the Atlanta Falcons to 229 total yards in the game and had 5 sacks on the quarterback;

Whereas quarterback Drew Brees completed 20 of28 pass attempts for a total of 191 yards in the game;

Whereas running back Deuce McAllister had 81 rushing yards and running back Reggie Bush had 53 rushing yards in the game;

Whereas the entire team and organization should be commended for the work together over the past 13 months;

Whereas the New Orleans Saints have demonstrated their excellence in athletics and strength and has shown their commitment to the City of New Orleans and to the State of Louisiana through their hard work and sportsmanship; and

Whereas with the triumphant return of the New Orleans Saints, the City of New Orleans and the State of Louisiana have proven to be open for business and ready to continue the recovery of the city, state and region: Now, therefore be it

Resolved, That the Senate commends the New Orleans Saints of the National Football League for (1) winning their Monday, September 25, 2006 National Football League game with the Atlanta Falcons, by a score of 23 to 3. (2) and we commend League Commissioner Paul Tagliabue for demonstrating exemplary leadership and commitment to the City of New Orleans.

Mr. President, I thought it was important to read the words of this resolution which will go in the RECORD today. I am certain there were millions and millions of people all over America who watched that special football game last night because, as you know, it was more than a football game. It was a symbol of hope and recovery for a great American city in a great region of this country.

I came to the floor today to share this resolution and to also thank my colleagues, as Senator LOTT from Mississippi has done earlier this morning, to thank them for coming together in such an extraordinary and bipartisan way throughout this year to pass not one, not two, not three, but four supplemental requests that are helping to send money to this stricken region of the country.

Even when there were some problems and some hurdles in the executive branch, this Congress came together across party lines, led in large measure by the appropriators in this Chamber, to say: Yes, this region deserves investment; yes, we need to fix FEMA; yes, we need to reform the Corps of Engineers; yes, we need to build levees; and, yes, we need to restore the wetlands that protect this great coast of which New Orleans and Houston and Gulfport and Beaumont and Lake Charles and Lafayette and Baton Rouge are such important cities in this region—America's only energy coast.

Last night, the Saints did us proud. They came home and not just won the game, but it was, of course, more than a game. For the Saints managers, for the dome director, for the commissioners of the dome stadium who helped get their magnificent building ready after such a tragedy of last year, we thank them.

I ask unanimous consent to have printed in the RECORD the roster of the Saints players, the names of the coaches and the assistant coaches and their managers, the names of the contractors, and as many of the workers as we can get.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW ORLEANS SAINTS TEAM ROSTER

No.	Last, first	Pos	Ht	Wt	Age	Exp	College
Active Players:							
9	Brees, Drew	QB	6–0	209	27	6	Purdue
70	Brown, Jammal	T	6–6	313	25	2	Oklahoma
29	Bullocks, Josh	S	6–1	207	23	2	Nebraska
25	Bush, Reggie	RB	6–0	203	21	R	Southern California
80	Campbell, Mark	TE	6–6	260	30	9	Michigan
3	Carney, John	K	5–11	185	42	17	Notre Dame
54	Clark, Danny	LB	6–2	245	29	7	Illinois
12	Colston, Marques	WR	6–4	231	23	R	Hofstra
85	Conwell, Ernie	TE	6–2	255	34	11	Washington
18	Copper, Terrance	WR	6–0	207	24	3	East Carolina
21	Craft, Jason	CB	5–10	187	30	8	Colorado State
39	Deloatch, Curtis	CB	6–2	210	24	3	North Carolina A&T
73	Evans, Jahri	G	6–4	318	23	R	Bloomsburg
52	Faine, Jeff	C	6–3	291	25	4	Notre Dame
11	File, Jason	QB	6–4	225	24	1	Oregon
56	Fincher, Alfred	LB	6–1	238	23	2	Connecticut
55	Fujita, Scott	LB	6–5	250	27	5	California
37	Gleason, Steve	S	5–11	212	29	6	Washington State
76	Goodwin, Jonathan	OL	6–3	318	27	5	Michigan
94	Grant, Charles	DE	6–3	290	28	5	Georgia
28	Groce, DeJuan	CB	5–10	192	26	4	Nebraska
41	Harper, Roman	S	6–1	200	23	R	Alabama
19	Henderson, Devery	WR	5–11	200	24	3	Louisiana State
61	Holland, Montrae	G	6–2	322	26	4	Florida State
87	Horn, Joe	WR	6–1	213	34	11	Itawamba (Miss.) JC
47	Houser, Kevin	LS	6–2	252	29	7	Ohio State
89	Jones, Jamal	WR	5–11	205	25	1	North Carolina A&T
44	Karney, Mike	FB	5–11	258	25	3	Arizona State
96	Lake, Antwan	DT	6–4	308	27	4	West Virginia
82	Lawrie, Nate	TE	6–7	256	24	2	Yale
77	Leisle, Rodney	DT	6–3	315	25	3	UCLA
10	Martin, Jamie	QB	6–2	205	36	12	Weber State
26	McAllister, Deuce	RB	6–1	232	27	6	Mississippi
36	McIntyre, Corey	RB	6–0	244	27	2	West Virginia
34	McKenzie, Mike	CB	6–0	194	30	8	Memphis
51	Melton, Terrence	LB	6–1	235	29	3	Rice
16	Moore, Lance	WR	5–9	177	23	1	Toledo
67	Nesbit, Jamar	G	6–4	328	29	8	South Carolina
93	Ninkovich, Rob	DE	6–2	252	22	R	Purdue
79	Petitti, Rob	T	6–6	327	24	2	Pittsburgh
24	Scott, Bryan	S	6–1	219	25	4	Penn State
58	Shanle, Scott	LB	6–2	245	26	4	Nebraska
50	Simoneau, Mark	LB	6–0	245	29	7	Kansas State
91	Smith, Will	DE	6–3	282	25	3	Ohio State
27	Stecker, Aaron	RB	5–10	213	30	7	Western Illinois
78	Stinchcomb, Jon	T	6–5	315	27	4	Georgia
23	Stoutmire, Omar	S	5–11	205	32	10	Fresno State
64	Strief, Zach	T	6–7	349	23	R	Northwestern
22	Thomas, Fred	CB	5–9	185	33	11	Tennessee-Martin
99	Thomas, Hollis	DT	6–0	306	32	11	Northern Illinois
7	Weatherford, Steve	P	6–3	215	23	R	Illinois
98	Whitehead, Willie	DE	6–3	300	33	8	Auburn
66	Young, Brian	DT	6–2	298	29	7	Texas-El Paso
Reserve/Injured:							
50	Allen, James	LB	6–2	245	26	5	Oregon State
17	Berger, Mitch	P	6–4	228	34	12	Colorado
74	Hoffmann, Augie	G	6–2	315	25	2	Boston College
13	Johnson, Bethel	WR	5–11	200	27	4	Texas A&M
33	Joseph, Keith	RB	6–2	249	24	1	Texas A&M
75	Mayberry, Jermane	G	6–4	325	33	11	Texas A&M-Kingsville
1	McPherson, Adrian	QB	6–3	218	23	2	Florida State
54	Polley, Tommy	LB	6–3	230	28	6	Florida State
63	Setterstrom, Chad	T	6–3	310	26	1	Northern Iowa
79	Verdon, Jimmy	DE	6–3	280	24	2	Arizona State
Reserve/Physically Unable to Perform:							
84	Lewis, Michael	WR	5–8	173	34	6	None

NEW ORLEANS SAINTS COACHING STAFF

Sean Payton, Head Coach; John Bonamego, Special Teams Coordinator; Gary Gibbs, Defensive Coordinator; Doug Marrone, Offensive Coordinator/Offensive Line; Joe Vitt, Assistant, Head Coach/Linebackers; George Henshaw, Senior Offensive Assistant/Running Backs; Dennis Allen, Assistant Defensive Line; Adam Bailey, Assistant Strength and Conditioning; Pete Carmichael, Jr., Quarterbacks; Dan Dalrymple, Head Strength and Conditioning; Tom Hayes, Defensive Backs; Marion Hobby, Defensive Line; Curtis Johnson, Wide Receivers; Terry Malone, Tight Ends; Greg McMahon, Assistant Special Teams; John Morton, Offensive Asst./Passing Game; Tony Oden, Defensive Assistant/Secondary; Joe Alley, Coaching Assistant; Josh Constant, Coaching Assistant; Carter Sheridan, Coaching Assistant; and Adam Zimmer, Coaching Assistant.

LOUISIANA SUPERDOME COMMISSION

LOUISIANA STADIUM AND EXPOSITION DISTRICT

Tim Coulon, Chairman; Rosemary Patterson, Board of Commissioners; Robert Bruno, Board of Commissioners; Sara A. Roberts, Board of Commissioners; Craig E. Saporito, Board of Commissioners; Clyde Simien, Board of Commissioners; C.S. Gordon, Jr., Board of Commissioners.

SPECTACOR MANAGEMENT GROUP—THE MANAGING COMPANY OF THE SUPERDOME

EMPLOYEES & TITLES

Lloyd Adams, purchasing coordinator; Cathy Allen, executive administrative assistant; Mark Arata, box office manager; Jim Baker, parking manager; Amy Bardalas, assistant human resources manager; Farrow Bouton, director of event services; Adam Bourgeois, accounting; Brian Brocato, building superintendent; Nelly Calix, administrative coordinator of event services; Brodie Cannon, production technician; Jennifer Cooke, director of corporate and convention sales; Chris Cunningham, network administrator; Bill Curl, media and public relations coordinator; Amanda Deeb, sales and scheduling coordinator; Alan Dolese, operations manager; Laurie Ducros, event coordinator; Cynthia Edwards, staffing coordinator supervisor; Dave Gendusa, millwright, painter leadman; Roylene Givens, assistant parking manager; John Greenlee, assistant box office manager; Raymond Griffin; Desiree Jones, housekeeping manager; Maria Jones, employment and staffing supervisor; Tamika Kirton, box office supervisor; Elizabeth Mancuso, administrative assistant; Glenn Menard, general manager; Karen Miller, assistant accounting manager; Angel Noveh, accounting coordinator; Mike Pizzolato, HVAC PLBG leadman; Susan Pollet, accounting manager; Lacey Pounds, prem seat and suite sales coordinator; Celeste Saltalamachia, human resource manager; Mike Schilling, arena assistant general manager; Thomas Sigel, security captain; Robert Spizale, chief engineer; Ashton Stephens, electrician leadman; Dave Stewart, regional manager of technology; Tim Suire, event coordinator; Doug Thornton, SMG regional vice president; Toby Valadie, production manager; Benny Vanderklis, security manager; Danny Vincens, Superdome assistant general manager; David Weidler, senior directors finance and administration; Lisa Wharton, security staffing supervisor; Chad Wilken, assistant operations manager.

Ms. LANDRIEU. Mr. President, it demonstrates that the people of the city of New Orleans are fighting to come back, to fight some obstacles that were thrown our way. Despite so much of the criticism that came from some places, we are determined to rebuild.

The spirit of our city and the spirit of this region is strong, and the Saints represented that last night. They came roaring into the dome, as the Saints go marching in with our musicians and our artists and the great spirit of its people to say: We will not allow this city to die or this region to die. We are going to continue to fight hard, to build partnerships, to reform what needs to be reformed, to fix what needs to be fixed, and to build this region, every single neighborhood, every single town, and to do it smarter and better.

The Saints came marching in. They brought a lot of hope to everyone. This resolution will commend them for their extraordinary work as we go into the difficult rebuilding in the years ahead.

SENATE RESOLUTION 586—CELEBRATING 40 YEARS OF ACHIEVEMENTS OF MEDICAL CODERS, AND ENCOURAGING THE MEDICAL CODING COMMUNITY TO CONTINUE PROVIDING ACCURATE MEDICAL CLAIMS AND STATISTICAL REPORTING TO THE PEOPLE OF THE UNITED STATES AND TO THE WORLD

Mr. HATCH submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 586

Whereas, in 1966, the Current Procedural Terminology (CPT) was developed by the American Medical Association (AMA) to assist with the accurate reporting of physician procedures and services, and has since grown to include 8,568 codes and descriptions;

Whereas, in 1977, when the 9th revision to the World Health Organization's International Classification of Diseases (ICD–9) was published, the United States National Center for Health Statistics modified the statistical study with clinical information and provided a way to classify diagnostic and procedural data to create a clinical picture of each patient to improve the quality of health care;

Whereas, in 1977, the Health Care Financing Administration (HCFA), now the Centers for Medicare & Medicaid Services (CMS), was established for the coordination of the Medicare and Medicaid programs and its responsibilities has since included coordinating the annual update to ICD–9–CM Volume 3 procedures codes;

Whereas Congress passed the Medicare Catastrophic Coverage Act of 1988 (Public Law 100–360), and mandated the reporting of ICD–9–CM codes on each part B claim submitted by physicians and that mandate has since extended to parts A, C, and D of the Medicare program;

Whereas the Health Information Portability and Accountability Act of 1996 (Public Law 104–191) requires every health care provider who does business electronically to use the same code sets, including Current Procedural Terminology, ICD–9–CM, and other code sets involving medical supplies, dental services, and drugs;

Whereas, since 1998 and the publication of the first medical practice compliance plans, the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS) has recognized medical coding as an essential element in the fight against health care fraud and abuse;

Whereas, in 2003, the Department of Health and Human Services delegated authority under the Health Information Portability and Accountability Act of 1996 to the Centers for Medicare & Medicaid Services to maintain and distribute the Healthcare Common Procedure Coding System (HCPCS) that is used primarily to identify products, supplies, and services not included in the Current Procedural Terminology codes, such as ambulance services and durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) when used outside a physician's office;

Whereas the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) included a provision to update ICD–9–CM codes affecting new technology and procedures twice each year;

Whereas, in 2006, the Department of Labor forecasted above average job growth for medical coders through 2012 because of rapid growth in the number of medical tests, treatments, and procedures that will be increasingly scrutinized by third-party payers, regulators, courts, and consumers; and

Whereas medical coders have a tradition of working in collaboration with the Federal Government to improve the overall health of all people of the United States through the accuracy of claims reporting: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historical, clinical, and public health achievements of medical coders and celebrates the milestones achieved in the 40-year history of medical coding;

(2) recognizes the great impact that medical coders have on improving the quality of health care of people in the United States and around the world; and

(3) congratulates medical coders for their dedication and trusts that the profession will continue to offer its guidance relative to medical coding and its effect on accurate patient information to improve the public health of future generations.

Mr. HATCH. Mr. President, I am pleased to submit today a resolution to celebrate 40 years of achievements of medical coders, and to encourage the medical coding community to continue providing accurate medical claims and statistical reporting to the people of the United States and to the world.

There are about 80,000 professional medical coders employed in the United States, and that number is expected to continue to grow due to the increasing number of medical tests, treatments and procedures, and the consequent scrutiny to provide the best quality health care in a market driven economy. Medical coders are a diverse group of women and men dedicated to "running the numbers" of health care. They translate the information that a physician documents during a patient visit into numerical codes that are used for both payment and statistical purposes.

Medical coders are sentries of our Nation's health. They communicate regularly with physicians and other health care professionals to clarify diagnoses or to obtain additional information in the assignment of alphanumeric codes. They are knowledgeable of medical terminology, anatomy, physiology, and the code sets necessary to serve effectively in their professional role within the health care community. They are team players committed to ethical and sound medical documentation and reimbursement practices.

Medical coders work in a variety of health care environments. Nearly 40 percent of all coding jobs are in hospitals. Others work in the offices of physicians, nursing care facilities, outpatient care centers, and home health care services. Insurance firms that offer health plans employ coders to tabulate and analyze health information. Medical coders in public health departments supervise data collection from health care institutions and assist in research. The Department of Defense policy requires accurate and prompt documentation of and coding of medical encounters within the Military Health System to assist, Military Treatment Facility operations. The compliance plan for third-party payers of the Department of Health and Human Services, Office of the Inspector General acknowledges the specialized training of medical coders required due to the greater legal exposure related to coding medical services. Coders also stand as the frontline against the potential fraud and abuse of the Medicare and Medicaid programs while assuring that the physicians, hospitals, and clinics receive accurate compensation for the services provided.

The abilities coders possess to collect data about diagnoses and procedures figure prominently within my own interests for quality health care. Medical coders also provide us with the data we need for making tough choices in health care policy.

It is my hope that this resolution will help advance the recognition of professional medical coders and the attention given to their commendable work. It recognizes contributions to the national health care system and it reminds us of medical coders' dedication to the value of hard work in the interest of a national priority quality health care for everyone. I applaud that contribution and am hopeful that my colleagues in the Senate will join me by passing this resolution.

SENATE RESOLUTION 587—EXPRESSING CONCERN RELATING TO THE THREATENING BEHAVIOR OF THE ISLAMIC REPUBLIC OF IRAN AND THE IDEOLOGICAL ALLIANCE THAT EXISTS BETWEEN THE COUNTRIES OF CUBA AND VENEZUELA, AND SUPPORTING THE PEOPLE OF IRAN, CUBA, AND VENEZUELA IN THE QUEST OF THOSE PEOPLES TO ACHIEVE A TRULY DEMOCRATIC FORM OF GOVERNMENT

Mr. SANTORUM (for himself, Mr. MARTINEZ, and Mr. COLEMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 587

Whereas, for the past 2 decades, the Department of State has found Iran to be the leading sponsor of international terrorism in the world;

Whereas the Department of State has consistently added Cuba to the list of state sponsors of terrorism;

Whereas the Department of State declared in the report entitled "Patterns of Global Terrorism 2001" that "Iran's Islamic Revolutionary Guard Corps and Ministry of Intelligence and Security continued to be involved in the planning and support of terrorist acts and supported a variety of groups that use terrorism to pursue their goals";

Whereas the President of Iran, Mahmoud Ahmadinejad, has openly declared that Israel "must be wiped off the map", and publicly denied the Holocaust;

Whereas President Ahmadinejad has similarly called for the destruction of the United States and the hatred of all Jewish peoples;

Whereas President Ahmadinejad recently attended a summit of the Non-Aligned Movement in Cuba and, in cooperation with Fidel Castro and Hugo Chavez, has used that body as a platform to spread anti-democratic messages;

Whereas the Government of Cuba, led by Fidel Castro, and the Government of Venezuela, led by President Hugo Chavez, have—

(1) repressed political dissent in the countries of those leaders;

(2) propagated antidemocratic ideals; and

(3) participated in the summit of the Non-Aligned Movement;

Whereas, in September 2000, while being interviewed by Al-Jazeera television, President Castro stated that "We are not ready for reconciliation with the United States, and I will not reconcile with the imperialist system";

Whereas, in August 2005, President Chavez stated that "socialism is the only path", and that his goal is to "save a world threatened by the voracity of U.S. imperialism";

Whereas, on September 20, 2006, while speaking to the General Assembly of the United Nations, President Chavez referred to the President of the United States as the devil, stating "The devil came here yesterday . . . and it smells of sulfur still today."; and

Whereas neither the Non-Aligned Movement nor the United Nations should exist as a venue to spread hate, demagoguery, and anti-democratic ideals: Now, therefore, be it

Resolved, That the Senate—

(1) condemns—

(A) the anti-democratic actions of, and repressive regimes created by, the leaders of the Governments of Iran, Cuba, and Venezuela; and

(B) the misguided, irrational, and outrageous statements of the leaders of those countries;

(2) expresses concern relating to the national security implications of the relationships between those leaders;

(3) supports the people of Iran, Cuba, and Venezuela in the quest of those peoples to achieve a truly democratic form of government; and

(4) calls on the international community to condemn the antidemocratic actions of those repressive regimes.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5041. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5042. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5043. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5044. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5045. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5046. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5047. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5048. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5049. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5048 submitted by Mr. FRIST and intended to be proposed to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5050. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5051. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5050 submitted by Mr. FRIST and intended to be proposed to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5052. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5053. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5054. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5028 submitted by Mr. SALAZAR (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. OBAMA, Mr. REID, Mr. LEAHY, Mr. DURBIN, and Mr. CARPER) and intended to be proposed to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5055. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5056. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5057. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5058. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5059. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5060. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5061. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5062. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5063. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5064. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5065. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5066. Mrs. HUTCHISON (for herself and Mr. KYL) submitted an amendment intended to be proposed by her to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5067. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5068. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5069. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5070. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5071. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5072. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 2078, to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes; which was ordered to lie on the table.

SA 5073. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 5574, to amend the Public Health Service Act to reauthorize supportfor graduate medical education programs in children's hospitals.

SA 5074. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the bill S. 3421, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes.

TEXT OF AMENDMENTS

SA 5041. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. BORDER RELIEF GRANT PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(c) USE OF FUNDS.—Grants awarded pursuant to subsection (b) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(d) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(e) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term "eligible law enforcement agency" means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term "High Impact Area" means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Department of Homeland Security.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (e).

(g) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this Act.

SEC. 7. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in section 6 shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

SA 5042. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 16, strike the period at the end and insert the following: "; and

(3) the implementation of those measures described in the Comprehensive Immigration Reform Act of 2006, as passed by the Senate on May 25, 2006, that the Secretary determines to be necessary and appropriate to achieve or maintain operational control over the international land and maritime borders of the United States.".

SA 5043. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE I—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Border Infrastructure and Technology Modernization Act".

SEC. 102. DEFINITIONS.

In this title:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) Maquiladora.—The term "maquiladora" means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) Northern border.—The term "northern border" means the international border between the United States and Canada.

(4) Southern border.—The term "southern border" means the international border between the United States and Mexico.

SEC. 103. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) Requirement to Update.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) Consultation.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) Content.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 104; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) Project Implementation.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) Divergence From Priorities.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 104. NATIONAL LAND BORDER SECURITY PLAN.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary of Homeland Security, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) Vulnerability Assessment.—

(1) In general.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) Port security coordinators.—The Secretary of Homeland Security may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 105. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) Customs-Trade Partnership Against Terrorism.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary of Homeland Security, shall develop a plan to expand the size and scope, including personnel, of the Customs–Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) Southern border demonstration program.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs–Trade Partnership Against Terrorism program, which has been successfully implemented along the northern border, along the southern border.

(b) Maquiladora Demonstration Program.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 106. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) Establishment.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) Technology and Facilities.—

(1) Technology testing.—Under the technology demonstration program, the Secretary of Homeland Security shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) Development of facilities.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary of Homeland Security shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) Demonstration Sites.—

(1) Number.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) Selection criteria.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) Relationship With Other Agencies.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) Report.—

(1) Requirement.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) Content.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 103(a);

(2) to carry out section 103(d)—

(A) $100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 105(a)—

(A) $30,000,000 for fiscal year 2007, of which $5,000,000 shall be made available to fund the demonstration project established in section 106(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(4) to carry out section 105(b)—

(A) $5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 106, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) International Agreements.—Amounts authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

SA 5044. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. COOPERATION WITH THE GOVERNMENT OF MEXICO.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary of Homeland Security and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a nonimmigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 5045. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

SEC. 6. DEPUTY UNITED STATES MARSHALS.

(a) IN GENERAL.—In each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SA 5046. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 18, strike "prevention" and all that follows through line 21, and insert the following: "effective prevention of unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband, as determined by the Secretary of Homeland Security.".

SA 5047. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorism Prevention Act of 2006".

SEC. 2. PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.

(a) OFFENSE OF REWARDING OR FACILITATING INTERNATIONAL TERRORIST ACTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following section:

"§ 2339E. Providing material support to international terrorism

"(a) DEFINITIONS.—In this section:

"(1) The term 'material support or resources' has the same meaning as in section 2339A(b).

"(2) The term 'the perpetrator of an act' includes any person who—

"(A) commits the act;

"(B) aids, abets, counsels, commands, induces, or procures its commission; or

"(C) attempts, plots, or conspires to commit the act.

"(3) The term 'international terrorism' has the same meaning as in section 2331.

"(4) The term 'facility of interstate or foreign commerce' has the same meaning as in section 1958(b)(2).

"(5) The term 'serious bodily injury' has the same meaning as in section 1365.

"(6) The term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) PROHIBITION.—Whoever, in a circumstance provided in subsection (c), provides material support or resources to the perpetrator of an act of international terrorism, or to a family member or other person associated with such perpetrator, with the intent to facilitate, reward, or encourage that act or other acts of international terrorism, shall be fined under this title and imprisoned for any term of years not less than 10 or for life, and, if death results, shall be imprisoned for any term of years not less than 30 or for life.

"(c) JURISDICTIONAL BASES.—A circumstance referred to in subsection (b) is—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense involves the use of the mails or a facility of interstate or foreign commerce;

"(3) an offender intends to facilitate, reward, or encourage an act of international terrorism that affects interstate or foreign commerce or would have affected interstate or foreign commerce had it been consummated;

"(4) an offender intends to facilitate, reward, or encourage an act of international terrorism that violates the criminal laws of the United States;

"(5) an offender intends to facilitate, reward, or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of the United States Government;

"(6) an offender intends to facilitate, reward, or encourage an act of international terrorism that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

"(7) an offender intends to facilitate, reward, or encourage an act of international terrorism that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

"(8) the offense occurs in whole or in part within the United States, and an offender intends to facilitate, reward or encourage an act of international terrorism that is designed to influence the policy or affect the conduct of a foreign government; or

"(9) the offense occurs in whole or in part outside of the United States, and an offender is a national of the United States, a stateless person whose habitual residence is in the United States, or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions).".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) TABLE OF SECTIONS.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"2339D. Receiving military-type training from a foreign terrorist organization.

"2339E. Providing material support to international terrorism.".

(B) OTHER AMENDMENT.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by striking all after "2339C" and inserting "(relating to financing of terrorism), 2339E (relating to providing material support to international terrorism), or 2340A (relating to torture);".

(b) INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(1) PROVIDING MATERIAL SUPPORT.—Section 2339A(a) of title 18, United States Code, is amended by striking ", imprisoned not more than 15 years," and all that follows through "life." and inserting "and imprisoned for any term of years not less than 10 or for life, and, if the death of any person results, shall be imprisoned for any term of years not less than 25 or for life.".

(2) PROVIDING MATERIAL SUPPORT OR RESOURCES TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18,

United States Code, is amended by striking "or imprisoned not more than 15 years," and all that follows through "life." and inserting "and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for any term of years not less than 20 or for life.".

(3) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D of title 18, United States Code, is amended by striking "or imprisoned for ten years, or both." and inserting "and imprisoned for not less than 3 years and not more than 15 years.".

(c) EXCEPTIONS TO PROHIBITION.—Section 2339A(b)(1) of title 18, United States Code, is amended by striking ", except medicine or religious materials".

(d) ADDITION OF ATTEMPTS AND CONSPIRACIES TO AN OFFENSE RELATING TO MILITARY TRAINING.—Section 2339D of title 18, United States Code, is amended by inserting ", or attempts or conspires to receive," after "receives".

(e) DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this section, is further amended by adding at the end the following:

"§ 2339F. Denial of Federal benefits to terrorists

"(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

"(b) FEDERAL BENEFIT DEFINED.—In this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, as amended by this section, is further amended by adding at the end the following:

"2339F. Denial of Federal benefits to terrorists.".

SEC. 3. IMPROVEMENTS TO THE CLASSIFIED INFORMATION PROCEDURES ACT.

(a) SHORT TITLE.—This section may be cited as the "Classified Information Procedures Reform Act of 2006".

(b) INTERLOCUTORY APPEALS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by adding at the end "The Government's right to appeal under this section applies without regard to whether the order appealed from was entered under this Act.".

(c) EX PARTE AUTHORIZATIONS UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the second sentence—

(A) by striking "may" and inserting "shall"; and

(B) by striking "written statement to be inspected" and inserting "statement to be made ex parte and to be considered"; and

(2) in the third sentence—

(A) by striking "If the court enters an order granting relief following such an ex parte showing, the" and inserting "The"; and

(B) by inserting ", as well as any summary of the classified information the defendant seeks to obtain," after "text of the statement of the United States".

(d) APPLICATION OF CLASSIFIED INFORMATION PROCEDURES ACT TO NON-DOCUMENTARY INFORMATION.—Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting ", AND ACCESS TO," after "OF";

(2) by inserting "(a) DISCOVERY OF CLASSIFIED INFORMATION FROM DOCUMENTS.—" before the first sentence; and

(3) by adding at the end the following:

"(b) ACCESS TO OTHER CLASSIFIED INFORMATION.—

"(1) If the defendant seeks access through deposition under the Federal Rules of Criminal Procedure or otherwise to non-documentary information from a potential witness or other person which he knows or reasonably believes is classified, he shall notify the attorney for the United States and the district court in writing. Such notice shall specify with particularity the classified information sought by the defendant and the legal basis for such access. At a time set by the court, the United States may oppose access to the classified information.

"(2) If, after consideration of any objection raised by the United States, including any objection asserted on the basis of privilege, the court determines that the defendant is legally entitled to have access to the information specified in the notice required by paragraph (1), the United States may request the substitution of a summary of the classified information or the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(3) The court shall permit the United States to make its objection to access or its request for such substitution in the form of a statement to be made ex parte and to be considered by the court alone. The entire text of the statement of the United States, as well as any summary of the classified information the defendant seeks to obtain, shall be sealed and preserved in the records of the court and made available to the appellate court in the event of an appeal.

"(4) The court shall grant the request of the United States to substitute a summary of the classified information or to substitute a statement admitting relevant facts that the classified information would tend to prove if it finds that the summary or statement will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

"(5) A defendant may not obtain access to classified information subject to this subsection except as provided in this subsection. Any proceeding, whether by deposition under the Federal Rules of Criminal Procedure or otherwise, in which a defendant seeks to obtain access to such classified information not previously authorized by a court for disclosure under this subsection must be discontinued or may proceed only as to lines of inquiry not involving such classified information.".

SEC. 4. IMPROVEMENTS TO THE TERRORIST HOAX STATUTE.

(a) HOAX STATUTE.—Section 1038 of title 18, United States Code, is amended—

(1) in subsections (a)(1) and (b), by striking "a violation" and all that follows through "title 49" and inserting "an offense listed under section 2332b(g)(5)(B) of this title"; and

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking ", imprisoned not more than 5 years, or both" and inserting "and imprisoned for not less than 2 years nor more than 10 years";

(B) in subparagraph (B), by striking ", imprisoned not more than 20 years, or both" and inserting "and imprisoned for not less than 5 years nor more than 25 years"; and

(C) in subparagraph (C), by striking ", imprisoned for any term of years or for life, or both" and inserting "and imprisoned for any term of years not less than 10 or for life".

(b) THREATENING COMMUNICATIONS.—

(1) MAILED WITHIN THE UNITED STATES.—Section 876 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) For purposes of this section, the term 'addressed to any other person' includes an individual (other than the sender), a corporation or other legal person, and a government or agency or component thereof.".

(2) MAILED TO A FOREIGN COUNTRY.—Section 877 of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"For purposes of this section, the term 'addressed to any person' includes an individual, a corporation or other legal person, and a government or agency or component thereof.".

SEC. 5. TERRORIST MURDERS, KIDNAPPINGS, AND ASSAULTS.

(a) HOMICIDE.—Section 2332(a) of title 18, United States Code, is amended—

(1) by inserting ", or attempts or conspires to kill," after "Whoever kills"; and

(2) in paragraph (1), by striking "this title" and all that follows and inserting "this title and punished by death or imprisonment for any term of years not less than 30 or for life;"

(b) KIDNAPPING.—Section 2332(b) of title 18, United States Code, is amended to read as follows:

"(b) KIDNAPPING.—Whoever outside the United States unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away, or attempts or conspires to seize, confine, inveigle, decoy, kidnap, abduct or carry away, a national of the United States, shall be fined under this title and punished by imprisonment for any term of years not less than 20 or for life; and, if the death of any person results, shall be fined under this title and punished by death or imprisonment for life.".

(c) OTHER CONDUCT.—Section 2332(c) of title 18, United States Code, is amended—

(1) by inserting "(as defined in section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242)" after "injury" in paragraphs (1) and (2); and

(2) in the matter following paragraph (2), by striking "or imprisoned" and all that follows and inserting "and imprisoned for any term of years not less than 10 or for life.".

(d) TERRORIST OFFENSES RESULTING IN DEATH.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 2339G. Terrorist offenses resulting in death

"(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years not less than 20 or for life.

"(b) In this section, the term 'terrorist offense' means—

"(1) a felony offense that is—

"(A) a Federal crime of terrorism as defined in section 2332b(g), other than an offense under section 1363; or

"(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

"(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).".

(2) Technical and Conforming Amendment.—The table of sections for chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"2339G. Terrorist offenses resulting in death.".

(e) Death Penalties.—

(1) Mass Destruction.—Section 832 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "not more than 20 years." and inserting "any term of years not less than 15 or for life."; and

(B) in subsection (c), by striking "or for life." and inserting "not less than 15 or for life and, if the death of any person results, shall be punished by death or imprisonment for life.".

(2) Missile Systems Designed to Destroy Aircraft.—Section 2332g(c)(3) of title 18, United States Code, is amended by inserting "death or" before "imprisonment for life".

(3) Nuclear Material.—Section 222b. of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by inserting "death or" before "imprisonment for life" the last place it appears.

(4) Radiological Dispersal Devices.—Section 2332h(c)(3) of title 18, United States Code, is amended by inserting "death or" before "imprisonment for life".

(5) Variola Viruses.—Section 175c(c)(3) of title 18, United States Code, is amended by inserting "death or" before "imprisonment for life".

SEC. 6. INVESTIGATION OF TERRORIST CRIMES.

(a) Nondisclosure of FISA Investigations.—The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting "(other than in proceedings or other civil matters under the immigration laws, as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))" after "authority of the United States":

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

(b) Multidistrict Search Warrants in Terrorism Investigations.—Rule 41(b)(3) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(3) a magistrate judge—in an investigation of—

"(A) a Federal crime of terrorism (as defined in section 2332b(g)(g) of title 18, United States Code); or

"(B) an offense under section 1001 or 1505 of title 18, United States Code, relating to information or purported information concerning a Federal crime of terrorism (as defined in section 2332b(g)(5) of title 18, United States Code)—having authority in any district in which activities related to the Federal crime of terrorism or offense may have occurred, may issue a warrant for a person or property within or outside that district.".

(c) Increased Penalties for Obstruction of Justice in Terrorism Cases.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking "8 years" and inserting "10 years".

SA 5048. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 1, line 8, strike "18 months" and insert "18 months and 2 days."

SA 5049. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5048 submitted by Mr. Frist and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

Strike "18 months and 2 days" and insert "18 months and 1 day."

SA 5050. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of the bill, add the following: The effective date shall be 5 days after the date of enactment.

SA 5051. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5050 submitted by Mr. Frist and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On line 2 of the amendment, strike "5 days" and insert "1 day."

SA 5052. Mr. FRIST submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of section 2, add the following: "This section shall become effective 5 days after the date of enactment.

SA 5053. Mr. CHAMBLISS submitted an amendment intended to be proposed to him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE II—AGRICULTURAL EMPLOYMENT AND WORKFORCE PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Agricultural Employment and Workforce Protection Act of 2006".

Subtitle A—Border Security

SEC. 211. COMPREHENSIVE PLAN TO CONTROL THE BORDERS OF THE UNITED STATES.

(a) In General.—The Secretary of Homeland Security shall prepare and submit to Congress, at the earliest practicable date, a comprehensive plan to—

(1) establish operational control of the borders of the United States; and

(2) effectively enforce the immigration laws of the United States in the interior of the United States.

(b) Contents.—The plan described in subsection (a) shall include—

(1) detailed strategies;

(2) time lines for implementation; and

(3) cost estimates for such activities.

(c) Interim Plan.—The mandates contained in this subtitle shall serve as an interim plan until Congress enacts legislation to implement the comprehensive plan submitted by the Secretary of Homeland Security under subsection (a).

SEC. 212. USE OF DEPARTMENT OF DEFENSE EQUIPMENT FOR SURVEILLANCE OF INTERNATIONAL LAND BORDERS OF THE UNITED STATES.

(a) Availability of Equipment.—The Secretary of Homeland Security, in collaboration with the Secretary of Defense, shall develop and implement a plan to provide military support to civilian law enforcement agencies, including the use of unmanned aerial vehicles, other surveillance equipment, and other equipment of the Department of Defense, to assist the surveillance activities of the Department of Homeland Security at and near the international land borders of the United States.

(b) Reports.—

(1) Initial Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall submit a joint report to Congress, which describes the use of Department of Defense equipment to assist the surveillance efforts of the Department of Homeland Security and to support the plan developed under subsection (a).

(2) Annual Reports.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the Secretary of Homeland Security can procure the equipment necessary to achieve operational control of the international land borders of the United States, the Secretary of Homeland Security and the Secretary of Defense shall submit joint reports to Congress that describe—

(A) the types of equipment and other support utilized for border security; and

(B) the effectiveness of such equipment and support.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 213. PORTS OF ENTRY.

(a) Construction Authorized.—The Secretary of Homeland Security may construct not more than 30 additional land ports of entry along the northern and southern international land borders of the United States at locations to be determined by the Secretary if such construction will enhance the border security of the United States.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

SEC. 214. ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS.

In addition to the positions authorized by section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), the Secretary of Homeland Security shall, for each of the fiscal years between fiscal year 2007 and 2011, increase by no less than 250 the number of positions for full-time active duty Customs and Border Protection Officers.

SEC. 215. INTERIOR ENFORCEMENT.

(a) State and Local Immigration Law Enforcement.—

(1) In General.—Notwithstanding any other provision of law, appropriately trained law enforcement personnel of a State or a unit of local government are authorized to

investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel.

(2) REIMBURSEMENT OF COSTS.—The Secretary of Homeland Security shall reimburse States and units of local government for all reasonable costs incurred by that State or local government to carry out the activities described in paragraph (1).

(b) FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.—Title II of the Immigration and Nationality Act is amended by adding after section 240C the following:

"TRANSFER OF ILLEGAL ALIENS FROM STATE TO FEDERAL CUSTODY

"SEC. 240D. (a) IN GENERAL.—If the head of a law enforcement entity of a State, or a political subdivision of a State, requests the Secretary of Homeland Security to take an illegal alien into Federal custody, the Secretary shall—

"(1) not later than 72 hours after such request is received from the State, take such alien into the custody of the Federal Government and incarcerate the alien; or

"(2) request the relevant State or local law enforcement agency to temporarily detain or transport the illegal alien to a location for transfer to Federal custody.

"(b) DESIGNATED INCARCERATION FACILITY.—The Secretary of Homeland Security shall designate not less than 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of criminal or illegal aliens to the Department of Homeland Security.

"(c) REIMBURSEMENT TO STATES AND LOCAL GOVERNMENTS.—The Department of Homeland Security shall reimburse each State or a political subdivision of a State for all reasonable expenses incurred by the State or political subdivision in the detention and transportation of a criminal or illegal alien.".

(c) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATIVE PERSONNEL.—

(1) ADDITIONAL POSITIONS AUTHORIZED.—In addition to the positions authorized by section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734), the Secretary of Homeland Security shall, for each of fiscal years 2007 through 2011, increase by not less than 400 the number of investigative personnel within the Department of Homeland Security responsible for investigating immigration status violations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(d) LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide the National Crime Information Center of the Federal Bureau of Investigation (referred to in this section as the "NCIC") with information related to—

(A) any alien against whom a final order of removal has been issued;

(B) any alien who is subject to a voluntary departure agreement that has become invalid under section 240B(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)); and

(C) any alien whose visa has been revoked.

(2) REQUIREMENT TO PROVIDE AND USE INFORMATION.—The information provided to the NCIC under paragraph (1) shall be entered into the Immigration Violators File of the NCIC database if a name and date of birth are available for the individual, regardless of whether the alien received notice of a final order of removal or the alien has already been removed.

(3) REMOVAL OF INFORMATION.—If an individual is granted cancellation of removal under section 240A of the Immigration and Nationality Act (8 U.S.C. 1229b) or is granted permission to legally enter the United States after a voluntary departure under section 240B of such Act (8 U.S.C. 1229c), any information entered into the NCIC database in accordance with this subsection shall be promptly removed.

(e) INCREASING FEDERAL DETENTION SPACE.—

(1) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(A) IN GENERAL.—In addition to facilities being used for the detention of aliens as of the date of enactment of this Act, the Secretary of Homeland Security shall construct or acquire 20 detention facilities in the United States with sufficient capacity to detain a combined total of not less than 200,000 individuals at any time. Such facilities shall be used for aliens detained pending removal or a decision on removal of such aliens from the United States.

(B) DETERMINATION OF LOCATION.—The location of each detention facility built or acquired pursuant to this paragraph shall—

(i) be determined by the senior officer responsible for detention and removal operations of the Department of Homeland Security, subject to the approval of the Secretary of Homeland Security; and

(ii) enable the Department to increase, to the maximum extent practicable, the annual rate and level of removals of illegal aliens from the United States.

(C) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities under this paragraph, the Secretary of Homeland Security shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subparagraph (A).

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking "may expend" and inserting "shall expend".

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 216. EXPANDING CATEGORY OF INADMISSIBLE ALIENS.

(a) CRIMINAL STREET GANGS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(J) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is inadmissible.".

(b) DEPORTING CRIMINAL STREET GANG MEMBERS.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(F) ALIENS WHO ARE MEMBERS OF CRIMINAL STREET GANGS.—Any alien who is a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code) is deportable.".

(c) CRIMINAL ALIENS.—Any alien convicted of a felony or a misdemeanor in the United States is ineligible to receive a visa and ineligible to be admitted to the United States.

Subtitle B—Temporary H–2A Workers

SEC. 221. DEFINITION.

Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended—

(1) by striking "and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954" and inserting ", which shall include labor and services relating to commodities, livestock, dairy, forestry, landscaping, fishing, and the processing of meat, poultry, and fish, and agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986),"; and

(2) by striking ", of a temporary or seasonal nature".

SEC. 222. ADMISSION OF TEMPORARY H–2A WORKERS.

(a) PROCEDURE FOR ADMISSION.—

(1) IN GENERAL.—Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218. (a) DEFINITIONS.—In this section and section 218A:

"(1) AREA OF EMPLOYMENT.—The term 'area of employment' means the area within normal commuting distance of the work site or physical location where the work of the H-2A worker is or will be performed. If such work site or location is within a Metropolitan Statistical Area, any place within such area shall be considered to be within the area of employment.

"(2) DISPLACE.—In the case of a petition with respect to an H–2A worker filed by an employer, the employer 'displaces' a United States worker from a job if the employer lays off the worker from a job that is essentially equivalent to the job for which the H-2A worker is sought. A job shall not be considered to be essentially equivalent to another job unless the job—

"(A) involves essentially the same responsibilities as the other job;

"(B) was held by a United States worker with substantially equivalent qualifications and experience; and

"(C) is located in the same area of employment as the other job.

"(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is not an unauthorized alien (as defined in section 274A(h)(3)) with respect to the employment of the individual.

"(4) EMPLOYER.—The term 'employer' means an employer who hires workers to perform agricultural employment.

"(5) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

"(6) LAY OFF.—

"(A) IN GENERAL.—The term 'lay off'—

"(i) means to cause a worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (3) or (7) of subsection (b)); and

"(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under subsection (h)(2), with either employer described in such subsection) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

"(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

"(7) LEVEL II H-2A WORKER.—The term 'Level II H-2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) who—

"(A) has been employed as an H-2A worker for at least 3 years;

"(B) has not violated a material term or condition of employment as an H-2A worker;

"(C) works in a supervisory capacity; and

"(D) meets minimum skill levels in the occupation in which they are employed, as determined, by regulation, by the Secretary of Labor, based on surveys conducted by State workforce agencies.

"(8) PREVAILING WAGE.—The term 'prevailing wage' means the wage rate that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing method of pay for the occupation in the area of intended employment.

"(9) UNITED STATES WORKER.—The term 'United States worker' means any worker who is a national of the United States, an alien lawfully admitted for permanent residence, and any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a); and

"(B) an alien provided blue card status under section 218B.

"(b) APPLICATION.—An alien may not be admitted as an H-2A worker unless the employer has filed with the Secretary of Homeland Security a petition attesting to the following:

"(1) TEMPORARY WORK OR SERVICES.—

"(A) IN GENERAL.—The employer is seeking to employ a specific number of agricultural workers on a temporary basis and will provide compensation to such workers at a specified wage rate and under specified conditions.

"(B) SKILLED WORKERS.—If the worker is a Level II H-2A worker, the employer will recruit the worker separately and the attestation will delineate separate wage rate and conditions of employment for such worker.

"(C) DEFINITION.—For purposes of this paragraph, a worker is employed on a temporary basis if the employer intends to employ the worker for an 11-month contract period.

"(2) BENEFITS, WAGES, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by subsection (k) to all workers employed in the jobs for which the H-2A worker is sought and to all other temporary workers in the same occupation at the place of employment.

"(3) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment of the H-2A worker and during the 30-day period immediately preceding such period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

"(4) RECRUITMENT.—

"(A) IN GENERAL.—The employer—

"(i) conducted adequate recruitment in the area of employment before filing the attestation; and

"(ii) was unsuccessful in locating a qualified United States worker for the job opportunity for which the H-2A worker is sought.

"(B) OTHER REQUIREMENTS.—The adequate recruitment requirement under subparagraph (A) is satisfied if the employer places—

"(i) a job order with the America's Job Bank Program of the Department of Labor; and

"(ii) a Sunday advertisement in a newspaper of general circulation that is likely to be patronized by a potential worker in the area of intended employment.

"(C) ADVERTISEMENT REQUIREMENT.—The advertisement requirement under subparagraph (B)(ii) is satisfied if the advertisement—

"(i) names the employer;

"(ii) directs applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(iii) provides a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(iv) describes the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(v) states the rate of pay, which shall not be less than the wage paid for the occupation in the area of intended employment; and

"(vi) offers wages, terms, and conditions of employment, which are at least as favorable to those offered to the alien.

"(D) END OF RECRUITMENT REQUIREMENT.—The requirement to recruit United States workers shall terminate on the first day of the contract period that work begins.

"(5) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the nonimmigrant is sought to any eligible United States worker who—

"(A) applies;

"(B) is at least as qualified for the job as the nonimmigrant; and

"(C) will be available at the time and place of need.

"(6) PROVISION OF INSURANCE.—If the job for which the H-2A worker is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(7) STRIKE OR LOCKOUT.—There is not a strike or lockout in the course of a labor dispute which, under regulations promulgated by the Secretary of Labor, precludes the hiring of H-2A workers.

"(8) PREVIOUS VIOLATIONS.—The employer has not, during the previous 5-year period, employed H-2A workers and knowingly violated a material term or condition of approval with respect to the employment of domestic or nonimmigrant workers, as determined by the Secretary of Labor after notice and opportunity for a hearing.

"(c) PUBLIC EXAMINATION.—Not later than 1 working day after the date on which a petition under this section is filed, the employer shall make a copy of each such petition (and any necessary accompanying documents) available for public examination, at the employer's principal place of business or worksite.

"(d) LIST.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall maintain a list of the petitions filed under subsection (b), which shall—

"(A) be sorted by employer; and

"(B) include the number of H-2A workers sought, the wage rate, the period of intended employment, and the date of need for each alien.

"(2) AVAILABILITY.—The Secretary of Homeland Security shall, at least monthly, submit a copy of the list described in paragraph (1) to the Secretary of Labor, who shall make the list available for public examination.

"(e) PETITIONING FOR ADMISSION.—

"(1) IN GENERAL.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker shall file with the Secretary of Homeland Security a petition that includes the attestations described in subsection (b).

"(2) CONSIDERATION OF PETITIONS. For each petition filed and considered under this subsection—

"(A) the Secretary of Homeland Security may not require such petition to be filed more than 28 days before the first date the employer requires the labor or services of the H-2A worker; and

"(B) unless the Secretary of Homeland Security determines that the petition is incomplete or obviously inaccurate, the Secretary, not later than 7 days after the date on which such petition was filed, shall either approve or deny the petition.

"(3) EXPEDITED ADJUDICATION. The Secretary of Homeland Security shall—

"(A) establish a procedure for expedited adjudication of petitions filed under this subsection; and

"(B) not later than 7 working days after such filing, transmit, by fax, cable, or other means assuring expedited delivery, a copy of notice of action on the petition—

"(i) in the case of approved petitions, to the petitioner, the Secretary of Labor, and to the appropriate immigration officer at the port of entry or United States consulate where the petitioner has indicated that the alien beneficiary or beneficiaries will apply for a visa or admission to the United States;

"(ii) in the case of denied petitions, to the petitioner, including reasons for the denial and instructions on how to appeal such denial.

"(4) PETITION AGREEMENTS.—By filing an H-2A petition, a petitioner and each employer consents to allow access to the site where the labor is being performed for the purpose of determining compliance with H-2A requirements.

"(f) ROLES OF AGRICULTURAL ASSOCIATIONS.—

"(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to hire an alien as a temporary agricultural worker may be filed by an association of agricultural employers which use agricultural services.

"(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, such workers may be transferred among its members to perform agricultural services of a temporary nature for which the petition was approved.

“(3) STATEMENT OF LIABILITY.—The petition shall include a clear statement explaining the liability under this section of an employer who places an H–2A worker with another employer authorized to employ H–2A workers if the other employer displaces a United States worker in violation of this section.

“(4) TREATMENT OF VIOLATIONS.—

“(A) INDIVIDUAL MEMBER.—If an individual member of a joint employer association violates any condition for approval with respect to the member's petition, the Secretary of Homeland Security shall deny such petition only with respect to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or had reason to know of the violation.

“(B) ASSOCIATION OF AGRICULTURAL EMPLOYERS.—

“(i) JOINT EMPLOYER.—If an association representing agricultural employers as a joint employer violates any condition for approval with respect to the association's petition, the Secretary of Homeland Security shall deny such petition only with respect to the association and may not apply the denial to any individual member of the association, unless the Secretary of Labor determines that the member participated in, had knowledge of, or had reason to know of the violation.

“(ii) SOLE EMPLOYER.—If an association of agricultural employers approved as a sole employer violates any condition for approval with respect to the association's petition, no individual member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the occupation in which such aliens were employed by the association which was denied approval during the period such denial is in force, unless such member employs such aliens in the occupation in question directly or through an association which is a joint employer of such workers with the member.

“(g) EXPEDITED ADMINISTRATIVE APPEALS.—The Secretary of Homeland Security shall issue regulations to provide for an expedited procedure—

“(1) for the review of a denial of a petition under this section by the Secretary; or

“(2) at the applicant's request, for a de novo administrative hearing respecting the denial.

“(h) MISCELLANEOUS PROVISIONS.—

“(1) REQUIREMENTS FOR PLACEMENT OF H–2A WORKERS WITH OTHER EMPLOYERS.—A nonimmigrant who is admitted into the United States as an H–2A worker may be transferred to another employer that has attested to the Secretary of Homeland Security that the employer has filed a petition under this section and is in compliance with this section. The Secretary of Homeland Security and the Secretary of State shall issue regulations to establish a process for the approval and reissuance of visas for transferred H–2A workers, as necessary.

“(2) ENDORSEMENT OF DOCUMENTS.—The Secretary of Homeland Security shall provide for the endorsement of entry and exit documents of H–2A workers as may be necessary to carry out this section and to provide notice for purposes of section 274A.

“(3) PREEMPTION OF STATE LAWS.—The provisions of subsection (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

“(4) FEES.—

“(A) IN GENERAL.—The Secretary of Homeland Security may require, as a condition of approving the petition, the payment of a fee, in accordance with subparagraph (B), to recover the reasonable cost of processing petitions.

“(B) FEE BY TYPE OF EMPLOYEE.—

“(i) SINGLE EMPLOYER.—An employer whose petition for temporary alien agricultural workers is approved shall, for each approved petition, pay a fee that—

“(I) subject to subclause (II), is equal to $100 plus $10 for each approved H–2A worker; and

“(II) does not exceed $1,000.

“(ii) ASSOCIATION.—Each employer-member of a joint employer association whose petition for temporary agricultural aliens is approved shall, for each such approved petition, pay a fee that—

“(I) subject to subclause (II), is equal to $100 plus $10 for each approved H–2A worker; and

“(II) does not exceed $1,000.

“(iii) LIMITATION ON ASSOCIATION FEES.—A joint employer association under clause (ii) shall not be charged a separate fee.

“(C) METHOD OF PAYMENT.—The fees collected under this paragraph shall be paid by check or money order to the Department of Homeland Security. In the case of employers of H–2A workers that are members of a joint employer association applying on their behalf, the aggregate fees for all employers of H–2A workers under the petition may be paid by 1 check or money order.

“(D) INCREASE IN FEES.—For calendar year 2007 and each subsequent calendar year, the dollar amounts in subparagraph (B) may be increased by an amount equal to—

“(i) such dollar amount; multiplied by

“(ii) the percentage by which the average of the Consumer Price Index for all urban consumers (United States city average) for the 12-month period ending with August of the preceding calendar year exceeds such average for the 12-month period ending with August 2005.

“(5) EMPLOYMENT VERIFICATION PROGRAM.—

“(A) IN GENERAL.—Not later than 12 months after the date of enactment of this paragraph, the Secretary of Homeland Security shall establish a mandatory employment verification program for all employers of H–2A workers to verify the eligibility of all individuals hired by each such employer, including those who present an H–2A visa to work in the United States.

“(B) EMPLOYER COMPLIANCE.—Each employer of an H–2A worker shall comply with the requirements promulgated by the Secretary of Homeland Security to verify the identity and employment eligibility of all individuals hired.

“(C) REGULATIONS.—In carrying out the program under this paragraph, the Secretary of Homeland Security shall promulgate regulations to require each employer to verify the employment eligibility of each employee hired through—

“(i) a secure Internet site;

“(ii) a machine capable of reading the H–2A visa, which shall serve as the identification and employment eligibility document for each H–2A alien; or

“(iii) a toll-free telephone number to check the accuracy of any social security number presented to the employer.

“(6) EMPLOYER-BASED APPLICATION FOR PERMANENT RESIDENCE.—

“(A) IN GENERAL.—The employer of a Level II H–2A worker who has been employed in such status for not less than 5 years may file an application for an employment-based adjustment of status under section 245(k) for such worker.

“(B) EFFECT OF APPLICATION.—A Level II H–2A worker for whom an application is filed under subparagraph (A) may continue to be employed in such status until—

“(i) such application has been adjudicated; or

“(ii) such worker has violated any provision of this section.

“(i) FAILURE TO MEET CONDITIONS.—

“(1) IN GENERAL.—The Secretary of Labor shall be responsible for conducting investigations and random audits of employer work sites to ensure compliance with the requirements of the H–2A program and all other requirements under this Act. All monetary fines levied against violating employers shall be paid to the Department of Labor and used to enhance the Department of Labor's investigatory and auditing power.

“(2) PENALTIES FOR FAILURE TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet any condition under subsection (b), or a material misrepresentation of fact in a petition under subsection (b)—

“(A) the Secretary of Labor—

“(i) shall notify the Secretary of Homeland Security of such finding; and

“(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $1,000 per violation, as the Secretary of Labor determines to be appropriate; and

“(B) the Secretary of Homeland Security may disqualify the employer from the employment of H–2A workers for a period of 1 year.

“(3) PENALTIES FOR WILLFUL FAILURE.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (b) or a willful misrepresentation of a material fact in a petition under subsection (b)—

“(A) the Secretary of Labor—

“(i) shall notify the Secretary of Homeland Security of such finding; and

“(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $5,000 per violation, as the Secretary of Labor determines to be appropriate; and

“(B) the Secretary of Homeland Security may—

“(i) disqualify the employer from the employment of H–2A workers for a period of 2 years;

“(ii) for a second violation, disqualify the employer from the employment of H–2A workers for a period of 5 years; and

“(iii) for a third violation, permanently disqualify the employer from the employment of H–2A workers.

“(4) PENALTIES FOR DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a willful failure to meet a material condition of subsection (b) or a willful misrepresentation of a material fact in a petition under subsection (b), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's petition under subsection (b), or during the period of 30 days preceding such period of employment—

“(A) the Secretary of Labor—

“(i) shall notify the Secretary of Homeland Security of such finding; and

“(ii) may impose such other administrative remedies, including civil money penalties in an amount not to exceed $15,000 per violation, as the Secretary of Labor determines to be appropriate; and

"(B) the Secretary of Homeland Security may—

"(i) disqualify the employer from the employment of H–2A workers for a period of 5 years; and

"(ii) for a second violation, permanently disqualify the employer from the employment of H–2A workers.

"(5) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor may not impose total civil money penalties with respect to a petition under subsection (b) in excess of $90,000.

"(j) FAILURE TO PAY WAGES OR REQUIRED BENEFITS.—

"(1) IN GENERAL.—The Secretary of Labor shall be responsible for conducting investigations and random audits of employer work sites to ensure compliance with the requirements of the H–2A program.

"(2) ASSESSMENT.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment attested by the employer under subsection (b)(2), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question.

"(3) AMOUNT.—The back wages or other required benefits described in paragraph (2)—

"(A) shall be equal to the difference between the amount that should have been paid and the amount that was paid to such worker; and

"(B) shall be distributed to the worker to whom such wages are due.

"(k) MINIMUM WAGES, BENEFITS, AND WORKING CONDITIONS.—

"(1) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—

"(A) IN GENERAL.—Each employer seeking to hire United States workers shall offer such workers not less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. No job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers. The benefits, wages, and other terms and conditions of employment described in this subsection shall be provided in connection with employment under this section.

"(B) INTERPRETATION.—Every interpretation and determination made under this section or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made so that—

"(i) the services of workers to their employers and the employment opportunities afforded to workers by the employers, including those employment opportunities that require United States workers or H–2A workers to travel or relocate in order to accept or perform employment—

"(I) mutually benefit such workers, as well as their families, and employers; and

"(II) principally benefit neither employer nor employee; and

"(ii) employment opportunities within the United States benefit the United States economy.

"(2) REQUIRED WAGES.—

"(A) IN GENERAL.—Each employer applying for workers under subsection (b) shall pay not less than the greater of—

"(i) the prevailing wage to all workers in the occupation for which the employer has applied for workers; or

"(ii) the applicable State minimum wage.

"(B) WAGES FOR LEVEL II H–2A WORKERS.—Each employer applying for Level II H–2A workers under subsection (b) shall pay such workers not less than the prevailing wage, as determined by the Secretary of Labor.

"(C) DETERMINATION OF WAGES.—An employer seeking to comply with subparagraph (A) may—

"(i) request and obtain a prevailing wage determination from the State employment agency; or

"(ii) rely on other wage information, including a survey of the prevailing wages of workers in the occupation in the area of employment that has been conducted or funded by the employer or a group of employers, using the methodology used by the Secretary of Labor to establish Occupational Employment and Wage estimate, and any other criteria specified in regulations issued by the Secretary of Labor.

"(D) COMPLIANCE.—An employer shall be considered to have complied with the requirement under subparagraph (A) if the employer—

"(i)(I) obtains a prevailing wage determination under subparagraph (C)(i); or

"(II) relies on a qualifying survey of prevailing wages; and

"(ii) pays such prevailing wage.

"(3) HOUSING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided under subparagraph (F), each employer applying for workers under subsection (b) shall offer to provide housing at no cost to—

"(i) all workers in job opportunities for which the employer has applied under subsection (b); and

"(ii) all other workers in the same occupation at the same place of employment, whose place of residence is beyond normal commuting distance.

"(B) COMPLIANCE.—An employer meets the requirement under subparagraph (A) if the employer—

"(i) provides the workers with housing that meets applicable Federal standards for temporary labor camps; or

"(ii) secures housing for the workers that—

"(I) meets applicable local standards for rental or public accommodation housing, or other substantially similar class of habitation; or

"(II) in the absence of applicable local standards, meets State standards for rental or public accommodation housing or other substantially similar class of habitation.

"(C) INSPECTION.—The employer may request a certificate of inspection by an approved Federal or State agency to the Secretary of Labor not later than 28 days before a worker is scheduled to occupy housing described in subparagraph (B). Such an inspection, and any necessary follow up, including at least 1 follow up visit, shall be performed by the Wage and Hour Division of the Department of Labor in a timely manner not later than 28 days after such a request.

"(D) RULEMAKING.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

"(E) CONSTRUCTION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

"(F) HOUSING ALLOWANCE.—

"(i) AUTHORITY.—If the Governor of a State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed in agricultural work, an employer in such State may, in lieu of offering housing pursuant to subparagraph (A), provide a reasonable housing allowance. An employer who provides a housing allowance to a worker shall not be required to reserve housing accommodations for the worker.

"(ii) ASSISTANCE IN LOCATING HOUSING.—Upon the request of a worker seeking assistance in locating housing, an employer providing a housing allowance under clause (i) shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment.

"(iii) LIMITATION.—A housing allowance may not be used for housing that is owned or controlled by the employer. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protect Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

"(iv) OTHER REQUIREMENTS.—

"(I) NONMETROPOLITAN COUNTY.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the state-wide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(II) METROPOLITAN COUNTY.—If the place of employment of the workers provided an allowance under this subparagraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

"(v) INFORMATION.—If the employer provides a housing allowance to H–2A employees, the employer shall provide a list to the Secretary of Homeland Security and the Secretary of Labor of the names and local addresses of such workers.

"(4) REIMBURSEMENT OF TRANSPORTATION COSTS.—

"(A) REQUIREMENT FOR REIMBURSEMENT.—A worker who completes 50 percent of the period of employment of the job for which the worker was hired, beginning on the first day of such employment, shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from—

"(i) the place from which the worker was approved to enter the United States to the location at which the work for the employer is performed; or

"(ii) if the worker traveled from a place in the United States at which the worker was last employed, from such place of last employment to the location at which the work for the employer is performed.

"(B) TIMING OF REIMBURSEMENT.—Reimbursement to the worker of expenses for the cost of the worker's transportation and subsistence to the place of employment under subparagraph (A) shall be considered timely if such reimbursement is made not later than the worker's first regular payday after a worker completes 50 percent of the period of employment of the job opportunity as provided under this paragraph.

"(C) ADDITIONAL REIMBURSEMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the work site to the place where the worker was approved to enter the United States to work for the employer. If the worker has contracted with a subsequent employer, the previous and subsequent employer shall share the cost of the worker's transportation and subsistence from work site to work site.

"(D) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided to a worker or alien under this paragraph shall be equal to the lesser of—

"(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

"(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

"(E) REIMBURSEMENT FOR LAID OFF WORKERS.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (5)(D)) before the anticipated ending date of employment, the employer shall provide—

"(i) the transportation and subsistence required under subparagraph (C); and

"(ii) notwithstanding whether the worker has completed 50 percent of the period of employment, the transportation reimbursement required under subparagraph (A).

"(F) TRANSPORTATION.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker in accordance with applicable laws and regulations.

"(G) CONSTRUCTION.—Nothing in this paragraph shall be construed to require an employer to reimburse visa, passport, consular, or international border-crossing fees incurred by the worker or any other fees associated with the worker's lawful admission into the United States to perform employment.

"(5) EMPLOYMENT GUARANTEE.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Each employer applying for workers under subsection (b) shall guarantee to offer the worker employment for the hourly equivalent of not less than 75 percent of the work hours during the total anticipated period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer.

"(ii) FAILURE TO MEET GUARANTEE.—If the employer affords the United States worker or the H-2A worker less employment than that required under this subparagraph, the employer shall pay such worker the amount which the worker would have earned if the worker had worked for the guaranteed number of hours.

"(iii) PERIOD OF EMPLOYMENT.—For purposes of this subparagraph, the term 'period of employment' means the total number of anticipated work hours and work days described in the job offer and shall exclude the worker's Sabbath and Federal holidays.

"(B) CALCULATION OF HOURS.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

"(C) LIMITATION.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 75 percent guarantee described in subparagraph (A).

"(D) TERMINATION OF EMPLOYMENT.—

"(i) IN GENERAL.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required due to any form of natural disaster, including flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease, pest infestation, regulatory action, or any other reason beyond the control of the employer before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment.

"(ii) REQUIREMENTS.—If a worker's employment is terminated under clause (i), the employer shall—

"(I) fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed during the period beginning on the first work day after the arrival of the worker and ending on the date on which such employment is terminated; and

"(II) make efforts to transfer the United States worker to other comparable employment acceptable to the worker.

"(l) DISQUALIFICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), an alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the previous 5 years, violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission.

"(2) WAIVERS.—

"(A) IN GENERAL.—An alien seeking admission under section 101(a)(15)(H)(ii)(a) while outside of the United States shall not be deemed inadmissible under such section by reason of—

"(i) paragraph (1);

"(ii) section 212(a)(6)(C), if such alien has previously falsely represented himself or herself to be a citizen of the United States for the purpose of agricultural employment; or

"(iii) section 212(a)(9)(B), unless such alien was deported from the United States.

"(B) EFFECTIVE PERIOD OF WAIVER.—If an alien is admitted to the United States as a result of a waiver under subparagraph (A), such waiver shall remain in effect until the alien subsequently violates—

"(i) a material provision of this section; or

"(ii) a term or condition of admission into the United States as a nonimmigrant.

"(m) PERIOD OF ADMISSION.—

"(1) IN GENERAL.—An H–2A alien shall be admitted for an 11-month period of employment, excluding—

"(A) a period of not more than 7 days before the beginning of the period of employment for the purpose of travel to the work site; and

"(B) a period of not more than 14 days after the period of employment for the purpose of departure or extension based on a subsequent offer of employment.

"(2) EMPLOYMENT LIMITATION.—An alien may not be employed during the 14-day period described in paragraph (1)(B) except in the employment for which the alien was previously authorized.

"(3) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary of Homeland Security to extend the stay of an alien under any other provision of this Act.

"(n) ABANDONMENT OF EMPLOYMENT.—

"(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status—

"(A) shall have failed to maintain nonimmigrant status as an H–2A worker; and

"(B) shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(2) REPORT BY EMPLOYER.—Not later than 24 hours after the premature abandonment of employment by an H–2A worker, the employer or association acting as an agent for the employer shall notify the Secretary of Homeland Security of such abandonment.

"(3) REMOVAL.—The Secretary of Homeland Security shall ensure the prompt removal from the United States of any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

"(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate the alien's employment if the alien promptly departs the United States upon termination of such employment.

"(o) REPLACEMENT OF ALIEN.—

"(1) IN GENERAL.—Upon notification under subsection (n)(2)—

"(A) the Secretary of State shall promptly issue a visa to an eligible alien designated by the employer to replace an H–2A worker who abandons or prematurely terminates employment; and

"(B) the Secretary of Homeland Security shall admit such alien into the United States.

"(2) CONSTRUCTION.—Nothing in this subsection shall limit any preference for which United States workers are eligible under this Act.

"(p) IDENTIFICATION DOCUMENT.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall provide each alien authorized to be an H-2A worker with a single machine-readable, tamper-resistant, and counterfeit-resistant document that—

"(A) authorizes the alien's entry into the United States;

"(B) serves, for the appropriate period, as an employment eligibility document; and

"(C) verifies the identity of the alien through the use of at least 1 biometric identifier.

"(2) REQUIREMENTS.—The document required for all aliens authorized to be an H–2A worker—

"(A) shall be capable of reliably determining whether—

"(i) the individual with the document is in fact eligible for employment as an H-2A worker;

"(ii) the individual with the document is not claiming the identity of another person; and

"(iii) the individual with the document is authorized to be admitted into the United States; and

"(B) shall be compatible with—

"(i) other databases of the Secretary of Homeland Security to prevent an alien from obtaining benefits for which the alien is not eligible and determining whether the alien is unlawfully present in the United States; and

"(ii) law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(q) Extension of Stay of H–2A Workers in the United States.—

"(1) Extension of stay.—

"(A) Authority.—An employer may petition to extend an H–2A worker's stay for up to 2 consecutive contract periods before the alien is required to return to the alien's country of nationality or country of last residence.

"(B) Request an extension.—If an employer seeks to employ, or continue to employ, an H–2A worker who is lawfully present in the United States, the employer or association shall request an extension of the alien's stay not later than 14 days before the expiration of the period of authorized employment.

"(C) Limitations.—An extension of stay under this subsection—

"(i) may only commence upon the termination of the H–2A worker's contract with an employer;

"(ii) may be effective immediately following the termination of a prior contract; and

"(iii) may not exceed 11 months, excluding the 14-day period provided for travel or extension due to subsequent employment.

"(D) Return to foreign country.—

"(i) Requirement to return.—At the conclusion of 3 contract periods authorized under this section, the alien so employed may not be employed in the United States as an H–2A worker until the alien has returned to the alien's country of nationality or country of last residence for a period of not less than 6 months.

"(ii) Reentry.—The alien may become eligible for reentry into the United States as an H–2A worker after working in the United States for 2 contract periods and remaining the alien's country of nationality or country of last residence for not less than 4 months. The alien may also be eligible for re-entry to the United States as an H–2A worker after working in the United States for 1 contract period and remaining in the alien's country of nationality or country of last residence for not less than 2 months.

"(2) Work authorization.—

"(A) In general.—An alien who is lawfully present in the United States on the date of the filing of a petition to extend the stay of the alien may commence or continue the employment described in a petition under paragraph (1). The employer shall provide a copy of the employer's petition for extension of stay to the alien. The alien shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

"(B) Employment eligibility document.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary of Homeland Security shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

"(C) File defined.—In this paragraph, the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivering by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition for an extension of stay.

"(r) Special Rule for Aliens Employed as Livestock Workers.—Notwithstanding any other provision of this section, an alien admitted as an H–2A worker for employment as a sheepherder, goatherder, livestock worker, or dairy worker may be admitted for a period of up to 2 years.

"ADMISSION OF CROSS-BORDER H–2AA WORKERS

"Sec. 218A. (a) Definition.—In this section, the term 'H–2AA worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a) who participates in the cross-border worker program established under this section.

"(b) Incorporation by Reference.—

"(1) In general.—Except as specifically provided under paragraph (2), the provisions under section 218 shall apply to H–2AA workers.

"(2) Exceptions.—The provisions under subsections (b)(1)(B), (k)(2)(B), (k)(3), (k)(4) (except for subparagraph (G)), and (r) of section 218 shall not apply to H–2AA workers.

"(c) Mandatory Entry and Exit.—An H–2AA worker who complies with the provisions of this section—

"(1) may enter the United States each scheduled work day, in accordance with regulations promulgated by the Secretary of Homeland Security; and

"(2) shall exit the United States before the end of each day of such entrance.".

(2) Clerical amendment.—The table of contents of the Immigration and Nationality Act is adding after the item relating to section 218 the following:

"Sec. 218A. Admission of cross-border H–2AA workers.".

(b) Rulemaking.—

(1) Issuance of visas.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to provide for uniform procedures for the issuance of visas by United States consulates and consular officials to nonimmigrants described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) H–2AA border crossings.—The Secretary of Homeland Security shall promulgate regulations to establish a process for workers authorized to work in the United States under section 218A of the Immigration and Nationality Act, as added by subsection (a), to ensure that such workers expeditiously enter and exit the United States during each work day.

(c) Effective Date.—The amendment made by this section shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 223. LEGAL ASSISTANCE FROM THE LEGAL SERVICES CORPORATION.

Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) Legal Assistance.—(1) Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

"(2) The Legal Services Corporation may not provide legal assistance for or on behalf of any alien, and may not provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien—

"(A) is described in subsection (a); and

"(B) is present in the United States at the time the legal assistance is provided.

"(3)(A) No party may bring a civil action for damages or other complaint on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) unless—

"(i) the party makes a request to the Federal Mediation and Conciliation Service or an equivalent State program (as defined by the Secretary of Labor) not later than 90 days before bringing the action to assist the parties in reaching a satisfactory resolution of all issues involving parties to the dispute; and

"(ii) the parties to the dispute have attempted, in good faith, mediation or other non-binding dispute resolution of all issues involving all such parties.

"(B) If the mediator finds that an agricultural employer, agricultural association, or farm labor contractor has corrected a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) or of a regulation under such Act not later than 14 days after the date on which such agricultural employer, agricultural association, or farm labor contractor was notified in writing of such violation, no action may be brought under such Act with respect to such violation.

"(C) Any settlement reached through the mediation process described in subparagraph (A) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding.

"(4) An employer of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) shall not be required to permit any recipient of grants or contracts under section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f), or any employee of such recipient, to enter upon the employer's property unless such recipient or employee has a prearranged appointment with a particular worker.

"(5) The employer of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) shall post the contact information of the Legal Services Corporation in the dwelling and at the work site of each nonimmigrant employee.

"(6) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this subsection."; and

(2) by adding at the end the following:

"(g)(1) If a defendant prevails in an action under this section in which the plaintiff is represented by an attorney who is employed by the Legal Services Corporation or any entity receiving funds from the Legal Services Corporation, such entity or the Legal Services Corporation shall award to the prevailing defendant fees and other expenses incurred by the defendant in connection with the action.

"(2) As used in this subsection, the term 'fees and other expenses' has the meaning given the term in section 504(b)(1)(A) of title 5, United States Code.

"(3) The court shall take whatever steps necessary, including the imposition of sanctions, to ensure compliance with this subsection.".

Subtitle C—Blue Card Program

SEC. 231. ADMISSION OF NECESSARY AGRICULTURAL WORKERS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218A, as added by section 222, the following:

"BLUE CARD PROGRAM

"SEC. 218B. (a) DEFINITIONS.—As used in this section—

"(1) the term 'agricultural employment' means any service or activity that is considered agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)), and labor and services relating to commodities, livestock, dairy, forestry, landscaping, fishing, and the processing of meat, poultry, and fish;

"(2) the term 'blue card status' means the status of an alien who has been—

"(A) lawfully admitted for a temporary period for agricultural employment under subsection (b); and

"(B) issued a tamper-resistant, machine-readable document that—

"(i) serves as the alien's visa, employment authorization, and travel documentation; and

"(ii) contains such biometrics as are required by the Secretary;

"(3) the term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment;

"(4) the term 'Secretary' means the Secretary of Homeland Security; and

"(5) the term 'United States worker' means any worker, including a national of the United States, a lawfully admitted permanent resident alien, and any other alien authorized to work in the relevant job opportunity within the United States, except—

"(A) an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a);

"(B) an alien admitted or otherwise provided status as an H-2AA worker; and

"(C) an alien provided status under this section.

"(b) BLUE CARD PROGRAM.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may confer blue card status upon an alien who qualifies under this subsection if, not later than 6 months after the date of enactment of this section, the petitioning employer attests and the Secretary determines that the alien—

"(A) performed at least 1600 hours of agricultural employment in the United States for that employer during 2005;

"(B) except as otherwise provided under paragraph (2), is otherwise admissible to the United States under section 212; and

"(C) has never been convicted of a felony or a misdemeanor in the United States.

"(2) DETERMINATION.—In determining an alien's eligibility for Blue Card status, the Secretary shall—

"(A) conduct a background investigation of the alien, including a review of evidence submitted by the petitioning employer in support of the attestation that the alien meets the minimum work requirements; and

"(B) interview the alien and require the alien to answer questions concerning the alien's—

"(i) physical and mental health;

"(ii) criminal history and gang membership;

"(iii) immigration history;

"(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government;

"(v) voter registration history;

"(vi) claims to United States citizenship; and

"(vii) tax history.

"(3) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In determining an alien's eligibility for blue card status under paragraph (1)(C)—

"(A) the provisions of paragraphs (5), (6)(A), (7)(A), and (9)(B) of section 212(a) shall not apply;

"(B) the provisions of section 212(a)(6)(C) shall not apply with respect to prior or current agricultural employment; and.

"(C) the Secretary may not waive paragraph (1),(2), or (3) of section 212(a) unless such waiver is permitted under another provision of law.

"(4) PETITIONS.—

"(A) IN GENERAL.—An employer seeking blue card status under this section for an alien employee shall file a named petition for blue card status with the Secretary.

"(B) EMPLOYER PETITION.—An employer filing a petition under subparagraph (A) shall—

"(i) pay a registration fee of $3,000;

"(ii) pay a processing fee to cover the actual costs incurred in adjudicating the petition;

"(iii) include an affidavit signed by the beneficiary of the petition—

"(I) that certifies, under penalty of perjury under the laws of the United States, that the application and any evidence submitted with it is true and correct and that authorizes the release of any information contained in the petition and attached evidence for law enforcement purposes; and

"(II) that includes a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of Blue Card status, the alien agrees to waive any right to administrative or judicial review or appeal of a determination by the Department of Homeland Security regarding the alien's eligibility for Blue Card status; and

"(iv) provide an attestation, valid for not less than 60 days, that the employer—

"(I) conducted adequate recruitment in the area of intended employment before filing the petition; and

"(II) was unsuccessful in locating qualified United States workers for the job opportunity for which the certification is sought.

"(C) ADEQUATE RECRUITMENT.—

"(i) MINIMUM REQUIREMENT.—The adequate recruitment requirement under subparagraph (B)(iii) is satisfied if the employer—

"(I) places a job order with the America's Job Bank Program of the Department of Labor; and

"(II) places a Sunday advertisement in a newspaper of general circulation that is likely to be patronized by a potential worker in the area of intended employment.

"(ii) ADVERTISEMENT REQUIREMENT.—An advertisement under clause (i)(II) shall—

"(I) name the employer;

"(II) direct applicants to report or send resumes, as appropriate for the occupation, to the employer;

"(III) provide a description of the vacancy that is specific enough to apprise United States workers of the job opportunity for which certification is sought;

"(IV) describe the geographic area with enough specificity to apprise applicants of any travel requirements and where applicants will likely have to reside to perform the job;

"(V) state the rate of pay, which must equal or exceed the wage paid to the H-2A employees in the occupation in the area of intended employment; and

"(VI) offer wages, terms, and conditions of employment, which are at least as favorable as those offered to the alien.

"(D) ADJUDICATION OF PETITIONS.—The Secretary of Homeland Security shall ensure that—

"(i) the petitioning process is secure and incorporates anti-fraud protections; and

"(ii) all petitions for Blue Card status are processed not later than 12 months after the date of enactment of this section.

"(E) NOTIFICATION OF ADJUDICATION.—The Secretary shall provide notification of an adjudication of a petition filed for an alien to the alien and to the employer who filed such petition.

"(F) EFFECT OF DENIAL.—If the Secretary denies a petition filed for an alien, such alien shall return to the country of the alien's nationality or last residence outside the United States.

"(5) BLUE CARD STATUS.—

"(A) BLUE CARD.—

"(i) ALL-IN-ONE CARD.—The Secretary, in conjunction with the Secretary of State, shall develop a single machine-readable, tamper-resistant document that—

"(I) authorizes the alien's entry into the United States;

"(II) serves, during the period an alien is in blue card status, as an employment authorized endorsement or other appropriate work permit for agricultural employment; and

"(III) serves as an entry and exit document to be used in conjunction with a proper visa or as a visa and as other appropriate travel and entry documentation using biometric identifiers that meet the biometric identifier standards jointly established by the Secretary of State and the Secretary.

"(ii) BIOMETRICS.—

"(I) SUBMISSION OF IDENTIFIERS.—After a petition is filed by an employer and receipt of such petition is confirmed by the Secretary, the alien, in order to further adjudicate the petition, shall submit 2 biometric identifiers (such as a fingerprint and a digital photograph), as required by the Secretary, to an application support center, which the Secretary shall establish in each State.

"(II) PROCESS.—The Secretary shall prescribe a process for the submission of a biometric identifier to be incorporated electronically into an employer's prior electronic filing of a petition. The Secretary shall prescribe an alternative process for employers to file a petition in a manner other than electronic filing, as needed.

"(B) DOCUMENT REQUIREMENTS.—The Secretary shall issue a blue card that is—

"(i) capable of reliably determining if the individual with the blue card whose eligibility is being verified is—

"(I) eligible for employment;

"(II) claiming the identity of another person; and

"(III) authorized to be admitted; and

"(ii) compatible with—

"(I) other databases maintained by the Secretary to exclude aliens from benefits for which the aliens are not eligible and determine whether the alien is unlawfully present in the United States; and

"(II) law enforcement databases to determine if the alien has been convicted of criminal offenses.

"(C) AUTHORIZED TRAVEL.—

"(i) IN GENERAL.—An alien may make brief visits outside the United States during the period in which the alien is in blue card status, in accordance with such regulations as are established by the Secretary, in conjunction with the Secretary of State.

“(ii) Readmission.—An alien may be readmitted to the United States after a visit described in clause (i) without having to obtain a visa if the alien presents the alien's blue card document.

“(iii) Effect of travel.—Such periods of time spent outside the United States shall not cause the period of blue card status in the United States to be extended.

“(D) Portability.—

“(i) In general.—During the period in which an alien is in blue card status, the alien issued a blue card may accept new employment upon the Secretary's receipt of a petition filed by an employer on behalf of the alien. Employment authorization shall continue for such alien until such petition is adjudicated.

“(ii) Effect of denial.—If a petition filed under clause (i) is denied and the alien has ceased employment with the previous employer, the authorization under clause (i) shall terminate and the alien shall be required to return to the country of the alien's nationality or last residence.

“(iii) Fee.—A fee may be required by the Secretary to cover the actual costs incurred in adjudicating a petition under this subparagraph. No other fee may be required under this subparagraph.

“(E) Annual check in.—The employer of an alien in blue card status who has been employed for 1 year in blue card status shall confirm the alien's continued status with the Secretary electronically or in writing. Such confirmation will not require a further labor attestation.

“(F) Termination of blue card status.—The Secretary may terminate the blue card status of an alien upon a determination by the Secretary that—

“(i) without the appropriate waiver, the granting of blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i);

“(ii) the alien is convicted of a felony or a misdemeanor committed in the United States; or

“(iii) the alien is deportable or inadmissible under any other provision of this Act.

“(6) Period of authorized admission.—

“(A) In general.—An alien may be granted blue card status for a period not to exceed 2 years.

“(B) Return to country.—At the end of the period referred to in subparagraph (A), the alien shall return to the country of nationality or last residence.

“(C) Eligibility for nonimmigrant visa.—Upon returning to the country of nationality or last residence under subparagraph (B), the alien may apply for an H-2A visa, an H-2AA visa, or any other nonimmigrant visa.

“(D) Reporting requirement.—Not later than 24 hours after an alien with blue card status ceases to be employed by an employer, such employer shall notify the Secretary of such cessation of employment. The Secretary shall provide electronic means for making such notification.

“(E) Loss of employment.—

“(i) In general.—The blue card status of an alien shall terminate if the alien is not employed for 60 or more consecutive days.

“(ii) Return to country.—An alien whose period of authorized admission terminates under clause (i) shall return to the country of the alien's nationality or last residence.

“(7) Grounds for eligibility.—

“(A) Bar to future visas for condition violations.—If an alien having blue card status violates any term or condition of such status, the alien shall not be eligible for such status or for future immigrant and non-immigrant status, as determined by the Secretary.

“(B) Aliens in H-2A status.—Any alien in lawful H-2A status between January 1, 2005 and December 31, 2006 shall be ineligible for blue card status.

“(8) Bar of change or adjustment of status.—

“(A) In general.—An alien having blue card status shall not be eligible to change or adjust status in the United States.

“(B) Loss of eligibility.—An alien having blue card status shall lose eligibility for such status if the alien—

“(i) files a petition to adjust status to legal permanent residence in the United States; or

“(ii) requests a consular processing for an immigrant or non-immigrant visa outside the United States.

“(9) Judicial review.—There shall be no judicial review of a denial of blue card status.

“(c) Safe Harbor.—

“(1) Safe harbor for alien.—An alien for whom a nonfrivolous petition is filed under this section—

“(A) shall be granted employment authorization pending final adjudication of the petition;

“(B) may not be detained, determined inadmissible, or deportable, or removed pending final adjudication of the petition for blue card status, unless the alien commits an act which renders the alien ineligible for such blue card status; and

“(C) may not be considered an unauthorized alien (as defined in section 274(h)(3)) if the alien is in possession of a copy of a petition for status until such petition is adjudicated.

“(2) Safe harbor for employer.—

“(A) Tax liability.—An employer that files a petition for blue card status for an alien shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

“(B) Employment records.—An employer that provides unauthorized aliens with copies of employment records or other evidence of employment pursuant to the petition shall not be subject to civil and criminal liability pursuant to section 274A for employing such authorized aliens.”.

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218A, as added by section 222, the following:

“Sec. 218B. Blue card program.”.

(c) Penalties for False Statements.—Section 1546 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Any person, including the alien who is the beneficiary of a petition, who—

“(1) files a petition under section 218B(b)(3) of the Immigration and Nationality Act; and

“(2)(A) knowingly and willfully falsifies, conceals, or covers up a material fact related to such a petition;

“(B) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry related to such a petition; or

“(C) creates or supplies a false writing or document for use in making such a petition, shall be fined in accordance with this title, imprisoned not more than 5 years, or both.”.

SEC. 232. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 5054. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5028 submitted by Mr. Salazar (for himself, Mr. Kennedy, Mr. Lieberman, Mr. Obama, Mr. Reid, Mr. Leahy, Mr. Durbin, and Mr. Carper) and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

Beginning on page 688, strike line 9 and all that follows through page 689, line 7.

SA 5055. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 1, insert “, consistent with and subject to all applicable regulations, laws, and provisions of the Constitution,” after “appropriate”.

SA 5056. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. Frist to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 96, after line 19, add the following:

SEC. 11. EXPEDITED REVIEW.

(a) In General.—

(1) Three-judge district court hearing.—Any civil action challenging the legality of any provision of, or any amendment made by, this Act, shall be heard by a 3-judge panel in the United States District Court for the District of Columbia convened under section 2284 of title 28, United States Code. The exclusive venue for expedited review under this section shall be the United States District Court for the District of Columbia

(2) Appellate review.—An interlocutory or final judgment, decree, or order of the court of 3 judges in an action under paragraph (1) shall be reviewable as a matter of right by direct appeal to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed not later than 10 calendar days after such order or judgment is entered and the jurisdictional statement shall be filed not later than 30 calendar days after such order or judgment is entered.

(3) Expedited consideration.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under paragraph (1).

(b) Other Provision.—Notwithstanding any other provision of this Act, section 950k(b) of title 10, United States Code, shall read as follows:

“(b) Review of Military Commission Procedures and Actions.—Except as otherwise provided in this chapter or section 11 of the Military Commissions Act of 2006, and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.".

SA 5057. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 11. ANNUAL REPORT ON INTERROGATION OF ALIEN UNLAWFUL ENEMY COMBATANTS UNDER CUSTODY OR CONTROL OF THE UNITED STATES.

(a) ANNUAL REPORT REQUIRED.—Not later than January 31 each year, the Director of National Intelligence shall submit to Congress a report on the interrogation of alien unlawful enemy combatants under the custody or control of the United States during the preceding calendar year.

(b) ELEMENTS.—Each report under subsection (a) shall set forth, for the year covered by such report, the following:

(1) The types of interrogation methods utilized.

(2) The types of information gathered as a result of the interrogations.

(c) FORM OF REPORTS.—

(1) INTELLIGENCE COMMITTEES.—Each report under subsection (a) shall be provided to all members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives in the form of a written and oral classified briefing.

(2) CONGRESS GENERALLY.—Each report under subsection (a) shall be otherwise submitted to Congress in unclassified form, with a classified annex if appropriate.

(d) UNLAWFUL ENEMY COMBATANT DEFINED.—In this section, the term "unlawful enemy combatant" has the meaning given that term in section 948a(1) of title 10, United States Code, as amended by section 3 (as added by Senate amendment No. 5036).

SA 5058. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 83, strike line 1 and all that follows through page 93, line 4, and insert the following:

SEC. 6. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

(2) by adding at the end the following new subsection:

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.".

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

"(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign source of law shall be considered in defining or interpreting the obligations of the United States under this title.

"(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.".

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

"(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.".

SA 5059. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 83, strike line 1 and all that follows through page 93, line 4, and insert the following:

SEC. 6. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

(2) by adding at the end the following new subsection:

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.".

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

"(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign source of law shall be considered in defining or interpreting the obligations of the United States under this title.

"(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.".

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

"(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.".

SA 5060. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5061. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States: which was ordered to lie on the table; as follows:

On page 5, line 18, strike "and" and all that follows through line 20, and insert the following:

(3) the economic impact implementing such a system will have along the northern border; and

(4) the status of border security measures on the Blackfeet Reservation in Montana and recommendations for improving such measures.

SA 5062. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 5061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5063. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5038 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, line 2, strike the quotation marks and the second period and insert the following:

"(3)(A) Paragraph (1) shall not apply to an application for a writ of habeas corpus challenging the legality of the detention of an alien described in paragraph (1), including a claim of innocence, filed by or on behalf of such an alien who has been detained by the United States for longer than 1 year.

"(B) No second or successive application for a writ of habeas corpus may be filed by or on behalf of an alien described in paragraph (1).".

SA 5064. Mr. SPECTER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States: which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5065. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, line 2, strike the quotation marks and the second period and insert the following:

"(3)(A) Paragraph (1) shall not apply to an application for a writ of habeas corpus challenging the legality of the detention of an alien described in paragraph (1), including a claim of innocence, filed by or on behalf of such an alien who has been detained by the United States for longer than 1 year.

"(B) No second or successive application for a writ of habeas corpus may be filed by or on behalf of an alien described in paragraph (1).".

SA 5066. Mrs. HUTCHISON (for herself and Mr. KYL) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 3, strike line 4 and all that follows through page 5, line 8, and insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

"(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

"(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

"(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

"(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

"(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

"(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

"(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

"(3) REPORTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.".

SA 5067. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

"(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

"(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

"(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

"(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

"(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

"(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

"(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

"(3) REPORTS.—Not later than 366 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.".

SA 5068. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 3. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA.—

"(1) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security, subject to appropriation and after consultation with representatives of State and local government, shall provide for appropriate physical infrastructure, such as double- or triple-layered fencing, additional physical barriers, roads, lighting, cameras and sensors, along not less than 700 linear miles of the southwest border in the areas the Secretary determines are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States or that have proximity to metropolitan areas or military facilities.

"(2) PRIORITY AREAS.—In carrying out paragraph (1), the Secretary of Homeland Security shall give priority for the deployment of additional fencing and other border security infrastructure within the geographic areas—

"(A) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

"(B) extending from 10 miles west of the Calexico, California, port of entry to 5 miles east of the Douglas, Arizona, port of entry;

"(C) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

"(D) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry; and

"(E) extending 15 miles northwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

"(3) REPORTS.—Not later than 366 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, roads and other border infrastructure described in paragraphs (1) and (2). Whenever the Secretary of Homeland Security determines that the fencing is not feasible for those areas described in this subsection, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on Homeland Security of the House of Representatives that explains why the fencing was not feasible and the alternative security measures that were implemented.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this paragraph shall remain available until expended.".

SA 5069. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, in the item relating to section 950g, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 55, strike line 5 and all that follows through page 56, line 2, and insert the following:

"§950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

"(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

On page 56, beginning on line 3, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 56, beginning on line 9, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 57, beginning on line 4, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 57, beginning on line 13, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 58, beginning on line 2, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 58, beginning on line 7, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 59, beginning on line 4, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 59, beginning on line 10, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 80, beginning on line 11, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 81, between lines 20 and 21, insert the following:

(3) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking "United States Court of Appeals for the District of Columbia Circuit" each place it appears in paragraphs (3) and (4) and inserting "United States Court of Appeals for the Armed Forces".

SA 5070. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, strike the item relating to section 950f.

On page 46, below line 20, in the item relating to section 950g, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 51, beginning on line 14, strike "Court of Military Commission Review under section 950f" and insert "United States Court of Appeals for the Armed Forces under section 950g".

On page 52, line 8, strike "950f" and insert "950g".

On page 52, beginning on line 14, strike "Court of Military Commission Review under section 950f" and insert "United States Court of Appeals for the Armed Forces under section 950g".

On page 53, beginning on line 7, strike "Court of Military Commission Review" and insert "United States Court of Appeals for the Armed Forces".

On page 54, line 15 and all that follows through page 57, line 14, and insert the following:

"§950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

"(c) RIGHT OF APPEAL.—The accused may appeal from a final decision of a military commission, and the United States may appeal as provided in section 950d of this title, to the United States Court of Appeals for the Armed Forces in accordance with procedures prescribed under regulations of the Secretary.

"(b) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

"(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

"(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

"(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

"(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

"(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

"(c) REVIEW BY SUPREME COURT.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the Armed Forces in a determination under subsection (a).

On page 58, beginning on line 2, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 58, beginning on line 7, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 59, beginning on line 4, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 59, beginning on line 10, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 80, beginning on line 11, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 81, between lines 20 and 21, insert the following:

(3) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking "United States Court of Appeals for the District of Columbia Circuit" each place it appears in paragraphs (3) and (4) and inserting "United States Court of Appeals for the Armed Forces".

SA 5071. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 46, below line 20, in the item relating to section 950g, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 53, beginning on line 22, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 56, strike lines 7 through 16 and insert the following:

"§ 950g. Review by the United States Court of Appeals for the Armed Forces and the Supreme Court

"(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1)(A) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

On page 58, beginning on line 10, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 58, beginning on line 16, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 59, beginning on line 24, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 60, beginning on line 4, strike "United States Court of Appeals for the District of Columbia Circuit" and insert "United States Court of Appeals for the Armed Forces".

On page 95, line 11, insert "IN GENERAL.—" before "Section 1005(e)(3)".

On page 96, between lines 11 and 12, insert the following:

(b) ADDITIONAL AMENDMENT TO DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 is further amended by striking "United States Court of Appeals for the District of Columbia Circuit" each place it appears in paragraphs (3) and (4) and inserting "United States Court of Appeals for the Armed Forces".

SA 5072. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 2078, to amend the Indian Gaming Regulatory Act to clarify the authority of the National Indian Gaming Commission to regulate class III gaming, to limit the lands eligible for gaming, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 5, insert the following:

(c) NEGOTIATED RULEMAKING.—Section 7 of the Indian Gaming Regulatory Act (25 U.S.C. 2706) (as amended by subsection (b)) is amended by adding at the end the following:

"(d) RULEMAKING.—

"(1) IN GENERAL.—Not later than ______________, 2007, the Commission shall promulgate such final regulations as the Commission determines to be necessary to carry out this Act.

"(2) EFFECTIVE DATE.—The final regulations promulgated pursuant to paragraph (1) shall take effect on the date of promulgation of the regulations.

"(3) NEGOTIATED RULEMAKING PROCEDURE.—

"(A) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the Commission shall promulgate regulations pursuant to paragraph (1) in accordance with the negotiated rulemaking procedure under subchapter III of chapter 5, United States Code.

"(B) RULEMAKING COMMITTEE.—

"(i) ESTABLISHMENT.—The Commission shall establish a negotiated rulemaking committee in accordance with the procedure under subchapter III of chapter 5, United States Code, for the development of proposed regulations under this subsection.

"(ii) REQUIREMENTS.—In establishing the committee under clause (i), the Commission shall—

"(I) make such modifications to the applicable procedure under subchapter III of chapter 5, United States Code, as the Commission determines to be necessary to account for the unique government-to-government relationship between Indian tribes and the United States; and

"(II) ensure that the membership of the committee is composed only of—

"(aa) representatives of the Federal Government; and

"(bb) official representatives of Indian tribal governments, to be nominated by the Indian tribes that are subject to this Act.".

SA 5073. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 5574, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospital GME Support Reauthorization Act of 2006".

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by inserting "and each of fiscal years 2007 through 2011" after "for each of fiscal years 2000 through 2005";

(2) in subsection (e)(1), by striking "26" and inserting "12";

(3) in subsection (f)(1)(A)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) for each of fiscal years 2007 through 2011, $110,000,000."; and

(4) in subsection (f)(2)—

(A) in the matter before subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(B)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(D) for each of fiscal years 2007 through 2011, $220,000,000.".

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) ANNUAL REPORTING REQUIRED.—

"(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

"(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

"(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

"(II) such report fails to provide the information required under any clause of such subparagraph.

"(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

"(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

"(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

"(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

"(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

"(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

"(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

"(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

"(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine pediatrics, subspecialty residencies, and dental residencies.

"(C) RESIDENTS.—The residents described in this subparagraph are those who—

"(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

"(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

"(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

"(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

"(ii) describing the results of the program carried out under this section; and

"(iii) making recommendations for improvements to the program.".

(c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—

(1) in subsection (c)(2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year";

(2) in subsection (e)(2), by striking the first sentence; and

(3) in subsection (e)(3), by striking "made to pay" and inserting "made and pay".

SA 5074. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the bill S. 3421, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2006, with each project to be carried out in the amount specified for that project:

(1) Restoration, new construction or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina in an amount not to exceed $636,000,000. The Secretary is authorized to carry out the project as a collaborative effort consistent with the New Orleans Collaborative Opportunities Study Group Report dated June 12, 2006.

(2) Restoration of the Department of Veterans Affairs Medical Center, Biloxi, Mississippi, and consolidation of services performed at the Department of Veterans Affairs Medical Center, Gulfport, Mississippi, in an amount not to exceed $310,000,000.

(3) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $98,000,000.

SEC. 2. EXTENSION OF AUTHORIZATION FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS AUTHORIZED UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.

Notwithstanding subsection (d) of section 221 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (Public Law 108–170; 117 Stat. 2050), the Secretary of Veterans Affairs may enter into contracts before September 30, 2009, to carry out each major medical facility project, as originally authorized by such section 221, as follows with each project to be carried out in the amount specified for that project:

(1) Construction of an outpatient clinic and regional office at the Department of Veterans Affairs Medical Center, Anchorage, Alaska, in an amount not to exceed $75,270,000.

(2) Consolidation of clinical and administrative functions of the Department of Veterans Affairs Medical Center in Cleveland, Ohio, and the Department of Veterans Affairs Medical Center in Brecksville, Ohio, in an amount not to exceed $102,300,000.

(3) Construction of the Extended Care Building at the Department of Veterans Affairs Medical Center in Des Moines, Iowa, in an amount not to exceed $25,000,000.

(4) Renovation of patient wards at the Department of Veterans Affairs Medical Center in Durham, North Carolina, in an amount not to exceed $9,100,000.

(5) Correction of patient privacy deficiencies at the Department of Veterans Affairs Medical Center, Gainesville, Florida, in an amount not to exceed $85,200,000.

(6) 7th and 8th Floor Wards Modernization addition at the Department of Veterans Affairs Medical Center, Indianapolis, Indiana, in an amount not to exceed $27,400,000.

(7) Construction of a new Medical Center Facility at the Department of Veterans Affairs Medical Center, Las Vegas, Nevada, in an amount not to exceed $406,000,000.

(8) Construction of an Ambulatory Surgery/Outpatient Diagnostic Support Center in the Gulf South Submarket of Veterans Integrated Service Network (VISN) 8 and completion of Phase I land purchase, Lee County, Florida, in an amount not to exceed $65,100,000.

(9) Seismic Corrections-Buildings 7 & 126 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $107,845,000.

(10) Seismic Corrections-Buildings 500 & 501 at the Department of Veterans Affairs Medical Center, Los Angeles, California, in an amount not to exceed $79,900,000.

(11) Construction of a New Medical Center facility in the Orlando, Florida, area in an amount not to exceed $377,700,000.

(12) Consolidation of Campuses at the University Drive and H. John Heinz III divisions, Pittsburgh, Pennsylvania, in an amount not to exceed $189,205,000.

(13) Ward Upgrades and Expansion at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed $19,100,000.

(14) Seismic Corrections-Building 1, Phase 1 Design at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $15,000,000.

(15) Construction of a Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Syracuse, New York, in an amount not to exceed $53,900,000.

(16) Upgrade Essential Electrical Distribution Systems at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $49,000,000.

(17) Expansion of the Spinal Cord Injury Center addition at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $7,100,000.

(18) Blind Rehabilitation and Psychiatric Bed renovation and new construction project at the Department of Veterans Affairs Medical Center, Temple, Texas, in an amount not to exceed $56,000,000.

SEC. 3. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2007 in the amount specified for each project:

(1) Seismic Corrections, Nursing Home Care Unit and Dietetics at the Department of Veterans Affairs Medical Center, American Lake, Washington, in an amount not to exceed $38,220,000.

(2) Replacement of Operating Suite at the Department of Veterans Affairs Medical Center, Columbia, Missouri, in an amount not to exceed $25,830,000.

(3) Construction of a new clinical addition at the Department of Veterans Affairs Medical Center, Fayetteville, Arkansas, in an amount not to exceed $56,163,000.

(4) Construction of Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Milwaukee, Wisconsin, in an amount not to exceed $32,500,000.

(5) Medical facility improvements and cemetery expansion of Jefferson Barracks at the Department of Veterans Affairs Medical Center, St. Louis, Missouri, in an amount not to exceed $69,053,000.

SEC. 4. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Baltimore, Maryland, $10,908,000.

(2) For an outpatient clinic, Evansville, Illinois, $8,989,000.

(3) For an outpatient clinic, Smith County, Texas, $5,093,000.

SEC. 5. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient and specialty care clinic, Austin, Texas, $6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, $2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, $4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, $8,518,000.

(5) For an outpatient clinic, Parma, Ohio, $5,032,000.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2006 for the Construction, Major Projects, account, $1,044,000,000 for the projects authorized in section 1.

(b) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY PROJECTS UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal

year 2007 for the Construction, Major Projects, account, $1,750,120,000 for the projects whose authorization is extended by section 2.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until September 30, 2009.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007 MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $221,766,000 for the projects authorized in section 3.

(d) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY LEASES.—

(1) FISCAL YEAR 2006 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, $24,990,000 for the leases authorized in section 4.

(2) FISCAL YEAR 2007 LEASES.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Medical Care account, $26,642,000 for the leases authorized in section 5.

(e) LIMITATION.—The projects authorized in sections 1 and 2 may only be carried out using—

(1) funds appropriated for fiscal year 2006 or 2007 pursuant to the authorization of appropriations in subsections (a), (b), and (c) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2006 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2006 or 2007 that are available for obligation; and

(4) funds appropriated for Construction, Major Projects, for fiscal year 2006 or 2007 for a category of activity not specific to a project.

SEC. 7. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY PROJECTS.

(a) INCREASE.—Section 8104(a)(3)(A) of title 38, United States Code, is amended by striking "$7,000,000" and inserting "$10,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006, and shall apply with respect to any fiscal year beginning on or after that date.

SEC. 8. EXPANSION OF ELIGIBILITY UNDER SURVIVORS' AND DEPENDENTS EDUCATIONAL ASSISTANCE PROGRAM.

(a) ELIGIBILITY FOR DEPENDENTS OF SERVICEMEMBERS.—

(1) CHILDREN.—Section 3501(a)(1)(A) of title 38, United States Code, is amended—

(A) in clause (ii) by striking "or" at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following clause (iii):

"(iii) is hospitalized or receiving outpatient medical care, services, or treatment pending discharge from the active military, naval, or air service for a total disability permanent in nature resulting from a service-connected disability (as determined by the Secretary), or".

(2) SPOUSES.—Subparagraph (D) of section 3501(a)(1) of such title is amended to read as follows:

"(D)(i) the spouse of any veteran who has a total disability permanent in nature resulting from a service-connected disability,

"(ii) the spouse of any person who is hospitalized or receiving outpatient medical care, services, or treatment pending discharge from the active military, naval, or air service for a total disability permanent in nature resulting from a service-connected disability (as determined by the Secretary), or

"(iii) the surviving spouse of a veteran who died while a disability so evaluated was in existence,".

(b) CONFORMING AMENDMENTS.—

(1) DURATION OF ASSISTANCE.—Section 3511 of such title is amended—

(A) in subsection (a)(1), by striking "both sections 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii)" and inserting "sections 3501(a)(1)(D)(i), 3501(a)(1)(D)(ii), and 3501(a)(1)(D)(iii)";

(B) in subsection (b)(2), by striking "3501(a)(1)(A)(iii)" and inserting "3501(a)(1)(A)(iv)"; and

(C) in subsection (c), by striking "3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i)" and inserting "3501(a)(1)(A)(iv), 3501(a)(1)(C), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii)".

(2) PERIOD OF ELIGIBILITY.—Section 3512 of such title is amended—

(A) in subsection (a)(6), by striking "3501(a)(1)(A)(iii)" and inserting "3501(a)(1)(A)(iv)";

(B) in subsection (b)(1)(A), by striking "3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title." and all that follows through the end, and inserting the following: "or 3501(a)(1)(D) of this title. In the case of a surviving spouse made eligible by clause (iii) of section 3501(a)(1)(D), the 10-year period may not be reduced by any earlier period during which the person otherwise was eligible for educational assistance under this chapter as a spouse described in clause (i) or (ii) of that section."; and

(C) in subsection (d), by striking "veteran" and inserting "person".

(3) EFFECTIVE DATES.—Section 5113(b)(3) of such title is amended by adding at the end the following new subparagraph:

"(D) The term 'veteran' includes a person as described in sections 3501(a)(1)(A)(iii) and 3501(a)(1)(D)(ii) of this title.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 26, 2006, at 4:30 p.m., in closed session for a briefing on the situation in Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 26, 2006, at 10 a.m. to conduct a hearing on "An Update on the New Basel Capital Accord."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the committee on Commerce, Science, and Transportation be authorized to hold a full committee joint hearing with Foreign Relations Committee on the International Polar Year on Tuesday, September 26, 2006 at 3:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President: I ask unanimous cousent that on Tuesday, September 26th at 2:15 p.m. the Committee on Environment and Public Works be authorized to hold a Business Meeting to consider the following agenda:

Legislation

H.R. 1463, To designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building",

Nominations

Roger Romulus Martella, Jr. to be Assistant Administrator of the Environmental Protection Agency

Alex A. Beehler to be Assistant Administrator of the Environmental Protection Agency

William H. Graves to be a Member of the Board of Directors of the Tennessee Valley Authority

Brigadier General Bruce Arlan Berwick to be a Member of the Mississippi River Commission

Colonel Gregg F. Martin to be a Member of the Mississippi River Commission

Brigadier General Robert Crear to be a Member of the Mississippi River Commission

Rear Admiral Samuel P. DeBow, Jr. to be a Member of the Mississippi River Commission

Resolutions

Six Committee resolutions authorizing prospectuses from GSA's FY 2007 Capital Investment and Leasing Program

Committee resolution to direct GSA to prepare a Report of Building Project Survey

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, September 26, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on "Health Savings Accounts: The Experience So Far."

The PRESIDING OFFICER, Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 26, 2006, at 9 a.m. to hold a hearing on Child Hunger.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 26, 2006, at 3:15 p.m. to hold a hearing on the International Polar Year.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Illegal Insider Trading: How Widespread is the Problem and is there Adequate Criminal Enforcement?" on Tuesday, September 26, 2006, at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness List

Panel I: Mr. Ron Tenpas, Associate Deputy Attorney General, United States Department of Justice, Washington, DC, and Ms. Linda Thompson, Director of Enforcement, U.S. Securities and Exchange Commission, Washington, DC.

Panel II: Mr. Robert Marchman, Executive Vice President, NYSE, New York, NY; Mr. Christopher K. Thomas, Principal, Measuredmarkets, Inc., Toronto, Canada; Professor John Coffee, Professor of Law, Columbia Law School, New York, NY; Professor Jonathan R. Macey, Professor of Law, Yale University, New Haven, CT; and Professor James Cox, Professor of Law, Duke University, Durham, NC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a special markup on Tuesday, September 26, 2006, at 2:30 p.m. in Senate Dirksen Building Room 226.

Agenda

I. Nominations

Terrence W. Boyle, to be U.S. Circuit Judge for the Fourth Circuit; William James Haynes II, to be U.S. Circuit Judge for the Fourth Circuit; Kent A. Jordan, to be U.S. Circuit Judge for the Third Circuit; Peter D. Keisler, to be U.S. Circuit Judge for the District of Columbia Circuit; William Gerry Myers III, to be U.S. Circuit Judge for the Ninth Circuit; Nora Barry Fischer, to be U.S. District Judge for the Western District of Pennsylvania; Gregory Kent Frizzell, to be U.S. District Judge for the Northern District of Oklahoma; Marcia Morales Howard, to be U.S. District Judge for the Middle District of Florida; John Alfred Jarvey, to be U.S. District Judge for the Southern District of Iowa; Sara Elizabeth Lioi, to be U.S. District Judge for the Northern District of Ohio; and Lisa Godbey Wood, to be U.S. District Judge for the Southern District of Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Tuesday, September 26, 2006 at 3:30 p.m. in Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Thad Cochran, United States Senator, R–MS; The Honorable Trent Lott, United States Senator, R–MS; The Honorable Christopher Dodd, United States Senator, D–CT; The Honorable Joseph Lieberman, United States Senator, D–CT.

Panel II: Michael Brunson Wallace, to be United States Circuit Judge for the Fifth Circuit.

Panel III: Vanessa Lynne Bryant, to be United States District Judge for the District of Connecticut.

Panel IV: Roberta B. Liebenberg, Chair, American Bar Association, Standing Committee on the Federal Judiciary, Philadelphia, PA; Kim J. Askew, Fifth Circuit Representative, Standing Committee on the Federal Judiciary, American Bar Association, Dallas, TX; Thomas Z. Hayward, Former Chair, 2003–2005, American Bar Association, Standing Committee on the Federal Judiciary, Chicago, IL; Pamela A. Bresnahan, Former DC Circuit Representative, 2002–2005, American Bar Association, Standing Committee on the Federal Judiciary, Washington, DC; Timothy Hopkins, Former Ninth Circuit Representative, American Bar Association, Standing Committee on the Federal Judiciary, Idaho Falls, ID; and Doreen D. Dodson, Former Eighth Circuit Representative, 2001–2004, American Bar Association, Standing Committee on the Federal Judiciary, St. Louis, MO.

Panel V: The Honorable Richard Blumenthal, Attorney General, State of Connecticut, Hartford, CT; The Honorable Reuben Anderson, Partner, Phelps Dunbar LLP, Jackson, MS; W. Scott Welch, Shareholder, Baker, Donelson, Bearman Caldwell & Berkowitz, Jackson, MS; Carroll Rhodes, Attorney at Law, Hazlehurst, MS; and Robert McDuff, Attorney at Law, Jackson, MS.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, September 26, 2006, to hold a hearing to consider the nomination of Robert T. Howard to be Assistant Secretary for Information and Technology, Department of Veterans' Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, September 26, 2006, at 2:30 p.m. for a hearing regarding "Deconstructing the Tax Code: Uncollected Taxes and Issues of Transparency".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Tuesday, September 26, 2006 at 10:45 a.m. for a hearing entitled, Senior Executives: Leading the Way in Federal Workforce Reforms.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michelle Miller of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 3936

Mr. McCONNELL. I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 3936) to invest in innovation and education to improve the competitiveness of the United States in the global economy.

Mr. McCONNELL. I now ask for a second reading in order to place the bill on the calendar under the provisions of rule XIV, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the HELP

Committee be discharged from further consideration of H.R. 5574 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5073) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospital GME Support Reauthorization Act of 2006".

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by inserting "and each of fiscal years 2007 through 2011" after "for each of fiscal years 2000 through 2005";

(2) in subsection (e)(1), by striking "26" and inserting "12";

(3) in subsection (f)(1)(A)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) for each of fiscal years 2007 through 2011, $110,000,000."; and

(4) in subsection (f)(2)—

(A) in the matter before subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(B)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(D) for each of fiscal years 2007 through 2011, $220,000,000.".

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) ANNUAL REPORTING REQUIRED.—

"(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

"(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

"(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

"(II) such report fails to provide the information required under any clause of such subparagraph.

"(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

"(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

"(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

"(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

"(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

"(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

"(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

"(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

"(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

"(C) RESIDENTS.—The residents described in this subparagraph are those who—

"(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

"(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

"(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

"(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

"(ii) describing the results of the program carried out under this section; and

"(iii) making recommendations for improvements to the program.".

(c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—

(1) in subsection (c)(2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year";

(2) in subsection (e)(2), by striking the first sentence; and

(3) in subsection (e)(3), by striking "made to pay" and inserting "made and pay".

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5574), as amended, was read the third time and passed.

AUTHORIZING MAJOR MEDICAL FACILITY PROJECTS AND LEASES FOR THE DEPARTMENT OF VETERANS AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 592, S. 3421.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3421) to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with amendments, as follows:

[Strike the parts shown in boldface brackets and insert the parts shown in italic.]

S. 3421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2006, with each project to be carried out in the amount specified for that project:

(1) Restoration, new construction or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina in an amount not to exceed **[**$675,000,000**]** *$636,000,000. The Secretary is authorized to carry out the project as a collaborative effort consistent with the New*

Orleans Collaborative Opportunities Study Group Report dated June 12, 2006.

(2) Restoration of the Department of Veterans Affairs Medical Center, Biloxi, Mississippi, and consolidation of services performed at the Department of Veterans Affairs Medical Center, Gulfport, Mississippi, in an amount not to exceed $310,000,000.

(3) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $52,000,000.

SEC. 2. EXTENSION OF AUTHORIZATION FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS AUTHORIZED UNDER CAPITAL ASSET REALIGNMENT INITIATIVE.

Notwithstanding subsection (d) of section 221 of the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (Public Law 108–170; 117 Stat. 2050), the Secretary of Veterans Affairs may enter into contracts before September 30, 2009, to carry out each major medical facility project, as originally authorized by such section 221, as follows with each project to be carried out in the amount specified for that project:

(1) Construction of an outpatient clinic and regional office at the Department of Veterans Affairs Medical Center, Anchorage, Alaska, in an amount not to exceed $75,270,000.

(2) Consolidation of clinical and administrative functions of the Department of Veterans Affairs Medical Center in Cleveland, Ohio, and the Department of Veterans Affairs Medical Center in Brecksville, Ohio, in an amount not to exceed $102,300,000.

(3) Construction of the Extended Care Building at the Department of Veterans Affairs Medical Center in Des Moines, Iowa, in an amount not to exceed $25,000,000.

(4) Renovation of patient wards at the Department of Veterans Affairs Medical Center in Durham, North Carolina, in an amount not to exceed $9,100,000.

(5) Correction of patient privacy deficiencies at the Department of Veterans Affairs Medical Center, Gainesville, Florida, in an amount not to exceed $85,200,000.

(6) 7th and 8th Floor Wards Modernization addition at the Department of Veterans Affairs Medical Center, Indianapolis, Indiana, in an amount not to exceed $27,400,000.

(7) Construction of a new Medical Center Facility at the Department of Veterans Affairs Medical Center, Las Vegas, Nevada, in an amount not to exceed $406,000,000.

(8) Construction of an Ambulatory Surgery/Outpatient Diagnostic Support Center in the Gulf South Submarket of Veterans Integrated Service Network (VISN) 8 and completion of Phase I land purchase, Lee County, Florida, in an amount not to exceed $65,100,000.

(9) Seismic Corrections-Buildings 7 & 126 at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed $107,845,000.

(10) Seismic Corrections-Buildings 500 & 501 at the Department of Veterans Affairs Medical Center, Los Angeles, California, in an amount not to exceed $79,900,000.

(11) Construction of a New Medical Center facility in the Orlando, Florida, area in an amount not to exceed $377,700,000.

(12) Consolidation of Campuses at the University Drive and H. John Heinz III divisions, Pittsburgh, Pennsylvania, in an amount not to exceed $189,205,000.

(13) Ward Upgrades and Expansion at the Department of Veterans Affairs Medical Center, San Antonio, Texas, in an amount not to exceed $19,100,000.

(14) Seismic Corrections-Building 1, Phase 1 Design at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed $15,000,000.

(15) Construction of a Spinal Cord Injury Center at the Department of Veterans Affairs Medical Center, Syracuse, New York, in an amount not to exceed $53,900,000.

(16) Upgrade Essential Electrical Distribution Systems at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $49,000,000.

(17) Expansion of the Spinal Cord Injury Center addition at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed $7,100,000.

(18) Blind Rehabilitation and Psychiatric Bed renovation and new construction project at the Department of Veterans Affairs Medical Center, Temple, Texas, in an amount not to exceed $56,000,000.

SEC. 3. AUTHORIZATION OF FISCAL YEAR 2006 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2006 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient clinic, Baltimore, Maryland, $10,908,000.

(2) For an outpatient clinic, Evansville, Illinois, $8,989,000.

(3) For an outpatient clinic, Smith County, Texas, $5,093,000.

SEC. 4. AUTHORIZATION OF FISCAL YEAR 2007 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2007 at the locations specified, and in an amount for each lease not to exceed the amount shown for such location:

(1) For an outpatient and specialty care clinic, Austin, Texas, $6,163,000.

(2) For an outpatient clinic, Lowell, Massachusetts, $2,520,000.

(3) For an outpatient clinic, Grand Rapids, Michigan, $4,409,000.

(4) For up to four outpatient clinics, Las Vegas, Nevada, $8,518,000.

(5) For an outpatient clinic, Parma, Ohio, $5,032,000.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations for Fiscal Year 2006 Major Medical Facility Projects.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2006 for the Construction, Major Projects, account, [$1,606,000,000] *$998,000,000* for the projects authorized in section 1.

(b) Authorization of Appropriations for Major Medical Facility Projects Under Capital Asset Realignment Initiative.—

(1) Authorization of appropriations.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Construction, Major Projects, account, $1,750,120,000 for the projects whose authorization is extended by section 2.

(2) Availability.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until September 30, 2009.

(c) Authorization of Appropriations for Major Medical Facility Leases.—

(1) Fiscal year 2006 leases.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2006 for the Medical Care account, $24,990,000 for the leases authorized in section 4.

(2) Fiscal year 2007 leases.—There is authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2007 for the Medical Care account, $26,642,000 for the leases authorized in section 5.

(d) Limitation.—The projects authorized in sections 1 and 2 may only be carried out using—

(1) funds appropriated for fiscal year 2006 or 2007 pursuant to the authorization of appropriations in subsections (a), (b), and (c) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2006 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2006 or 2007 that are available for obligation; and

(4) funds appropriated for Construction, Major Projects, for fiscal year 2006 or 2007 for a category of activity not specific to a project.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to, the Craig substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendment (No. 5074) was agreed to.

(The amendment is printed in today's Record under "Text of Amendments.")

The bill (S. 3421), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

AMENDING THE JOHN F. KENNEDY CENTER ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 627, H.R. 5187.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5187) to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5187) was ordered to be read a third time, was read the third time, and passed.

CORRECTING THE ENROLLMENT OF H.R. 3127

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res 480, which was received from the House.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res 480) to correct the enrollment of a bill, H.R. 3127.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 480) was agreed to.

EXECUTIVE CALENDAR

TREATY DOCUMENT 109-10A

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following treaty and that it be placed on the Executive Calendar:

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, adopted at Geneva on December 8, 2005, and signed by the United States on that date.

I further ask unanimous consent that this protocol and those that remain in committee be assigned designations of "A," "B," and "C" respectively to reflect that three protocols were received as part of Treaty Document 109-10.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that a joint statement with Senator Biden, and accompanying materials, regarding the Geneva Protocol III—the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem—be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Joint Statement of Senators Lugar and Biden

Today, on behalf of the Committee on Foreign Relations, we have requested that the Committee be discharged from further consideration of the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Adoption of an Additional Distinctive Emblem, which was adopted at Geneva on December 8, 2006, and signed by the United States on that date (Treaty Doc. 109-10A) ("Geneva Protocol III" or the "Protocol").

The Protocol creates a new distinctive emblem, a Red Crystal, that will serve the same purposes as the Red Cross and Red Crescent emblems. The Red Crystal is a neutral emblem that can be used by governments and national societies that face challenges using the existing emblems or that believe this neutral emblem may offer enhanced protection in certain situations. The Protocol also paved the way for Magen David Adom, Israel's national society, to become a member of the International Red Cross and Red Crescent Movement.

As chairman and ranking member of the Committee, we have reviewed the Protocol, as well as responses provided by the Department of State to written questions that we have submitted on the Protocol. Based on our review, we believe that the Protocol is in the interests of the United States and urge the Senate to act promptly to give advice and consent to ratification of the Protocol. Ratification of the Protocol will reinforce and extend the longstanding and historic leadership of the United States in the law of armed conflict. We support prompt ratification of the Protocol this year, as such action emphasizes the U.S. commitment to the humanitarian objectives of the International Red Cross and Red Crescent Movement and its fundamental principles of universality and neutrality.

Because the Committee has not formally acted on the Protocol, there is no Committee report. Therefore, in order to assist senators in evaluating the Protocol, we are submitting for the Record a summary prepared by professional staff of the Committee outlining the purpose and background of the Protocol, as well as its key provisions. We also are including the responses from the Department of State to questions that we submitted on the Protocol.

Staff Summary of the Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Adoption of an Additional Distinctive Emblem (Treaty Doc. 109-10A).

I. Purpose

The Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Adoption of an Additional Distinctive Emblem, was adopted at Geneva on December 8, 2005, and signed by the United States on that date (Treaty Doc. 109-10A).

The Protocol, also referred to as Geneva Protocol III, creates a new distinctive emblem, a Red Crystal, in addition to and for the same purposes as the Red Cross and the Red Crescent emblems.

II. Background

The 1949 Geneva Conventions provide for the respect and protection of military medical and religious personnel during international armed conflicts. The 1949 Geneva Conventions retained the distinctive emblems as a means of easily identifying and protecting such personnel, their vehicles and their facilities. The Conventions also permit authorized national societies of the High Contracting Parties to the Geneva Conventions to use these emblems in certain circumstances. The Geneva Protocol III creates a new emblem, the Red Crystal, equal in all respects to the existing emblems (Red Cross, Red Crescent and the Red Lion and Sun), to be used by military medical and religious services and authorized national societies.

The new distinctive emblem, the Red Crystal, is a neutral emblem that can be used by governments and national societies that face challenges using the existing emblems or that believe that this neutral emblem may offer enhanced protections in certain situations. The United States had urged the High Contracting Parties to the Geneva Convention to conclude a protocol on this issue as an important step towards achieving truly universal membership in the International Red Cross and Red Crescent Movement. The text of the Geneva Protocol III was drawn up in October 2000, following discussions within the Joint Working Group established by the Standing Commission of the Red Cross and Red Crescent pursuant to the mandate assigned to it by Resolution 3 of the 27th International Conference of the Red Cross and Red Crescent and subsequent consultations. This draft followed attempts to resolve this issue during the negotiations of the 1949 Geneva Conventions and during the negotiations of Protocols I and II in the 1970s. As adopted, the Geneva Protocol III paved the way for Magen David Adom, Israel's national society, to become a member of the International Red Cross and Red Crescent Movement.

III. Summary of Key Provisions of the Agreement

The key provisions of the Geneva Protocol III establish the new emblem, the Red Crystal, and set forth applicable rules.

Article 2 establishes the new emblem "in addition to, and for the same purposes as" the existing distinctive emblems. It also establishes that the emblems "shall enjoy equal status" and that the conditions for use of and respect for the new emblem are identical to those applicable to the existing emblems. Article 2 also authorizes the medical and religious personnel of armed forces of the parties to make temporary use of any of the distinctive emblems (including the Red Crystal) where such use may enhance protection. Article 3 authorizes national societies of parties that decide to use the new emblem to incorporate within it one or more of the existing emblems or "another emblem which has been in effective use by a High Contracting Party and was the subject of a communication to the other High Contracting Parties and the International Committee of the Red Cross" prior to December 8, 2005. This Article also authorizes a national society that incorporates within the new emblem one of the existing emblems to "use the designation of that emblem and display it within its national territory."

Article 4 authorizes the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies and their duly authorized personnel to use the new emblem "in exceptional circumstances and to facilitate their work." Article 5 authorizes the medical services and religious personnel participating in operations under the auspices of the United Nations to use one of the distinctive emblems with the agreement of the participating states. Article 6 extends to the new distinctive emblem provisions of the Geneva Conventions and, where applicable, Protocols I and II, regarding "prevention and repression of misuse" of the existing distinctive emblems. Parties to Geneva Protocol III are required to take measures "necessary for the prevention and repression, at all times, of any misuse" of each of the emblems. Article 6 also allows parties to permit "prior users" of the new emblem, or of "any sign constituting an imitation thereof," to continue using such emblem or signs, so long as the emblem or signs do not "appear, in time of armed conflict to confer protection" of the Geneva Conventions and, where applicable, Protocols I and II. Prior users, under this provision, must have acquired the rights to use the emblem or signs before December 8, 2005.

IV. IMPLEMENTING LEGISLATION

The executive branch has submitted proposed legislation to Congress that would provide protection for the new Red Crystal emblem, as well as the existing Red Crescent emblem, consistent with the Geneva Conventions and the Geneva Protocol III. These protections correspond to existing protections in U.S. law, set forth in Title 18 of the United States Code, for the Red Cross emblem. This legislation was referred to the Committee on the Judiciary.

V. QUESTIONS FOR THE RECORD

RESPONSES OF HON. JOHN BELLINGER, III, THE LEGAL ADVISER, DEPARTMENT OF STATE, TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR RICHARD G. LUGAR

Question: If the U.S. chooses to ratify this treaty, what legislation is necessary to implement this Protocol?

Answer: The Department of State has submitted draft legislation to the House of Representatives and the Senate that would provide protections to the Third Protocol (red crystal) distinctive emblem consistent with Article 6 of the Geneva Protocol III. The draft legislation also provides protections to the red crescent distinctive emblem consistent with the 1949 Geneva Conventions and the Geneva Protocol III. These protections correspond to protections set forth in 18 U.S.C. §706 for the red cross.

Question: How does the Geneva Protocol III serve U.S. foreign policy interests?

Answer: The Geneva Protocol III serves U.S. foreign policy interests in several ways. First, it lifted an important obstacle to the universality of the International Red Cross and Red Crescent Movement, by adopting a neutral emblem that could be used by any government or national society that face challenges using the existing emblems or that believe that this neutral emblem may offer enhanced protections in certain situations. The adoption of the Protocol made it possible for Israel's national society, Magen David Adom (MDA), to join the Movement after more than fifty years of exclusion. The United States looks to the Movement to deliver humanitarian assistance in response to natural disasters or armed conflict. MDA's exclusion from the Movement meant that the Movement was falling short with respect to one of its fundamental principles—universality—and did not have national societies everywhere operating under its umbrella delivering humanitarian services.

Second, the new emblem created by the Protocol provides the U.S. military medical and religious personnel and the American Red Cross humanitarian workers with another option in circumstances where we believe that the red cross may not be perceived as a neutral emblem. For example, the U.S. government or the American Red Cross may choose to use the red crystal on an exceptional basis to avoid the appearance of a religious affiliation in an armed conflict involving countries or groups with strong religious ties.

Third, U.S. ratification of the Protocol will advance the longstanding and historic leadership of the United States in the law of armed conflict, just as our role in urging its adoption did. In addition, it will send an important message of the strength of U.S. support for this issue if the United States Government has ratified the Protocol before it enters into force on January 14, 2007. U.S. ratification of the Protocol emphasizes the commitment of the United States to the humanitarian objectives of the International Red Cross and Red Crescent Movement and the Movement's fundamental principles of universality and neutrality.

Finally, the adoption of the Protocol and MDA's subsequent admission into the Movement made it possible for the American Red Cross to end its policy of withholding its dues from the International Federation of Red Cross and Red Crescent Societies (the Federation) in protest of MDA's exclusion. In 2005, the American Red Cross entered into default status in the Federation and lost its ability to run for Federation offices as a result of not paying its dues since 2000. After MDA was admitted to the Movement in June 2006, the American Red Cross resumed its dues payments and regained its status as a member in good standing, thus allowing it to play a very constructive role to ensure that the Movement and the Federation are achieving the policy and program goals that serve the American public.

Question: How do national societies around the world view the adoption of the new emblem? What are their views on its use and potential impact on their security?

Answer: National societies have consistently supported adoption of the Geneva Protocol III by passing unanimously resolutions at the International Movement's Council of Delegates meetings every two years in support of such a Protocol. Moreover, at the 29th International Conference of the Red Cross and Red Crescent held in June 2006, national societies voted in favor of adopting changes to the Movement's statutes authorizing national societies to use the new emblem for purposes of membership, by a vote of 136 to 21, with six abstentions.

The statements of representatives of national societies to these bodies indicate that they believe having an additional neutral emblem will enhance their ability to perform humanitarian work. We understand that they believe that it should offer their workers greater security in situations where the red cross and red crescent are not seen as neutral emblems, especially in mixed populations or where parties to a conflict differ in religious affiliation. Statements by representatives of national societies that were not in favor of the statutes changes or the previous resolutions generally did not focus on problems using the red crystal emblem per se, but on opposition to the entry of Israel's national society, Magen David Adom, into the International Red Cross and Red Crescent Movement or opposition to the policies of the Government of Israel.

Question: Which countries have ratified Geneva Protocol III? When does it enter into force? Although consensus was not achieved in adopting Geneva Protocol III, what are the expectations of support for its ratification?

Answer: As of September 21, 2006, six countries (Bulgaria, Iceland, Liechtenstein, Norway, Philippines, and Switzerland) have ratified the Geneva Protocol III. Article 11 of the Protocol provides that it enters into force six months after two instruments of ratification or accession have been deposited. Accordingly, the Geneva Protocol III enters into force on January 14, 2007, six months after the second instrument of ratification was deposited. For each country ratifying or acceding to the Protocol after the first two, the Geneva Protocol III enters into force six months after the deposit of its instrument of ratification or accession.

We expect that there will be additional ratifications of the Geneva Protocol III. Twenty-seven countries, including the United States, signed the Protocol on the day of its adoption (December 8, 2005). Since then, another forty-nine countries have signed the Protocol, suggesting continuing strong interest in the Protocol. We expect most countries will follow up by depositing their instruments of ratification after satisfying their domestic requirements for ratification. In addition, we believe the International Committee of the Red Cross will continue to urge countries to become parties to the Geneva Protocol III.

Question: Is it expected that any countries or their national societies will choose to use the red crystal? Will national societies use the option to incorporate another symbol within the red crystal? Are there concerns that the use of red crystal or the incorporation of other emblems or symbols into the red crystal may create confusion about the personnel, vehicles or facilities using the emblems? Does either the International Committee of the Red Cross or the Federation of the Red Cross and Red Crescent Societies plan to change to use of the red crystal as its primary emblem?

Answer: We expect that a number of governments and national societies will choose to use the red crystal on an exceptional basis. In particular, governments and national societies have said that in some current conflict zones, where religion divides the conflicting parties, they may wish to use the red crystal to convey that military medical units and humanitarian workers are neutral and not parties to the conflict. Beyond these circumstances, it is unlikely that many governments or national societies will shift to using the red crystal as their primary emblem. We are not aware of any government currently planning to use the red crystal as its emblem.

Magen David Adorn has already declared that when it is working outside of Israel, it will use the Red Shield of David inside the red crystal. In certain circumstances, it may choose to use the red crystal alone, if it believes that it will enhance the security of its staff. The American Red Cross has expressed that it would consider using the red crystal overseas on a case-by-case basis, if desirable due to security and operational circumstances.

We do not believe that incorporating another emblem inside the red crystal will create confusion about the personnel, vehicles or facilities using those emblems. Over time, we believe the public will become more familiar with the red crystal as a symbol in its own right. Moreover, parties to the Geneva Protocol III are required to disseminate the Protocol as widely as possible in their countries so that their armed forces and civilian populations become familiar with the Protocol and the new emblem.

Neither the ICRC nor the Federation plans at this time to adopt the red crystal as its primary emblem, as noted in a preambular paragraph of the Geneva Protocol III. According to Article 4, they may, however, choose to use the red crystal on an exceptional basis, where circumstances merit and where it will facilitate their work, possibly in regions where the red crystal emblem will underscore their neutrality to the parties to the conflict.

Question: How will the adoption of the emblem impact the overall International Red Cross and Red Crescent Movement? Is the emblem likely to be accepted as a symbol of protection and reduce the risk of targeted attack on aid workers?

Answer: The adoption of the Geneva Protocol III and the establishment of a new emblem significantly impacts the International Red Cross and Red Crescent Movement by helping it fulfill one of its seven fundamental principles—universality. The Movement has been unable to achieve this goal for more than fifty years due to the exclusion of Israel's national society, Magen David Adorn (MDA). MDA's membership in the Movement now improves the ability of the Movement to respond to humanitarian crises in the Middle East, with national societies cooperating on an equal basis.

Parties to the Geneva Protocol III are required to disseminate the Protocol as widely as possible so that their armed forces and civilian populations become familiar with the Protocol and the new emblem. As a result, we believe that over time parties to a conflict and the public at large will become more familiar with the red crystal. However, the larger phenomenon of targeted attacks on aid workers has diverse causes, many of which will not be addressed by the use of a more neutral emblem. Those who wish to disrupt the provision of humanitarian assistance for political or military goals do not respect the neutrality of humanitarian workers, regardless of whether the humanitarian workers are perceived as neutral or politically or religiously affiliated.

Question: Will the new emblem increase the protection of aid workers who appear increasingly to come under fire as soft targets, not because of confusion over symbols, but because of perceptions about their political alliance?

Answer: The new emblem gives the International Red Cross and Red Crescent Movement an important tool that may help it operate in exceptional circumstances. While the red cross is not a religious symbol (but the inversion of the Swiss flag), it has been perceived as a symbol of Christianity in some circumstances. Where the Movement is working with populations of different religions, especially if they are in conflict, the red crystal may be a less divisive symbol that better conveys the neutrality of the Movement. Therefore, we expect that the red crystal will enhance the protection of the Movement's humanitarian workers.

However, the larger phenomenon of targeted attacks on aid workers has diverse causes, many of which will not be addressed by the use of a more neutral emblem. Those who wish to disrupt the provision of humanitarian assistance for political or military goals do not respect the neutrality of humanitarian workers, regardless of whether the humanitarian workers are perceived as neutral or politically or religiously affiliated.

Question: The adoption of the Geneva Protocol III and the changes to the Statutes of the International Movement of the Red Cross and Red Crescent were not accomplished by consensus. Was the International Movement damaged in any way because consensus was not achieved?

Answer: While the negotiations over the Geneva Protocol III and the changes to the International Movement's Statutes were challenging, we believe that the Movement was not damaged by the lack of consensus. In the final session of the International Conference of the International Red Cross and Red Crescent Movement, several delegations acknowledged that, while they might have preferred a modified outcome, this issue had reached closure and the Movement should now move forward with other aspects of its humanitarian work. Moreover, when the components of the Movement met immediately after the International Conference to consider admitting the Magen David Adom and the Palestine Red Crescent Society, they admitted them by unanimous acclamation, without having to submit the issue to a vote. We believe this illustrates that the Movement is united behind the outcome of the International Conference of the Red Cross and Red Crescent.

RESPONSES OF HON. JOHN BELLINGER, III, THE LEGAL ADVISER, DEPARTMENT OF STATE, TO QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR JOSEPH R. BIDEN, JR.

Question: As of this date, according to the information available on the Internet site of the International Committee of the Red Cross, there are five states that have ratified the protocol. Why is it important for the Senate to act on this treaty prior to the end of the 109th Congress? Is it expected that the instrument of ratification will be deposited prior to congressional action on the implementing legislation?

Answer: It is important for the Senate to act on the Geneva Protocol III prior to the end of the 109th Congress to underscore its importance and the high priority the United States Government places on it. Urgent ratification of the Protocol will also advance the longstanding and historic leadership of the United States in the law of armed conflict. The Protocol will enter into force on January 14, 2007. It will send an important message of the strength of U.S. support for this issue if the United States Government has ratified the Protocol before it enters into force. In addition, ratification this year emphasizes the commitment of the United States to the humanitarian objectives of the International Red Cross and Red Crescent Movement. It will also emphasize the U.S. commitment to the Movement's fundamental principles of universality and neutrality.

We do not expect that the instrument of ratification will be deposited prior to congressional action on the implementing legislation because at this time we are working with the relevant committees and we expect that Congress will take up the implementing legislation in a timely fashion and at the same time as the Senate is considering the Protocol, consistent with the broad public and congressional support for the Geneva Protocol III.

Question: In ratifying the Geneva Conventions of 1949, the United States entered a reservation to the provisions in the First Geneva Convention with regard to the obligation to make unlawful within the United States the use of the Red Cross emblem, in order to protect certain commercial use in this country.

a. Is there any prior commercial use of the new emblem in the United States of which the Executive Branch is aware?

b. Does Article 6(2) provide the United States sufficient latitude to permit such prior use of the new emblem? Please elaborate.

c. Please provide information from the Patent and Trademark Office about whether there are any trademarks currently registered that are similar to the new emblem (the Red Crystal).

Answer: The Executive Branch is not aware of any prior commercial use of the new emblem, the red crystal in the United States. Nonetheless, the Geneva Protocol III provides sufficient latitude for the continuation of legitimate prior uses of the new emblem to the extent that they may exist. The International Committee of the Red Cross has registered the red crystal emblem as a trademark (U.S. Registration No. 2676576) at the United States Patent and Trademark Office (USPTO). The USPTO has found no other registered trademarks that are confusingly similar to the new emblem.

Question: In addition to the enforcement powers under the proposed implementing legislation vested in the Attorney General, are there other existing federal statutes relevant to the protection of the Red Cross or the new emblem (the Red Crystal), such as the trademark laws administered by the Patent and Trademark Office or the unfair trade laws administered by the Federal Trade Commission? Please elaborate.

Answer: While the red cross has specific protections in U.S. law (18 U.S.C. §706), the red crystal does not have similar specific protections in U.S. law. The proposed legislation would provide specific protections for the red crystal and the red crescent. In certain circumstances, U.S. unfair competition law could provide some possible protection for the Geneva Convention distinctive emblems, including the U.S. Trademark Act contained in 15 U.S.C. §1051 et seq. For example, 15 U.S.C. §1052(a) provides a basis for the U.S. Patent and Trademark Office to refuse trademark applications on the grounds that the mark falsely suggests a connection with institutions, beliefs or national symbols. 15 U.S. §1125 provides a civil action against any person who uses a word or symbol in commerce that is likely to deceive as to an affiliation with the commercial activities of another. We believe the proposed legislation submitted to the Congress by the Department of State will adequately prohibit, at all times, use of the red crystal and red crescent that is inconsistent with the Geneva Conventions and its Protocol III.

Question: Is there a common understanding among the signatories of the term "in exceptional circumstances and to facilitate their work" as used in Article 3(3) and Article 4?

Answer: The term "in exceptional circumstances and to facilitate their work", as used in Article 3(3) and Article 4 of the Geneva Protocol III, was not discussed or debated in detail during the December 2005 diplomatic conference which adopted the Protocol.

Question: The United States is not a party to the 1977 Additional Protocols to the Geneva Conventions (Protocol I and II). Protocol III includes several references to those Protocols. By ratifying Protocol III, would the United States assume any obligations under the 1977 Protocols?

Answer: No, by ratifying the Geneva Protocol III, the United States would not undertake any new obligations under Protocols I and II. The references in the Geneva Protocol III to provisions of Protocols I and II include the language "where applicable". Thus, a provision of Protocol I or II must be "applicable" to a party to the Geneva Protocol III in order to confer an obligation on that party. As noted above, the United States is not a party to Protocol I or II.

Question: Article 6(1) bars the "perfidious use" of the distinctive emblems mentioned in Articles 1 and 2. Is there a common understanding among the signatories of the meaning of this term? Please elaborate.

Answer: The term "perfidious use" in Article 6(1) was not discussed or debated in detail during the December 2005 diplomatic conference which adopted the Geneva Protocol III. Nonetheless, perfidy is generally understood to mean an act inviting the confidence of an adversary to lead him to believe that he is entitled to, or obliged to accord protection, under the law of armed conflict, with the intent to betray that confidence.

Question: Did the U.S. delegation to the negotiating conference make any public statements that relate to the meaning or interpretation of any treaty terms?

Answer: No, the U.S. delegation did not make any public statements that relate to the meaning or interpretation of any treaty terms during the December 2005 diplomatic conference which adopted the Geneva Protocol III.

ORDERS FOR WEDNESDAY, SEPTEMBER 27, 2006

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Wednesday, September 27. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 1 hour, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; further, that following morning business, the Senate resume consideration of H.R. 6061, with 1 hour of debate equally divided between the two leaders or their designees, to be followed by a vote on the motion to invoke cloture on the pending amendment to H.R. 6061.

I further ask that it be in order to file second-degree amendments as provided for under rule XXII until the hour of 11 a.m. tomorrow, Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, the two leaders are continuing to discuss the process to consider the military tribunals legislation as a freestanding measure. If an agreement can be reached early tomorrow morning, then it is possible the scheduled cloture vote will be vitiated and the Senate will consider the bill under this consent agreement. Senators should be on notice that votes in relation to the military tribunal legislation can occur throughout tomorrow's session.

As the majority leader has previously stated, we have much work to complete this week; therefore, all Senators can expect full days and late nights to finish the remaining work.

ADJOURNMENT UNTIL 9:30 TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Wednesday, September 27, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 2006:

DEPARTMENT OF COMMERCE

JANE C. LUXTON, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE JAMES R. MAHONEY.

DEPARTMENT OF ENERGY

KEVIN M. KOLEVAR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF ENERGY (ELECTRICITY DELIVERY AND ENERGY RELIABILITY), VICE JOHN S. SHAW, RESIGNED.

DEPARTMENT OF THE TREASURY

PHILLIP L. SWAGEL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MARK J. WARSHAWSKY, RESIGNED.

UNITED STATES POSTAL SERVICE

THURGOOD MARSHALL, JR., OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2011, VICE NED R. MCWHERTER, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*September 26, 2006*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. WAMP).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 26, 2006.

I hereby appoint the Honorable ZACH WAMP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from New Jersey (Mr. PALLONE) for 5 minutes.

TURKISH PENAL CODE—ELIF SHAFAK'S TRIAL

Mr. PALLONE. Mr. Speaker, last week Turkey put renowned novelist Elif Shafak on trial for charges that she insulted Turkishness because the character in her latest book refers to the deaths of 1.5 million Armenians in 1915 as genocide. Nine months pregnant, Shafak was forced to defend herself, or, more specifically, a fictional character in her book, to prevent going to jail.

Although Shafak was acquitted, Turkey continues to use forms of intimidation to deny its citizens their right to freedom of expression. It lobbies for its so-called rightful role in the international community, yet it does not live up to democratic principles and standards.

Mr. Speaker, in 1915 a systematic and deliberate campaign of genocide perpetrated by the Ottoman Empire against Armenians occurred. Over the following 8 years, over 1.5 million Armenians were tortured and murdered, and more than half a million were forced from their homeland into exile. To this day the Republic of Turkey refuses to acknowledge the fact that this massive crime against humanity took place in the name of Turkish nationalism.

When it comes to facing the judgment of history about the Armenian genocide, Turkey has chosen to trample on the rights of its citizens to maintain its lies. The trial of Ms. Shafak is a perfect example of the depths the Turkish authorities will go in order to deny the Armenian genocide. Their refusal simply has no limits.

Article 301 of the Turkish penal code was used against Shafak. It is the same law that was used against another author, Orhan Pamuk, in 2005. It states that any person who, quote, insults the republic can be jailed for between 6 months to 3 years.

Mr. Speaker, more than 60 similar cases have been brought against writers and artists in Turkey. The law is being used to silence political voices in the country. In this instance, it disturbingly was used to charge a made-up character in a book.

Mr. Speaker, I am extremely pleased that the European Parliament's Foreign Affairs Committee, on September 4, insisted Turkey make substantial changes in many areas before the nation could ever be accepted as a member of the European Union. On September 4, that Foreign Affairs Committee of the European Parliament announced that Turkey had failed to align its laws with the European Union standards, and in particular, it noted Turkey's lack of recognition of the Armenian genocide, its illegal occupation of the northern third of Cyprus, religious inequality and its oppressive penal code. But Turkish authorities continue to deny their citizens the freedoms that Americans and other democracies across the world value so greatly. Without them, a true democracy does not exist.

Until Turkey can guarantee key principles of a democracy, it should not be allowed to join the European Union. In addition, Turkey needs to abide by international law in its dealings with its neighbors. Turkey continues the illegal blockade of Armenia. It refuses entrance of goods from Cyprus to its ports.

Mr. Speaker, the Turkish Prime Minister is expected to visit with President Bush sometime in early October, in the next few weeks. In light of these latest events, in light of the report of the Foreign Affairs Committee of the European Parliament, I would encourage the Bush administration to insist that Turkey clean up its act, both with regard to suppression of the rights of its own citizens, and illegal and aggressive acts against its neighboring countries.

HONORING CHAIRMAN HENRY J. HYDE

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized during morning hour debates for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I am delighted to take this opportunity to reflect on the awe-inspiring career of Chairman HENRY J. HYDE. It is difficult to imagine this House without HENRY's wisdom, his leadership and his wit. Chairman HYDE has led our International Relations Committee and the House Judiciary Committee, prior to his current chairmanship, with grace and fairness.

Vice President CHENEY summed up the essence of HENRY HYDE very well when he recently noted, as a committee chairman and in all of his dealings, HENRY HYDE has been the soul of fairness and balance. If you had any kind of trouble in your life, you would want someone like HENRY to plead your case, and you would want someone like HENRY to decide your case. He understands people. He knows that we live in an imperfect world, and he greets his fellow man with an openness, a generosity of spirit, and an easy manner that draws others to him.

HENRY is remarkable, not only for the formidable body of legislation that he has championed in his very long career, but also for the life of service and dedication that he continues to lead.

Born and raised in the Windy City, Chairman HYDE enlisted in the U.S. Navy at the age of 18 and served with distinction during World War II, eventually rising to the rank of commander before his retirement from the Naval Reserve in 1968. He attended Duke and Notre Dame before coming to the town that would eventually become his second home, earning a bachelor's from Georgetown in 1947. It is not difficult to picture HENRY in his undergraduate years musing to himself, "I'll be back."

HENRY and Jeanne were married soon thereafter. Then they returned to the great State of Illinois, settling in Chicago. HENRY earned a law degree from Loyola in 1949. He started life in office

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in 1966, and has forged ever upward ever since, rising through the Illinois State House and becoming majority leader before his election to represent the Sixth District of Illinois in Congress in 1974.

In the 32 years since joining this House, HENRY has made an indelible mark on the history of this institution and on the consciousness of our Nation. The eloquence of his speech, the elegance of his bearing, and the eternity of his convictions have won him a place as one of our Nation's most treasured legislators. HENRY has been lauded in a great many ways, but writer David Horowitz memorably and accurately called him a Gibraltar of conviction, an avatar of grace.

September 11, 2001 was, as many have noted, a day that forever changed our destiny and our thinking. With his usual sense of clarity and his eloquence, HENRY HYDE assessed the grave threats we now face from extremists, noting on the 1-year anniversary of the attacks, "Our enemies have no aim except destruction, nothing to offer but a forced march back to a bleak and dismal past. Theirs is a world without light."

Indeed, HENRY has shed light on many of the important issues facing our Nation and, indeed, the world. His stewardship of the Committee on International Relations has been one of principle and grace. He has sought to shed light on the furthest reach of earth, promoting democracy wherever it was absent, and promoting human rights wherever they were lacking. His efforts to fight AIDS around the world have inspired a generation of legislators on both sides of the aisle.

HENRY's endeavors in the domestic sphere have been no less ambitious. His efforts to protect life, to safeguard Old Glory, and defending victims of sexual abuse have greatly resounded with the American people.

How fortunate we are to have been blessed with the awesome presence of a man of such stunning conviction. Serving with Chairman HYDE has been a remarkable privilege. I could not have hoped for a more caring and able mentor or a friend of more steadfast loyalty and kindness. There is hardly a soul in this Chamber who has not been touched by his graceful leadership and his righteous conviction.

Mr. Speaker, we are grateful for the great example that HENRY HYDE represents to our Chamber, our Nation, and to the world. We are so grateful to HENRY HYDE for many decades of guidance and inspiration. It is difficult to express how much he will be missed by all of us.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 10 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PRICE of Georgia) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, always giving voice to prophets and strength to martyrs, in times of greatest need Your people have turned to You with greater persistence. In the most critical times, You did not bring their mere expressions of need to reality; instead, You took action Yourself to prove You live beyond their imagining and that You are the Lord of all the nations.

Look with mercy and fondness upon Your people today and this government by the people in the House of Representatives as we hear the words once spoken through Ezekiel as Your living word today:

"The nations shall know that I am the Lord, says the Lord God, when in their sight I prove my holiness through you."

Lord, show us what such holiness means for us in this era of history. Let us humble ourselves before You, that we may draw closer to You and learn how we can show Your holiness to the world.

Ever more attentive to the words of Your mouth and the breath of life You breathe within us, may we respond to Your holy inspirations, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arkansas (Mr. SNYDER) come forward and lead the House in the Pledge of Allegiance.

Mr. SNYDER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

"PRESS ONE FOR ENGLISH"

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, why must I press "1" on my phone for English? Why are voting ballots in numerous languages? Why are street signs in foreign language like Vietnamese? Why do we educate illegals in their native tongue? Why can't some clerks in stores or fast food restaurants speak English?

Mr. Speaker, one of the qualities that make a nation a nation is a common language. Our ancestors decided that the American national language would be English. German was the second choice. But, in our day, we don't want to hurt people's feelings that are not from around here, and we make the unwise choice to communicate with them in their language, not the American language.

If people come to America, they need, like the people before them, to learn to speak English. Failure to do so makes us not a nation but many nations within a nation.

The national language is English. Several national languages are divisive and detrimental and destructive of our culture and our civilization. Mr. Speaker, I am tired of pressing "1" for English.

And that's just the way it is.

THE BARBARIC PRACTICE OF GAME BIRD AND ILLEGAL DOG FIGHTING

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, for the last 5 years I have been working with a bipartisan group of my colleagues to make it illegal to continue the barbaric practice of game bird and illegal dog fighting.

Unfortunately, these practices continue because the purveyors of them have settled on the tactic of having minimal sanctions, not having meaningful penalties in our statutes. Unfortunately, this takes on new urgency because it is not just the fighting and the violence and the illegal betting and other criminal activities. We are now finding, for instance, that viruses like bird flu can be spread through this vile trade.

Mr. Speaker, it is time for the House Republican leadership to stand up to the dark, shadowy forces that allow these evil practices to continue. Allow the bill that has been cosponsored, bipartisan, 324 cosponsors, to be voted on, on a suspension calendar. In fact, it won't even take the 40 minutes we normally allocate, because I am quite confident that we don't find any of the apologists for this barbaric trade who would be willing to stand up in public to defend what they protect in the back rooms of Congress.

HEALTH INSURANCE FOR LIFE ACT (H.R. 5740)

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, I rise to urge the passage of legislation that I am cosponsoring with the gentlewoman from Ohio (Ms. PRYCE).

The Health Insurance for Life Act provides extended health care coverage to individuals and families who need COBRA when they are in between jobs or waiting for their health insurance to begin at a new job.

Suburban families like those living in the Hudson Valley in New York encounter a job change an average of seven times. Workers need assurances that their health insurance remains as transferable and uncomplicated as possible when job changes occur.

COBRA provides the safety net that parents and children need to maintain affordable health insurance, but under current law there are time limitations on how long families can use COBRA. H.R. 5740 removes COBRA's time limits and ensures that families in need of extended COBRA coverage cannot be charged unreasonable premiums.

This Congress must continue developing new ways to protect the underinsured and uninsured in New York and throughout our country. Passage of our bill ensures that time is on the side of families and children who rely on COBRA for their health insurance.

PROPERLY PREPARING OUR MILITARY

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Personnel in our military, Mr. Speaker, must be properly equipped and trained in order to be ready for the unforeseen wars of the future. Even General Schoomaker, the Chief of Staff of the Army, though readiness levels are classified, has publicly expressed concern regarding the unacceptable readiness levels of our U.S.-based units. Not enough equipment, not enough money, not enough time for proper training for our wonderful troops.

We can do better, Mr. Speaker. America must do better so we can be the safe, secure country we want to be.

PRESERVING THE CIA PROGRAM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, this week we will consider legislation to authorize military tribunals for the prosecution of suspected terrorists and clarify Common Article 3 of the Geneva Convention.

Strenuous interrogation is vital in our efforts to win the global war on terrorism. The CIA program has produced intelligence that has saved countless lives. KSM, the mastermind of 9/11, was arrested as a result of information developed from the program.

The clarification of Common Article 3 will preserve the CIA interrogation program. As a JAG officer for 28 years, I support providing definitions. We do not want to leave our men and women vulnerable to prosecution under vague international law.

I commend Chairman DUNCAN HUNTER for reaching a good bargain with President Bush and the Senate. I look forward to voting in favor of the Military Commissions Act and advancing our efforts to win the global war on terrorism to protect American families.

In conclusion, God bless our troops, and we will never forget September 11.

IT'S TIME THE DO-NOTHING CONGRESS ACTUALLY DO SOMETHING FOR THE AMERICAN PEOPLE

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, yesterday, when I landed here in Washington, I received a phone call almost immediately from my brother-in-law in St. Louis who said somewhat jokingly, "I sure hope you will do something for America this week." And all I could think about was, "I do, too." Because, unfortunately, we are not doing much for America.

We should not leave this town this week without passing legislation to implement the 9/11 Commission's recommendations so we can make our Nation safer. Congress shouldn't leave without raising the minimum wage for 6.6 million Americans who haven't seen a raise in 9 years. We shouldn't leave without rolling back the $12 billion in tax breaks that were showered on big oil companies last year.

The history books are not going to be kind to this Congress. With a 25 percent approval rating, it seems to me that one way to raise it would be to do something.

NATIONAL SEAFOOD MONTH

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BROWN of South Carolina. Mr. Speaker, in 1990, Congress designated October as National Seafood Month. This month-long celebration highlights the importance of seafood as part of a healthy diet. National Seafood Month also honors and celebrates the many contributions of the seafood and fishing industries and recognizes the multiple ways in which industry professionals serve our Nation's economy and continues to spur economic growth.

The First Congressional District of South Carolina, which I represent, has over 75 percent of the South Carolina coastline. Many of my constituents are hardworking shrimpers and fishermen, and I appreciate all the hard work to supply us with good quality seafood.

As the popularity of seafood continues to grow, National Seafood Month offers a unique way to remind consumers of the way the industry helps meet the needs in providing healthy and delicious seafood products year round. Creating a greater awareness among consumers is essential in the efforts to spread the positive message that seafood is a delicious and nutritious source of protein in the American diet.

I urge all of my colleagues to join me in cosponsoring House Con. Resolution 479 which supports the goals and ideals of National Seafood Month.

IRAQ

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the President says he looks to the generals on how to prosecute the war in Iraq. Yesterday, two generals from the Army and a Marine colonel who had all served in Iraq called for the resignation of the Secretary of Defense, Mr. Rumsfeld.

The President has repeatedly claimed he listens to the military. Well, General John Batiste told an oversight hearing that Rumsfeld and others in the Bush White House "did not tell the American people the truth for fear of losing support for the war in Iraq."

The generals have spoken, Mr. President. Your Defense Secretary misled us into combat with disastrous consequences. Rumsfeld has failed our soldiers and the American people. He just ordered another 4,000 into Iraq, into the cauldron of violence that his incompetence has created.

The generals have spoken, Mr. Speaker. Tell the President to listen to us. Will you? Somebody has got to talk to the President. He doesn't seem to listen to Members of Congress. The generals have now spoken. What is he waiting for? Perhaps it is the election.

DEMOCRATS OUT OF TOUCH

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to deliver a message: The Democrats have no direction when it comes to the war on terror and national security. Just this week, the minority leader said, and I quote, "5 years after 9/11 Osama bin Laden is still free, and not a single terrorist who planned 9/11 has been caught and brought to justice."

In reality, currently, the U.S. has in captivity Khalid Shaikh Mohammad, the mastermind behind 9/11; Mustafa Ahmad as-Hawsawi, a financier of the 9/11 attacks; and Ramzi-Bin al-Shibh, who served as a facilitator between the 9/11 hijackers in the U.S. and the al Qaeda leadership in Pakistan and Afghanistan.

Another baffling statement was made recently by the Senate minority leader referring to the national security bills the House has passed to make our Nation safer and secure our porous borders. The Senate minority leader openly said that the Republican Congress is spending time on issues that are not relevant to the American people.

Mr. Speaker, the statements of the respected minority leaders lead me to believe that not only are the Democrats out of touch with the majority of Americans, but it appears as if they are now completely out of touch with reality.

☐ 1015

SPY AGENCIES SAY IRAQ WAR WORSENS TERRORISM THREAT

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, the headlines in the New York Times says it all, "Spy Agencies Say Iraq War Worsens Terrorism Threat."

The top secret terrorism document was completed in April, after receiving final approval from all 16 national intelligence departments. The report concludes that rather than being in retreat, Islamic radicalism has spread across the globe. According to an American intelligence official, the report says that the Iraq war has made the overall terrorism problem worse and attacks continue to increase, with 2,700 soldiers killed and 17,000 injured.

And yet, over the last month President Bush told the American people that our Nations and its allies are safer than they ever were.

Mr. Speaker, it is time for the President to be honest with the American public. He needs to tell the truth, and we need to make sure that those folks that are preparing to vote in November don't believe all of these lies and scare tactics being used by the Republican Party.

NATIONAL DEFENSE

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, when I decided to run for Congress, I made a conscious decision to do so, and I took my oath of office very seriously, just as every Member before me and every Member in the future will as well.

I knew that the first and foremost responsibility of the Federal Government was to provide for the national defense. It is actually in the preamble of our Constitution. America is a peace-loving Nation. And yet we find ourselves in a war with an enemy who hides in the shadows and preys on the innocent, terrorists who have murdered innocent citizens and are enemies of freedom and liberty and democracy.

Mr. Speaker, election day is coming to our Nation, and as Americans make their decisions, national security and the war on terror is on every voter's mind. So I ask them to consider what the Democratic minority leader said in a recent interview about the upcoming elections when asked about the importance of national security. She said, "This is what I guess campaigns will be about. It shouldn't be about national security."

Mr. Speaker, Americans are dying and the Democratic minority leader doesn't think national security should be an issue. Think about that.

AMERICA IS NOT SAFER TODAY

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, America is not safer today than it was before 9/11. The President can continue to deny this fact in speeches around the country, but his own intelligence agencies concluded that the world is not safer today, and the main reason is the ongoing war in Iraq.

This is not the only proof that we are less safe today than 5 years ago. A recent independent Council on Global Terrorism report assigned a grade of D-plus to our Nation's efforts in combating Islamic extremism. The council concluded that "there is every sign that radicalization in the Muslim world is spreading rather than shrinking."

Another report, this one by Foreign Policy Magazine, surveyed our Nation's top security experts from across the political spectrum and their conclusions that 84 percent said we are losing the war on terrorism and 87 percent said the war in Iraq had a negative impact on the war on terror.

Mr. Speaker, it is time that we get back to fighting the real war on terror. We need to begin redeploying our troops out of Iraq and refocusing our efforts in Afghanistan. How can we defeat the terrorists if we have seven times as many troops in Iraq as we do in Afghanistan?

NATIONAL SECURITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, as we remember 9/11, it should renew our determination to see justice brought to those responsible and to protect our homeland against further attack.

This week, we will take up legislation on both of those points. Thanks to the hard work and dedication of our intelligence community, we have captured most of those responsible for murdering nearly 3,000 of our innocent civilians on 9/11.

This week, we will create a framework to bring these terrorists to justice. It will provide a system that is fair and firm and ensures that these terrorists are never again given the chance to do us harm.

We will also work to prevent further attacks on America by strengthening our surveillance capabilities on terrorist activities. In the war on terror, intelligence-gathering is crucial, and we must give our intelligence community the tools it needs to protect America.

Mr. Speaker, nothing is more urgent than strengthening our national security.

AMERICA'S ECONOMIC SITUATION

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, President Bush and congressional Republicams are out of touch with the economic conditions faced by millions of working Americans today. If they would only take time to talk with any working Americans, they would hear that most fear they are losing their piece of the American Dream. Most Americans are not asking for much. They want to keep their heads above water without going into debt so they can provide a better future for their children.

Unfortunately, most Americans believe the American Dream is getting harder to reach, and many fear their children will be worse off in the future. Working Americans are justifiably skeptical about today's economy. While overall productivity is up, monthly paychecks are stagnant, forcing most families to stretch paychecks just to make ends meet.

This is not how our country is supposed to work. Unfortunately, Washington Republicans continue to ignore the needs of the middle class. Democrats have a proud history of fighting for working families and will take our country in a new direction, one where their needs are addressed, not ignored.

HONORING VIVIAN MOEGLEIN

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to express my sincerest appreciation and thanks to Vivian Moeglein whose tenure as my legislative director comes to an end this Friday. Vivian will be leaving my office at the end of this week after serving the Third District of Arkansas for 10 years.

Her passion for the legislative process, devotion to the people of Arkansas, and her cheerful personality have made her a pleasure to work with, and I am fortunate to have had her on my staff.

Vivian began her service here on Capitol Hill as an intern for Congressman Asa Hutchinson while completing her undergraduate degree at the University of Maryland. Since that time, she has worked her way through the ranks as a staff assistant, office manager, legislative correspondent, legislative assistant, and finally as legislative director.

I was fortunate enough to keep her on the staff when I entered Congress in 2001 in a special election when she carefully steered me through the learning process each new Member of Congress must master.

Mr. Speaker, my staff and I will miss Vivian greatly, as will the Third Congressional District of Arkansas. We are extremely grateful for her tireless efforts on behalf of Arkansas and wish her the best of luck in all of her future endeavors.

WE NEED TO CHANGE COURSE IN IRAQ

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, a famous law of nature says that when you have dug yourself into a deep hole, the first thing to do is stop digging. That hole is Iraq. According to our own intelligence agents, the war in Iraq is actually fueling more terror worldwide, undermining the global war on terror. And yet this administration refuses to stop digging.

Conditions for our own troops are getting worse and worse. They are merely serving as referees in a civil war between Sunnis and Shias in which over 100 Iraqis die every day.

And our Army Chief of Staff, who I refer to as the Carl Sagan of the budget, says we need billions and billions and billion of more dollars if we are going to keep the Army going in Iraq and elsewhere.

Last week, General Abizaid was asked if we were winning the war in Iraq; he said we would be if we had unlimited time and unlimited resources.

Yet in the face of all of this mismanagement, all of the death and destruction, our President has the nerve to say when history looks at Iraq, it will see a mere comma. A mere comma. What about the deaths of 2,700 of our bravest men and women, Mr. President? How about the injuries of 20,000 of our finest troops? It is time to stop digging and bring the troops home.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair and not to the President.

NO CONGRESSIONAL ACCOMPLISHMENTS THIS YEAR

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, at the end of this week the Republican leadership is sending us home. They are going to spend the next 4 weeks trying to convince the American people that we have actually accomplished something this year. It is going to be a tough sell.

This is the most do-nothing Congress in American history. Back in 1948, President Harry Truman dubbed the Congress of that year the "do-nothing Congress" after it met for only 101 days. At the end of this week, this Congress will have only met for a total of 79 days. That is 22 days less than the do-nothing Congress of 1948. This is the do-less-than-nothing Congress.

And over those 79 days, House Republicans have not passed one piece of meaningful legislation into law. They have been putting on a lot of shows over the last few weeks trying to convince the American people they are actually accomplishing something. Don't believe them.

Here is the record. We are days away from a new fiscal year, Congress has not yet passed a budget. Republicans have been saying all year that immigration and border security are their top priority, but we leave this week without a law on either issue. It is no wonder the American people are fed up with Congress. It is time for a change.

IRAQ WAR CREATING MORE TERRORISTS, NOT LESS

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, for 5 weeks President Bush has been telling the American people that they are safer now than they were before 9/11 even though all 16 of his intelligence agencies were telling him that simply was not the case.

The Bush administration's own spy agencies say we are less safe today, and they put the blame on the President's decision to invade Iraq.

If President Bush and Republicans here in Congress are serious on winning the global war on terror, they would not ignore this classified report and would finally join us in coming up with a new strategy for Iraq.

It is clear that staying the course is simply not working. We have lost nearly 2,700 troops and spent upwards of $320 billion. And yet there are still no positive developments on the ground. In fact, things seem to be getting worse as more than 100 Iraqis are now being killed every day.

Mr. Speaker, the war in Iraq and the occupation is making our Nation less safe. It is time that we redeploy our troops out of Iraq so we can finally achieve some form of national security. I mean real national security and real peace.

FAMILIES FACE RISING COSTS WITH FALLING WAGES

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, at the end of last week Forbes Magazine released their annual list of the 400 richest Americans. For the first time ever, this list was comprised entirely of billionaires. Not one millionaire made the list. 400 billionaires.

These are the types of people who benefited from the massive tax cuts pushed by President Bush and his Republican rubber-stamp allies here in this Congress.

The giveaway to the wealthiest Americans stands in stark contrast to the plight of millions of working people in my home State of New Jersey and throughout the Nation who have actually seen their wages fall by over $3,000 over the past 6 years if you take inflation into account.

How are working Americans supposed to realize the American Dream when their wages remain stagnant, when all of their monthly bills are steadily rising? Over the past 6 years, the cost of health care has risen by 71 percent and the tuition of public colleges has gone up 57 percent. We must stop this. Let's stop benefiting the billionaires.

REMEMBERING LEO DIEHL

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, there is a cliche of the unsung hero. Cliches can be tiresome, but generally they have to be true to become a cliche. One such unsung hero in the history of this House recently died. His name was Leo Diehl.

Tip O'Neill was a great Speaker, and we have seen before and since that it is not as easy to be a successful Speaker as it may look. One reason Tip was so good at his job was the friendship and partnership he had with Leo Diehl.

Leo Diehl was a man of integrity, vision and intelligence. He had lost the use of much of his body, but his brain worked, and his eyes and ears and mouth. Because of the great friendship with Leo Diehl, because he could so clearly rely on a man of such strength of character and wisdom, that was one of the reasons that Tip O'Neill's speakership, as he was free to acknowledge, was so successful.

Leo Diehl recently died at the age of 92. He was a great figure in the history of this House, and I think it is appropriate that those of us particularly who served under Tip O'Neill's speakership with Leo Diehl mourn him today.

REMEMBERING LEO DIEHL

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, I want to join with my colleague from Massachusetts, Congressman BARNEY FRANK, in paying tribute to a great man, Leo Diehl, who recently died.

He served as Tip O'Neill's right-hand man and was a great counselor not only to Tip, but to so many people who served in this Congress during those years. Those of us who were members of congressional staff remember him with great fondness and great respect.

The great people who serve in this institution are not just the people who get elected, but often those who serve those who are elected. Leo Diehl was a wonderful man. The world has lost a great person.

☐ 1030

PRESIDENT BUSH MISREPRESENTS IRAQ'S IMPACT ON THE OVERALL GLOBAL WAR ON TERROR

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, it is nice to see that we really and finally are hearing the truth from the Bush administration about the Iraq war and its impact on the overall global war on terror. The problem is we didn't hear it from the President himself. No. It comes from a top secret intelligence document that I am sure the President hoped never saw the light of day.

For the better part of a month now, President Bush has been trying to persuade the American people that we are safer today than we were before 9/11. This national intelligence report contradicts the President's statements and says that the war in Iraq has actually made our fight against terrorism even more difficult.

So the question is, why would the President go out and say we are safer if his intelligence agencies refute these claims? Either President Bush has not personally read the top secret report or he is not leveling with the American people about the real worldwide threat we continue to face and how Iraq has made those threats even worse.

PROVIDING FOR CONSIDERATION OF H.R. 2679, VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1038 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1038

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2679) to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 1038 is a closed rule. It allows 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and it provides that the amendment in the nature of a substitute as reported by the Committee on the Judiciary shall be considered as adopted. H. Res. 1038 also provides for one motion to recommit with or without instructions.

Mr. Speaker, as you and many others may have noticed, if you look up from the front podium, in the center of the molding above the gallery is a sculpture of Moses, the man who freed the slaves in Egypt and introduced God's law to man. Moses is at the forefront of all of the great legal scholars depicted in this Chamber because of his responsibilities as both a religious leader and the custodian of God's law.

The Ten Commandments are the foundation of common law and the "rights endowed by our Creator." However, in recent decades, the Ten Commandments, religious symbols, and religious liberties in general have been under attack. More specifically, they have been under attack by the same interests that claim to represent civil liberties and free speech.

On July 19, 2005, a month after the Supreme Court ruled on the two Kentucky Ten Commandments cases, United States District Court Judge William O'Kelley ruled in my home State of Georgia that the courthouse in Barrow County, my daughter-in-law's home, had to remove a framed poster of the Ten Commandments and awarded the American Civil Liberties Union, the ACLU, $150,000.

Mr. Speaker, small counties like Barrow cannot afford these costly lawsuits; and my daughter-in-law's parents, Emory and Pat House of Winder, Georgia, experienced an increase in their taxes to help pay for these court costs and the legal fees.

This past July, we had a debate over legislation to preserve the Mount Soledad Veterans Memorial in San Diego, California, from having to remove a cross. Mr. Speaker, one can only wonder how those Korean War veterans, many of whom gave their lives for this country, might have felt had that cross been removed from their memorial cemetery. Thankfully, Mr. HUNTER's legislation passed and was signed into law, but I am stunned at how far our society has fallen when people are compelled to sue a major city to have a cross removed from, of all places, a memorial cemetery.

Mr. Speaker, we cannot continue to allow frivolous and, frankly, unwarranted lawsuits to stifle the beliefs and self-determination of our great communities. This is a textbook example of an issue that needs to be addressed by this Congress.

I have always believed that one man's rights end where another man's rights begin, and we need to draw the line to clarify our first amendment and ensure impartiality for legal challenges.

The rule we are debating today would allow for the consideration of H.R. 2679, the Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Act of 2006. I want to thank Mr. HOSTETTLER for sponsoring this legislation and Chairman SENSENBRENNER for the opportunity to discourage frivolous obstruction to our constitutional rights of religious expression.

The Public Expression of Religion Act would prevent Federal courts from awarding monetary relief to parties claiming violations based on the constitutionally prohibited "establishment of religion." In addition, H.R. 2679 would prevent plaintiffs who have won such claims from being awarded attorneys' fees and so-called court expenses.

However, what is more concerning is when a defendant decides, a city or county like Barrow and Winder, Georgia, to settle without challenging the frivolous accusations not because they could not win but because they cannot match the challenger's legal war chest. H.R. 2679 will ensure that each party in an Establishment Clause lawsuit shoulders its own costs.

Mr. Speaker, beyond the issue of religious expression, this is an issue about lawsuit reform. We need to move away from this current sue-or-be-sued society, which offers little to no repercussions for those seeking financial gain or the advancement of some personal or political agenda.

As many of my colleagues know, before being elected to this Congress, I had a career as an OB/GYN physician. Most of my patients thought I was a successful, good doctor, but I was in constant fear of medical liability lawsuits, like many of my colleagues, and struggled to make these exorbitant malpractice insurance payments. As a result, one of my primary objectives as a retired doctor now and Member of Congress is to help pass medical malpractice reform and, as a direct result, reduce the cost of health care. What we have with the Establishment Clause litigation is very similar, because the multiple lawsuits tie up our court system and they affect everybody.

Mr. Speaker, the United States Constitution is a revolutionary and sacred document on many levels. Our Founding Fathers had great foresight when they designed our government. The first amendment is an absolute right and should not be misinterpreted to allow these attacks on our freedom of religion. The attack on our religious heritage is just as wrong as denying a person the freedom to worship. The Constitution guarantees freedom of religion, not freedom from religion. And it is my hope that with the passage of this legislation we can prevent future Barrow County rulings and preserve our Nation's heritage.

I ask my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank the gentleman from Georgia, Dr. GINGREY, for yielding me the customary 30 minutes, and I yield myself 5 minutes.

Mr. Speaker, the political season is upon us. There is just 1 week left before we adjourn for the midterm elections. And what does that mean? It means we will shove important issues to the side and move the sound bite and wedge issues to the forefront. It means that this Congress will become a place where trivial issues are debated passionately and important ones not at all. The legislation before us is not needed, will not be enacted by the Senate, and, quite frankly, is a waste of our time.

The so-called Public Expression of Religion Act, which should really be called the "cheap political expression act," is simply another wedge issue brought to the floor by the Republican leadership that will be used as a political tool in the November elections. The bill bars the award of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the first amendment. In other words, the Public Expression of Religion Act will prevent lawyers from being paid for representing people who believe that their religious freedoms have been violated.

Now, there is a legal separation of church and State in this country, and we have a court system designed to mediate any dispute over the law, including legal disputes over the separation of church and State. We have an independent judiciary, and they deserve to do the job the framers intended them to do.

But this bill does not allow them to do the job the framers empowered them to do. If this bill is enacted, attorneys will stop representing people who feel that their rights are infringed upon because they won't be compensated for doing their jobs.

The fact, Mr. Speaker, is that there are some on the other side of the aisle who don't like some of the decisions the courts have handed down in regards to the display of certain religious symbols; and since they cannot win in court based on rights guaranteed in the Constitution of the United States, my good friends on the other side of the aisle are now attempting to rig the process in their favor.

Now, there are decisions the courts hand down that I do not agree with, and I can think of a few that the Supreme Court has handed down that I don't agree with. But I do not run to the floor of this House with legislation overturning those decisions. Mr. Speaker, this is a slippery slope that will ultimately cause real legal problems if this bill is ever enacted into law.

Mr. Speaker, my colleague on the Rules Committee, Mr. HASTINGS of Florida, said it best during yesterday's hearing on this rule. He said, "I don't understand what's broken." Well, let me tell you. Mr. Speaker, what is really broken. The way we treat people who need the most help in this country is broken. The way we protect our homeland is broken. The independent 9/11 Commission has given us D's and F's in terms of implementing their recommendations to protect the people of this country. It is a broken process.

And the way we are perceived around the world is broken. We have never, ever been held in such low esteem. The way the people of this country view the United States Congress is broken. We have never had lower ratings than we do right now, because people are fed-up with the things that are being brought to this floor.

Instead of addressing the more important and pressing issues, we are forced by the Republican leadership to debate and vote on a bill restricting attorneys' fees.

Where, Mr. Speaker, is a clean bill increasing the minimum wage? The Federal minimum wage is stuck at $5.15 an hour, and 9 years ago was the last time we raised the Federal minimum wage. Yet this Congress has given itself nine pay increases. Where is the legislation implementing the rest of the 9/11 Commission's recommendations? Where is the Labor-HHS-Education appropriations bill?

Mr. Speaker, we shouldn't adjourn before we consider these bills; and bringing up another bill, attacking lawyers for doing their job, does nothing to address these problems.

I urge my colleagues to reject this partisan political legislation, this legislation that is not needed, and instead demand that the leadership of this House bring to the floor meaningful legislation. I would also urge my colleagues to defeat this rule. It is another closed rule. Democracy is dead in this House of Representatives. I cannot remember the last time we had an open rule. There is no reason why this should be a closed rule.

Mr. Speaker, I will insert in the RECORD a number of letters from individuals and organizations that are opposed to this legislation.

First, a letter signed by a number of religious and civil rights organizations, including the American-Arab Anti-Discrimination Committee, the American Jewish Committee, the American Jewish Congress, the Anti-Defamation League, the Baptist Joint Committee, People for the American Way, the Interfaith Alliance, Unitarian Universalist Association of Congregations, and a whole range of other organizations opposed to this.

I would also like to insert in the RECORD a letter opposing this legislation signed by the leaders of the Leadership Conference on Civil Rights.

LEADERSHIP CONFERENCE ON
CIVIL RIGHTS,
September 18, 2006.

DEAR REPRESENTATIVE: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, we urge you to oppose the "Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006" (H.R. 2679). H.R. 2679 would bar attorney's fees to parties who prevail in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. It would also make injunctive and declaratory relief the only remedies available in such cases.

H.R. 2679 is unprecedented. It would, for the first time, single out one area of constitutional protections under the Bill of Rights and prevent its full enforcement. It would greatly undermine the ability of citizens to challenge Establishment Clause violations, as legal fees often total tens or even hundreds of thousands of dollars, making it difficult to impossible for most citizens to pursue their rights without the possibility of recovering attorney's fees. In addition, because a prevailing party would not even be able to recoup court costs, it would prevent most attorneys from even taking cases on a pro bono basis.

By deterring attorneys from taking Establishment Clause cases, H.R. 2679 would leave many parties whose rights have been violated without legal representation. As such, it would effectively insulate serious constitutional violations from judicial review. It would become far easier for government officials to engage in illegal religious coercion of public school students or in blatant discrimination against particular religions.

If the rights guaranteed under the U.S. Constitution are to be meaningful, every American must have full and equal access to the federal courts to enforce them. The ability to recover attorney's fees in successful cases has long been an essential component of this enforcement, as Congress has recognized in the past. As such, we strongly urge you to oppose H.R. 2679.

Thank you for your consideration. If you have any questions, please contact Rob Randhava, LCCR Counsel, at 202-466-6058 or randhava@civilrights.org.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

OPPOSE H.R. 2679, THE "PUBLIC EXPRESSION OF RELIGION ACT"

SEPTEMBER 22, 2006.

DEAR REPRESENTATIVE: We write to urge you to oppose the "Public Expression of Religion Act of 2005" (H.R. 2679). This bill would bar the award of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. This bill would limit the longstanding remedies available under 42 U.S.C. 1988 (which provides for attorneys fees and costs in successful cases involving constitutional and civil rights violations) in cases brought under the Establishment Clause. If this bill were to become law, the only remedy available to plaintiffs bringing Establishment Clause lawsuits would be injunctive and declaratory relief. As a result, Congress would single out one area of constitutional protections under the Bill of Rights and prevent its full enforcement.

Religious expression is not threatened by the enforcement of the Establishment Clause, but is protected by it. The Establishment Clause promotes religious freedom for all by protecting against government sponsorship of religion. While the signers of this letter may differ on the exact parameters of the Establishment Clause or even on the outcome of particular cases, we all believe that the Establishment Clause together with the Free Exercise Clause, protects religious freedom. The purpose of this bill, however, is to make it more difficult for citizens to challenge violations of religious freedom. But with legal fees often totaling tens—if not hundreds—of thousands of dollars, few citizens can afford to do so. Most attorneys cannot afford to take cases, even on a pro bono basis, if they are barred from recouping their fees and out-of-pocket costs if they ultimately prevail. The elimination of attorney's fees for Establishment Clause cases would deter attorneys from taking cases in which the government has violated the Constitution, thereby leaving injured parties without representation and insulating serious constitutional violations from judicial review.

This bill raises serious constitutional questions and would set a dangerous precedent for the vindication of all civil and constitutional rights. If the right to attorney's fees is taken away from plaintiffs who prove violations of the Establishment Clause, other fundamental rights are likely to be targeted in the future. What will happen when rights under the Free Exercise Clause are targeted? Can we imagine a day when citizens cannot enforce their longstanding free speech rights, or bring a case under the constitution to challenge the government's use of eminent domain to take their property, simply because they cannot hire an attorney to represent them? Surely, these and other fundamental rights might not be far behind once Congress opens the door to picking and choosing which constitutional rights it wants to protect and which ones it wants to disfavor.

If the Constitution is to be meaningful, every American should have equal access to the federal courts to vindicate his or her fundamental constitutional rights. The ability to recover attorney's fees in successful cases is an essential component for the enforcement of these rights, as Congress has long recognized. We urge you to protect the longstanding ability of Americans to recoup their costs and fees when faced with basic constitutional violations and urge you in the strongest terms to oppose H.R. 2679.

Sincerely,

ADA Watch/National Coalition for Disability Rights,
Alliance for Justice,
American-Arab Anti-Discrimination Committee (ADC),
American Civil Liberties Union,
American Humanist Association,
American Jewish Committee,
American Jewish Congress,
Americans for Democratic Action,
Americans United for Separation of Church and State,
Anti-Defamation League,
Asian American Justice Center,
Asian Law Caucus,
Asian Pacific American Legal Center,
Baptist Joint Committee,
Bazelon Center for Mental Health Law,
Equal Justice Society,
Gay & Lesbian Advocates & Defenders,
Human Rights Campaign,
Japanese American Citizens League,
Jewish Council for Public Affairs (JCPA),
Lawyers' Committee for Civil Rights Under Law,
Legal Momentum,
Mexican American Legal Defense and Educational Fund (MALDEF),
National Association for the Advancement of Colored People (NAACP),
National Center for Lesbian Rights,
National Council of Jewish Women,
National Employment Lawyers Association,
National Gay and Lesbian Task Force,
National Lawyers Guild,
National Partnership for Women & Families,
National Senior Citizens Law Center,
National Women's Law Center,
National Workrights Institute,
People For the American Way,
Public Justice Center,
Secular Coalition for America,
Sikh American Legal Defense and Education Fund (SALDEF),
The Impact Fund,
The Interfaith Alliance,
The Puerto Rican Legal Defense and Education Fund,
The Urban League,
Union for Reform Judaism,
Unitarian Universalist Association of Congregations.

☐ 1045

Mr. Speaker, I yield 8 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, the gentleman from Georgia said the Constitution is a sacred document. I agree. And that is exactly why I passionately oppose this ill-advised legislation, because it does a disservice to the Constitution by making it more difficult to enforce the first amendment to the Constitution, which is dedicated to protecting our first freedom in America, religious freedom.

I am glad to join with faith-based groups, such as the Baptist Joint Committee, the Interfaith Alliance, along with the American Jewish Committee, in strong opposition to this bill. Why? Because this bill would make it more difficult for ordinary Americans to denied their religious freedom against intrusion by government. For over two centuries, the first amendment of our Bill of Rights has protect religious freedom for all Americans.

Listen with me to the words of Thomas Jefferson written in his 1802 letter to the Danbury Baptists: "I contemplate with sovereign reverence," sovereign reverence, "that Act of the whole American people which declared that their legislature should," and here he quotes the Constitution, "make no law respecting an establishment of religion or prohibiting the free exercise thereof, thus building a wall of separation between church and state."

Today's amendment would not just chip away, it would chisel away, the wall of separation of church and state. It would knock down the fundamental part of that wall that was designed to keep government out of our houses of worship and out of our own private religious faith.

Today's amendment is a wolf in sheep's clothing. Time for maximum political sound bites, I understand that, just prior to an election. This bill claims to protect the public expression of religion, but it does not do that. What it does is protect the power of government to step on the individual rights of every American citizen when it comes to the exercise of their religious freedom, and it allows the government to inhibit the individual's right to exercise his or her views of faith by using government power to force someone's religion on someone else.

The truth is, this bill undermines the enforcement of the establishment clause of the first amendment, which was designed exactly to protect Americans from government intrusion into our faith. Now, Mr. Madison and Mr. Jefferson knew that government intrusion into religion is the greatest single threat to religious freedom.

And that is why they embedded into our Bill of Rights the fundamental principle that government should not use its power to promote anyone's religion upon anyone else. The principle of church-state separation has been a magnificent bulwark for over 200 years against government intrusion into our houses of worship and our private faith.

Unfortunately, this bill would make it more difficult for citizens to protect that religious freedom by using our judicial system to enforce the first amendment to the Constitution. In fact, this bill would go so far as to say, even if a plaintiff, in defense of religious freedom in the first amendment to the Bill of Rights, even if that plaintiff wins the case before the United States Supreme Court, that party would not be reimbursed for their legal fees.

Let me remind my friends of faith that should, for example, someone not put a 2½ ton monument of the Ten Commandments in an Alabama courthouse, but put a 2½ ton monument to Buddha in an Alabama or a Georgia or a Texas courthouse, this bill would prohibit people of the Christian faith, for example, from filing a lawsuit and then recovering damages if the Supreme Court said, yes, it was wrong for that county judge to put a 2½ ton statue of Buddha in that Alabama courthouse.

This bill does not protect public expression of religion, as its title suggests. To the contrary, this bill should be called, let's not enforce the first amendment to the Constitution, because that is exactly what this legislation does. It makes it harder, if not impossible, for many citizens to stop the intervention of government into our religious faith and our lives.

By making it easier for government to step on the first amendment religious rights of all Americans, this bill does damage to what Jefferson called, with reverence, the wall of separation between church and state.

Mr. Speaker, I believe America's greatest single contribution to the world from our experiment in democracy is our system of protecting religious freedom through the separation of church and state. Our system, built upon the sacred foundation of the first amendment, has resulted in a Nation with more religious freedom, vitality and tolerance than any nation in the world. How ironic and sad it is that while we are preaching democracy and church-state separation to the Iraqis, right here today in the cradle of America's democracy some would try to tear down the wall of separation between church and state.

If anyone thinks government is a friend of religious freedom, then vote for this dangerous, ill-advised legislation during the middle of campaign season. However, I would challenge any Member, Mr. Speaker, to show me one nation, show me one nation in the history of the world where government endorsement and involvement in religion has resulted in more religious freedom than we have in America.

I would be glad to yield any time for any Member who can show me one nation where that has been the case. Aside from the clear lessons of history that have shown just the contrary, that government is a danger to religious freedom, one only has to look at the Middle East today to find out the danger we have when we allow government to use its power and its money to force religion or anyone's religious views on any other citizen.

Church-state separation does not mean keeping people of faith out of government, but it does. And it should, and I pray it always will mean keeping government out of our faith. That is what the establishment clause of the first amendment is all about. That is why that principle was written into our Bill of Rights. And not only the Bill of Rights, but the first 16 words of the first amendment thereof. That is how important Mr. Madison thought, and the Founding Fathers thought, this principle of church separation was to our Republic.

Mr. Speaker, if I must choose today between standing on the side of campaign sound bite politics, or standing with Mr. Madison, Mr. Jefferson and the Bill of Rights, I will proudly stand with our Founding Fathers and our Constitution.

Religious freedom is a gift from God. And our Bill of Rights has been a magnificent steward of that precious gift for over two centuries. Let us not tamper with that divine gift in election season. Vote "no" on this bill.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the previous speaker talking about the rights of people to sue, and that this bill would discourage that right because we are taking away the ability to recover monetary damages or legal fees and court costs, the American Civil Liberties Union probably files most of these lawsuits on behalf of plaintiffs. They have said very clearly that their motivation is not fees, is not compensation. If there were no fees involved, they would continue to file these lawsuits even though in many cases of course there are tremendous legal fees and court costs awarded, monetary damages.

I want to just, Mr. Speaker, in response to the previous speaker, list a few examples of what I am talking about. I mentioned already in my home State of Georgia, Barrow County of the $150,000 cost. And that small struggling county elected to defend themselves. And that is what it ended up costing them.

Another example. The ACLU received $950,000 in a settlement with the city of San Diego in a case involving the San Diego Boy Scouts. The ACLU received $121,000 in Kentucky in a case to remove a Ten Commandments monument outside of the capitol.

The ACLU and two other groups received nearly $550,000 in an Alabama case to remove the Ten Commandments from a courthouse. I could go on and on and on. But in regard to rights, this case as we will hear, I am sure, from the author of the legislation as we discuss the bill, is not about removing anybody's rights under the establishment clause, not at all.

But we are talking about the rights of these small counties and cities, which represent a lot of people, and their ability to defend themselves when they have not violated the Constitution at all. The Constitution calls for a separation of church and state and a freedom from the imposition of a state religion, but it does not call for the total elimination of religion and the removal of a cross from a veterans cemetery in San Diego.

Mr. Speaker, if we continue down this line, pretty soon Moses will be removed from this Chamber based on the same argument. So I say to my friend from the other side that we need a balancing of rights. That is what this is all about. Let's level the playing field. We are not eliminating anybody's constitutional rights under the establishment clause.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I would just like to point out to my friend from Georgia that this legislation, that if one reads it, says that even if a party has prevailed in the United States Supreme Court in an enforcement of the first 16 words of the Bill of Rights, that that party would be denied legal fees.

That is why I say this should be entitled, "let's not enforce the Bill of Rights legislation." And again, groups such as the Baptist Joint Committee strongly oppose this. Why? Because what if that courthouse in Alabama had had a judge that put a 2½ ton statue of Buddha in there. Would one not give the citizens of that community the right to respond?

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me read a line from a letter that was sent to all Members of Congress from the Baptist Joint Committee for Religious Freedom.

They write: "The protections of the first amendment, however, are not self-enforcing. If someone is forced to sue the government to enjoy their constitutional rights, justice and fundamental fairness dictate that they be able to recover the legal fees expended to do so."

BAPTIST JOINT COMMITTEE FOR
RELIGIOUS LIBERTY,
Washington, DC, September 12, 2006.

DEAR REPRESENTATIVE: The Baptist Joint Committee for Religious Liberty (BJC) urges you to vote NO on H.R. 2679, the so-called "Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006." The bill recently passed out of the Judiciary Committee and could be on the floor as early as this week. The BJC is a 70-year-old education and advocacy organization dedicated to the principle that religion must be freely exercised, neither advanced nor inhibited by government. Our mission stems from the historic commitment of Baptists to protect religious freedom for all.

We oppose this legislation that seeks to limit access to the federal courts for individuals seeking the enforcement of the Establishment Clause. To prohibit the recovery of attorney's fees and limit the remedy available to injunctive and declaratory relief would essentially shut the courthouse door to many who seek to defend our first freedom. Enforcement of the First Amendment is essential for the defense of religious freedom. The protections of the First Amendment, however, are not self-enforcing. If someone is forced to sue the government to enjoy their constitutional rights, justice and fundamental fairness dictate they be able to recover the legal fees expended to do so.

Despite the claims of the bill's sponsor, this legislation does not promote the expression of religion. Instead, the bill undermines fundamental constitutional protections that have provided for a great deal of religious expression in the public square. The Establishment Clause exists to protect the freedom of conscience and to guard against government promotion of religion, leaving religion free to flourish on its own merits. This point was well-stated by former Supreme Court Justice Sandra Day O'Connor in her concurring opinion in McCreary County, Kentucky v. ACLU (2005). She noted, "Voluntary religious belief and expression may be threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices."

Governmental entities should be encouraged to uphold constitutional values, not invited to ignore them. Yet, passage of H.R. 2679 would encourage elected officials to violate the Establishment Clause whenever they find it politically advantageous to do so. By limiting the remedies for a successful plaintiff, this measure would remove the threat that exists to ensure compliance with the Establishment Clause.

We urge you to oppose H.R. 2679. The bill is an assault on an essential constitutional freedom. If passed, it would greatly harm religious freedom and set a dangerous precedent for other constitutional protections.

Sincerely,

K HOLLYN HOLLMAN,
General Counsel.

Mr. Speaker, before I yield to our next speaker, the gentleman from Georgia in his opening remarks, you know, talked about our veterans in the context of rationalizing a vote in favor of this bill. So let me just talk for a second about our veterans.

One of the things that is particularly frustrating to so many of us on this side is that here we are, about to adjourn on Friday or Saturday, and we have not done what we promised to do for our veterans.

The Democratic leader, NANCY PELOSI, and almost every Democrat has sent a letter to President Bush complaining about his administration's record of underfunding the VA by at least $9 billion over the last 6 years. And the budgets that he has submitted this year reduce veterans funding by $10 billion over the next 5 years.

If we want to honor our veterans, then we should be debating and we should be enacting legislation to fund the VA, to give them the health care benefits and the protections that they are entitled to, to making sure that we have a military construction bill that is adequately funded so the families of our veterans and our soldiers do not have to live in substandard housing.

□ 1100

It is frustrating. I mean, it takes my breath away that you waste the time of the Members of this House on something like this and you turn your back on the fact that we are underfunding programs to benefit our veterans.

You want to talk about veterans. Let us talk about veterans. And, Mr. Speaker, I submit for the RECORD at this point the letter that our Democratic leader and every Democrat has signed to the President complaining about his horrendous record in supporting our veterans.

200 HOUSE DEMOCRATS URGE PRESIDENT BUSH TO PROVIDE NECESSARY FUNDING FOR VETERANS' HEALTH CARE

WASHINGTON, DC.—House Democratic Leader NANCY PELOSI and 199 House Democrats sent the following letter to President Bush today urging him to provide the necessary funding for veterans' health care in his FY2008 budget.

Below is the text of the letter:

SEPTEMBER 25, 2006.

Hon. GEORGE W. BUSH, The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As your administration continues to formulate its FY 2008 budget submission, we write to request that you provide the necessary funding for the Department of Veterans' Affairs (VA) health care system and related benefits programs. Unfortunately, we believe it is necessary to express our serious concern in this matter due to your administration's record of underfunding the VA by at least $9 billion over the last 6 years. We are particularly concerned about veterans funding next year and in the future as your budget submission this year reduced veterans' funding by $10 billion over the next 5 years.

Providing for our military veterans and their families is a continuing cost of war and should be an important component of our national defense policy. Indeed, President George Washington recognized this point, saying, "[t]he willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation." Mr. President, the time is right for your administration to change course and fully fund the VA, cease efforts to shift the costs of health care onto the backs of veterans, and finally recognize and implement the concept of 'shared sacrifice' with respect to the federal budget.

The wars in Iraq and Afghanistan along with the aging of our World War II, Korea and Vietnam War veterans have increased demand for VA services. However, year after year you request inadequate funding for veterans' health care. Each year your budget submission includes proposals to increase veterans' co-payments and fees, essentially taxing certain veterans for their health care. Each year your VA budget fails to request what is needed and relies on accounting gimmicks such as "management efficiencies" and inaccurate health care projections. Such efforts are transparent as the true consequences of your administration's budget flaws are being realized by current and future veterans. Indeed, recently VA officials themselves acknowledged that greater funding was needed to care for our servicemembers returning from Iraq and Afghanistan suffering from mental health disorders and traumatic brain injuries.

Mr. President, during your tenure, health care waiting lines have increased, appointments and medical procedures delayed, more than 250,000 veterans have been turned away from entering the VA health care system, and disability and education claims backlogs have grown to unreasonable rates. Moreover, Congress has been forced to add billions of dollars in supplemental VA funding due to embarrassing funding shortfalls.

What we request of you and your administration is simple—provide funding in your FY 2008 budget submission to ensure that our servicemembers returning from Iraq and Afghanistan and the heroes from our previous conflicts receive the care and benefits they have earned and deserve.

Without question, Mr. President, the federal budget is a reflection of national policies and ultimately a reflection of our moral priorities. Please join us in working to provide the necessary resources in the fiscal year 2008 budget to fully fund the VA and to take care of our veterans and their families.

Sincerely,

NANCY PELOSI,
House Democratic Leader.
LANE EVANS,
Ranking Member, Veterans Affairs Committee.
198 HOUSE DEMOCRATS.

Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Texas has been an eloquent, true conservative on the question of the entanglement of religion and government, because he expresses what every religious leader ought to share, the distrust of government if it seeks to intervene in religious matters.

Religion needs no protection from government in this country. Yes, there are times when you may need protection if there are people trying to interfere physically with your right to worship, but in a free society like ours, religion flourishes independently. It does not need the government's stamp of approval. What theology says is that for religion to be freely practiced, the government has to say it is okay, the government has to put forward a symbol.

So my friend from Texas has expressed a true conservative vision, but he did not fully describe how flawed this bill is. I guess he could not fully understand the reasoning. He said that, even if you win to decide attorney's fees. No, only if you win. Let me read from the bill.

"Notwithstanding any other provision of law, a court shall not award reasonable fees and expenses of attorneys to the prevailing party on a claim of injury consisting of the violation of a prohibition against the establishment of religion brought against the United States."

Now, this is not the most actually honest piece of legislation I have ever seen. They describe some of what they are talking about: a veterans memorial, not a veterans cemetery. By the way, there is no prohibition anyone has ever thought of the families of any veterans to put any religious symbol he or she wants on that grave, except there was an effort to block a victim who wanted to put the symbol on, but they prevailed as, of course, they have to under this theory not just of this bill but of freedom of religion.

But it says the Boy Scouts, a Federal building containing religious words, but it also says this bill shall include but not be limited to these examples. In other words, the examples are there because they kind of add a little spice to the bill because, understand what this bill would purport to do.

Any violation of the Establishment Clause, any activity by a State or a Federal agency to establish a religion, to favor a particular religion, this is not limited to signs in the cemetery. It says any violation of the Establishment Clause, if you win you do not get your attorney's fees.

Now, the gentleman from Georgia correctly said this bill does not take away rights. I understand that. I also understand that there is a lot of frustration on that side of the aisle that they cannot. They would like to take away the rights. This goes as far as they can diminishing them.

The gentleman says, well, the ACLU will be able to do it. Has he become an agent of the ACLU, Mr. Speaker? Is he interested in giving the ACLU a monopoly on bringing these lawsuits? I am not. Whether or not the ACLU is bringing the lawsuit is not determinative. What about the right of an average citizen who might disagree with the ACLU and who would not be able to pay the attorney's fees? And, again, it only applies if you win.

Now, I know people on the other side have had a phrase that they like in tort law called "loser pays." That may be controversial, but this one is a lulu. This is winner pays. Bring a lawsuit based on a blatant violation of the Establishment Clause, not limited to the examples here. It is what the language says. Bring a lawsuit against a State or a city or a county or the Federal Government that favors a particular religion, that says we are going to teach this particular religion's tenets in the school and win the lawsuit and get no money.

Well, now, obviously that is, because they do not trust the courts. They think the courts cannot be given the freedom to do this. The United States Supreme Court consists of nine members, seven of them appointed by Republicans. Six, because I know they do not count Gerald Ford, Mr. Speaker. He is kind of suspiciously liberal by Congress Republican standards. But Ronald Reagan, George Bush and George Bush have appointed six of the nine justices.

Now, what this bills say is if the appointees of George Bush, George Bush and Ronald Reagan decide that there has been a clear-cut violation of the Establishment Clause, the person who brought the lawsuit cannot get legal fees. It is probably right that the ACLU would not be retarded, but, as I said, I agree with the ACLU on many issues. I am not interested in promoting them a monopoly over litigation in the United States.

I want to address this notion, too, well, you have freedom of religion, not freedom from religion. That is a fundamental misunderstanding of the Constitution and history. People who came to this country, some of them were objecting to being forced to profess other religions or support other religions. Religious freedom means that your religious practice, whether it exists or does not exist, is none of the government's business. The notion that your right not to be religious does not exist is appalling to me.

The gentleman from Georgia said you have freedom of religion, not from religion. Agnostics, atheists, people whose religion you may not think worthy, they do not have freedom in this country? What kind of a distortion of the principle of freedom is that?

The notion that you do not have freedom from religion means, literally, I guess, that you can be told, okay, look, you have got to pick a religion, pick one; you cannot have none whatsoever. That is not the American Constitution.

What we have here is not going to pass, we understand that, and I have to say I do not fully agree with my colleagues when they lament the fact that we are wasting time. Because given the penchant of the majority for atrocious legislation, I would rather have them waste their time than use it on something that might become law. Because when they do make laws, they make bad ones. So wasting time is better.

Although I do find it very offensive that in defense of constitutional principles we once again have a closed rule. Democracy to them is a spectator sport. They want to look at it somewhere else, they want to watch it in other countries, but not practice it on the floor of the House. A closed rule on a fundamental matter of constitutional principle is an abomination.

Mr. GINGREY. Mr. Speaker, I yield 8 minutes to the gentleman from Indiana (Mr. HOSTETTLER), the author of the bill.

Mr. HOSTETTLER. Mr. Speaker, I was not intending to speak on the rule. I will be speaking a little later on the bill itself, as I am the original sponsor of the bill and have been since the 105th Congress, but I felt it necessary to clarify the discussion somewhat in that, as I have heard the discussion, it has focused on some issues that the bill does not cover, as well as does not discuss some of the issues that the bill is attempting to remedy.

First of all, the words from the gentleman from Texas suggested that this bill had to do with the first 16 words of the first amendment. That is not true. The first 16 words to the first amendment say the following: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

It has been concluded that there are essentially two clauses to that portion of the first amendment. First is the so-called Establishment Clause and the second is the Free Exercise Clause. This bill addresses the issue of the Establishment Clause and the attorney's fees awarded as a result of cases brought regarding Establishment Clauses. It has nothing whatsoever to do with the Free Exercise Clause, the last portion of the gentleman from Texas' 16 words to the first amendment.

So with regard to free exercise cases, the Attorney's Fees Award Act of 1976 will still apply, and attorneys's fees will still be awarded with no alteration of the laws as a result of passage of this bill.

Secondly, the suggestion was that somehow Mr. Madison left the Constitution sterile with regard to the discussion of religion. Mr. Madison, who many claim to be the chief architect of the Constitution, I believe probably even including my friends from Texas and Massachusetts, included in the signatory clause two dates of reference for the United States Constitution's approval by the constitutional convention. When he said, "Done in convention by unanimous consent of the States present the 17th day of September in the year of our Lord, one thousand seven hundred and eighty-seven, and of the independence of the United States of America, the 12th."

So James Madison, chief architect of the Constitution, as well as the rest of the delegates who signed the Constitution, gave two dates of reference that every schoolchild should know, every public schoolchild, private schoolchild, home schoolchild should know, with regard to the discussion of the approval of the Constitution of the United States.

The delegates thought it was so important that these two dates be referenced that they ensconced them in the very wording of the Constitution. The first primary, most important, date of reference would be the 17th day of September, in the year of our Lord, one thousand seven hundred and eighty-seven. So the first date, the primary date of reference for the delegates of the constitutional convention as placed in the Constitution itself, was the birth of Jesus Christ.

The second important day, the secondary important day for the ratification of the United States Constitution was the day that was placed secondarily in the signatory clause, and that is the independence of the United States of America, the 12th. It had been since July 4, 1776, a little over 11 years since that celebration, and so they were in the 12th year of the independence of the United States, the Declaration of Independence being effectively the birth certificate of the United States of America.

So there would be those on the other side, first of all, that would suggest that this bill has something to do with the free exercise of religion. It has nothing to do with the free exercise of religion. And some that would suggest that the Framers of the Constitution and the Founders of this country would somehow sterilize government from the very mention of religion.

Now, if someone today in the State of Virginia where Mr. Madison come from and Jefferson would suggest erecting a monument to the individual whose birth is the primary date of reference for the delegates for the approval of the United States Constitution to be later sent to the States for ratification would raise a life-size monument to that one individual, they would be sued by the ACLU. They would be sued by the ACLU, and the ACLU would come to those people and say, we are going to sue you, just like they did educators in the State of Indiana. And they would say, we are going to sue you and we are going to win, and when we win you will not only have to pay your attorney's fees but you will have to pay our attorney's fees, too, as a result of the Attorney's Fees Award Act of 1976 by erecting a monument to the individual's whose birth is celebrated in the United States Constitution.

Now, that case could go to court, but it probably would not. Because those county officials, those officials would have this sword of Damocles hanging over their head, meaning we are going to take you to court, and when we win, you will have to pay our attorney's fees as well.

The Public Expression of Religion Act would simply say let that case go to court, do not allow that sword of Damocles, that notion of intimidation to continue and let the case go to court.

The gentleman from Massachusetts says that we cannot trust the courts as conservatives. We do trust the courts, which is exactly what the Public Expression of Religion Act allows. It allows these cases to go to court. Whereas in many cases they do not go to court, and the gentleman from Georgia and others have given examples. They will go to court and will allow the cases to go to court, but that is exactly what the other side does not want to have happen because let us give recent experience.

In 2005, the United States Supreme Court came down with two decisions, the same day, on the first amendment to the Constitution, the Establishment Clause, and in those two decisions, they said that the Ten Commandments posted on public property, public property paid for and maintained with government dollars, was constitutional in the State of Texas. Then they said, on the same day, in a different case, they said the public display of the Ten Commandments on government-funded, government-maintained property in Kentucky was unconstitutional. Constitutional in Texas, unconstitutional in Kentucky. I think the Ten Commandments were pretty well the same. They are pretty well the same wherever you read them, but in Texas it was constitutional, and in Kentucky it was unconstitutional.

What the other side does not want to have happen is for these cases to actually go to court. Because if they go to court, it is likely with the new makeup of the United States Supreme Court that had those two cases come out of that Supreme Court, the Texas case would have probably been a 6-3 majority in favor of maintaining the Ten Commandments in Texas and a 5-4 majority in maintaining the Ten Commandments in the State of Kentucky.

This is an issue of allowing the cases to go to court and not to have the threat or intimidation by the ACLU and their minions to hang over all of these heads.

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Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Well, I would ask the gentleman, he says he is not for keeping these things from going to court. Am I incorrect, I had thought that the gentleman from Indiana, when we were on the committee together, before I took leave and on the floor, had supported legislation in the area of church and state taking jurisdiction away from the courts.

Would the gentleman reconcile for me his support of legislation that would remove jurisdiction from the Federal courts, in many cases, with his support for letting the cases go to court?

Mr. HOSTETTLER. Taking back my time, because in both cases the United States Constitution grants Congress the exclusive explicit authority to do those things, and that is why I am saying this is the exclusive authority of the United States Congress. We have that authority. We do not have to be in one particular area allowing the court to consider cases. In other cases, we can allow the cases to go to court. That is what the legislative process is about.

And the gentleman has heralded the idea of democracy and the legislative process. Today, we continue to exercise that.

Mr. McGOVERN. Mr. Speaker, I yield the gentleman from Massachusetts (Mr. FRANK) 3 minutes.

Mr. FRANK of Massachusetts. Well, Mr. Speaker, the gentleman from Indiana did not reconcile the position. He said, we are Congress, and if we want to take these cases away, we can. I understand that, but that is not consistent with saying they ought to go to court.

Secondly, there are two parts to this bill, One says you should not have monetary damages. That is relevant to his argument about intimidation. But the other section says if you bring a claim based on a violation of the establishment clause, no matter how blatant, if a county or city or any other government entity formally prefers one religion over others, one denomination over others, and provides funding for that, if you bring a lawsuit challenging that and you win, you don't get attorneys fees.

And the answer again is, well, the ACLU can do it. Again, I am not letting only the ACLU be involved here. And that has nothing to do with intimidation of the county. The question is, and, again, it is only if you win. Let me read what it says: "No court shall not award reasonable fees and expenses to the prevailing party on the claim of injury consisting of the violation of a prohibition of the establishment clause."

Mr. HOSTETTLER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. And I can understand that concern, but let me remind you that the awards act came in 1976. In 1962, the United States Supreme Court struck down the notion of school prayer without the attorneys fees award act. In 1963, the Supreme Court struck down Bible reading in public schools, without the attorneys fees award act. This bill will simply allow the cases to actually continue to go to court.

Mr. FRANK of Massachusetts. That is just nonsense, Mr. Speaker. Absolute nonsense.

There is nothing that keeps the county or the city from defending because the other side will get attorneys fees. The gentleman is trying to collapse a couple of things. The threat of monetary damages arguably would keep you from going to court, but a denial of attorneys fees to an individual plaintiff who does not happen to have an organization, that is not the fact that the other side may get attorneys fees if they win.

And, remember, the gentleman suggested that people were being deterred from bringing lawsuits that they could win, or defending lawsuits they could win by the threat of what would be the expense. But in this case, you only get the fees if you win. This only denies successful plaintiffs the fees.

So that is what this bill does. It has nothing to do with keeping it from going to court. It is trying to discourage things from going to court. I guess what they say is, you can't bring such a lawsuit unless you get the ACLU. If you are an individual that has a different theory about this, and you don't have the money for an attorney, you can't go to court. And the gentleman said, well, that is whatever happened before the 1976 act. Singling out one class of cases for the denial of attorneys fees when every other one gets them does seem to me an odd way to run a constitution. This right and that right.

And, by the way, no one should think that if this ever became law, which, of course, no one thinks it will, that it would stop here. There would be other unfavored rights where a minority would be at risk, where you would be denied legal fees. So let's not collapse two issues. This has no deterrent effect, the part about attorneys fees. It is an effort on the other side to keep people out of court in case they might win.

Mr. GINGREY. Mr. Speaker, I yield an additional 2 minutes to the gentleman from Indiana for the purpose of clarification and response to the gentleman from Massachusetts.

Mr. HOSTETTLER. The gentleman from Massachusetts concluded his remarks by saying this is going to keep people out of the courts. In fact, the precedent is just the opposite. In 1962, in Engel v. Vitale, the United States Supreme Court said, 14 years before the attorneys fees award act was put into place, that the state sanctioning of prayer in public schools was unconstitutional. In 1963, 13 years before the attorneys fees award acts came into play, the United States Supreme Court held it was unconstitutional to have Bible reading in public schools.

This will not change anything from what happened before this law was created that we are amending today. The same things will happen. And this bill, most importantly, does not remove injunctive relief. If it is the desire of the plaintiff to stop an activity or to remove a monument or remove a display, this bill does nothing to stop that from taking place. The injunctive relief available in all of these cases continues to be available in establishment clause cases.

And, in fact, the court can say, remove the monument, stop the practice. This bill does not change that, and I want to make that clarification.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. HOSTETTLER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Well, I appreciate this eloquent defense of his bill that it doesn't do very much, but I do question that. And I understand your concern about monetary damages; but if the restriction on attorneys fees only for the party that wins in a case doesn't do anything, what is it in here for?

Mr. HOSTETTLER. And that is perfect, so the gentleman can support my bill. I appreciate that, which is why it does something very important, which is why the gentleman and his cohorts are opposing the bill, because they understand that by removing the chilling effect on these closed-door sessions with county commissioners, with schoolteachers, with mayors and the like, without that ability for the ACLU and others to go into these closed-door sessions and say, Mayor, we are going to sue you, we are going to win, and you are going to have to pay our attorneys fees, that without that chilling effect, these cases will go to court.

Mr. McGOVERN. Mr. Speaker, I yield an additional 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I feel like I am in Dickens, the artful dodger is apparently about to leave.

I repeat the question: If banning attorneys fees from people who win a lawsuit based on a blatant violation of the establishment clause, which this bill does, doesn't do anything, what is it in there for? Is it just an expression of dislike for people who happen to enforce a part of the Constitution that people on the other side don't like? What is it in there for?

Mr. HOSTETTLER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Indiana.

Mr. HOSTETTLER. From the gentleman's perspective, because of the benign nature and virtual nonutilitarian nature of the bill, please support it.

Mr. FRANK of Massachusetts. Would the gentleman please answer the question? He asked me to yield. Why are you banning attorneys fees from people who win a lawsuit based on a blatant violation of the establishment clause? Why are you doing that?

Mr. HOSTETTLER. Because a blatant violation is determined by a court of law.

Mr. FRANK of Massachusetts. But the gentleman is for letting it go to court, I thought.

Mr. HOSTETTLER. We are letting them go to court. That is exactly right, we are going to let them go to court. A blatant violation is determined by a court of law and not by ACLU attorneys behind closed doors.

Mr. FRANK of Massachusetts. And only under this bill, if you bring a lawsuit and you win, and the court decides that you are correct and there was a blatant violation of the establishment clause, you don't get your attorneys fees, and I still don't understand why.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, let us be clear, there is nothing benign about this bill. This bill makes it more difficult to enforce the first amendment to the Constitution and the very words thereof designed to protect religious freedom of every measurement.

I want to thank my colleague from Indiana, who is leaving at the moment, for clarifying the point that this bill now is only intended to make it more difficult to enforce the first 10 words of the Bill of Rights rather than make it more difficult to enforce the first 16 words of the Bill of Rights.

But let me express a very heartfelt difference of opinion. When the gentleman said this bill has nothing to do with the free exercise of religion, nothing could be further from the truth. That is why Mr. Jefferson and Mr. Madison and our Founding Fathers built in, embedded, into the foundation of the Constitution the principle that we want to keep government out of our houses of worship and out of our personal faith.

The greatest single threat to the free exercise of religion is government. And if the gentleman doesn't believe that, then I would suggest he denies history.

Mr. HOSTETTLER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I will be glad to yield to the gentleman if he can name me one nation anywhere in the world today that has more religious freedom than the United States of America because it allows government intervention into houses of worship and peoples private religious affairs. Can the gentleman name one nation?

Mr. HOSTETTLER. I cannot name one. Will the gentleman yield for a discussion?

Mr. EDWARDS. I didn't think you could.

Mr. HOSTETTLER. First of all, Mr. Jefferson was in France during the approval process of the Bill of Rights.

Mr. EDWARDS. Let me take back my time, because that is misleading. Mr. Jefferson and Mr. Madison debated for 10 years in the Virginia legislature the principle of church-state separation, and it was absolutely the core idea behind the 16 words of the Bill of Rights. So while he was in France, to suggest that Mr. Jefferson didn't endorse this principle is wholly wrong, evidence of which is Mr. Jefferson's letter to the Danbury Baptists in 1802 where he didn't just endorse this principle, he said he considers it with "sovereign reverence."

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Historically, I know the gentleman from Indiana previously had a location issue on Mr. Jefferson, but he was in France during the debate on the Constitution. You said he was in France during the debate on the Bill of Rights. I don't think that is accurate. I know there were slow boats then, but I think he had gotten back by that time.

Mr. HOSTETTLER. He was not in France during the ratification by the States of the Bill of Rights, but he was in France during the approval by the Congress of the Bill of Rights, which took place 2 years prior.

Mr. EDWARDS. Taking back my time, if the gentleman is trying to suggest that Thomas Jefferson didn't endorse the principle of church-state separation, I would remind my colleague it was Thomas Jefferson who was the first American to use the term "wall of separation between church and state."

I would reiterate my key points.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman. History gets misused and used as a tool, but I think one thing is very clear. The people who are pushing this, had they been contemporaries of Thomas Jefferson wouldn't have been great fans of his.

Mr. McGOVERN. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Massachusetts has 1½ minutes remaining.

Mr. McGOVERN. I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I think it does disservice to the importance of this issue of religious freedom that out of 435 Members of the House, we are debating it in 1 hour, something Mr. Madison and Mr. Jefferson spent 10 years debating in the Virginia legislature. We are debating this in 1 hour, with 4 or 5 Members of the House on this floor. I think that, frankly, in my book, is a sacrilege.

There is no greater principle in American democracy than religious freedom. It is the first freedom upon which all other freedoms are built. If one thinks government involvement in religion protects religious freedom, then I would suggest you vote for this ill-advised and dangerous piece of legislation. If one agrees with our Founding Fathers, with the Bill of Rights, the first 16 words thereof, with Mr. Madison and Mr. Jefferson, that the greatest threat to religious freedom in this world is government intrusion into religion, I would suggest you vote "no" on this legislation.

This legislation is a direct effort to make it more difficult to enforce the Bill of Rights, and that is wrong. That is why we should vote "no."

Mr. GINGREY. Mr. Speaker, I have no other requests for time, and I reserve my time for the purpose of closing.

Mr. McGOVERN. Mr. Speaker, let me thank the gentleman from Massachusetts and the gentleman from Texas for making clear what this bill is trying to do, which is to undermine the Constitution. It is frightening to see what could potentially happen should the other side gain seats in the next election.

I also think it is frustrating and I think it is offensive that we all know this bill is going nowhere and that we are taking our time up debating this when we should be debating ways to improve the quality of life for our veterans and raising the minimum wage and a whole bunch of other things.

One final thing. We have heard the word democracy mentioned several times over there. All the rules in this Congress that have been reported out by the Rules Committee, with the exception of appropriations bills, have been closed, with the exception of one bill. It is about time we had a little democracy in this House of Representatives.

If you respect the Constitution and you respect this institution, we need to have a different process.

Mr. GINGREY. Mr. Speaker, in closing, I want to once again thank Mr. HOSTETTLER for sponsoring the Public Expression of Religion Act and Chairman SENSENBRENNER for bringing this legislation to the floor.

Mr. Speaker, the principles of life, liberty, and property make up the foundation of our constitutional Republic. Under liberty, we are guaranteed the freedom to worship as we please, a freedom that should be protected and not taken for granted. The freedom of religion is one of the positive social institutions in our country, and we should encourage this constitutional protection throughout the world.

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Almost every State in the Union has chosen to acknowledge God within its State constitutions. However, too often today, overzealous courts have infringed upon an individual's right to worship. Courts have attempted to ban holiday decorations reflecting religious traditions such as Christmas carols or Hanukkah songs from school events. Federal courts have demanded the removal of the Ten Commandments from courthouses across our country, sought to remove the words "in God we trust" from our currency, as well as remove emblems from State seals, flags and logos.

As I stated earlier, these attacks on our religious heritage are frivolous and unwarranted. For every decision a court makes, there are countless out-of-court settlements and even more pending lawsuits aimed at removing anything that acknowledges a divine authority.

The debate over religious freedom is old and contentious, but it should be fair. When organizations like the ACLU are rewarded, rewarded, for filing lawsuits, it is not a fair debate. Congress needs to close that loophole, to restore impartiality to our system of justice, and it needs to act on preventing frivolous lawsuits. H.R. 2679, the Public Expression of Religion Act, will help protect the freedom of religion, restore impartiality and reduce lawsuits.

So, Mr. Speaker, I ask my colleagues to support this rule and support the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF S. 403, CHILD CUSTODY PROTECTION ACT

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1039 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1039

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to commit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 1039 is a closed rule which allows one hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and it provides that the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as adopted. Finally, the rule allows one motion to recommit, with or without instructions.

Mr. Speaker, before we begin debate on the rule for S. 403, the Child Custody Protection Act, I want to refresh the memories of some of my colleagues and offer historical context to Members who were not here in early 2005.

Last year, on April 27, I sponsored and managed a rule to consider H.R. 748, the Child Interstate Abortion Notification Act. This rule passed by a vote of 234–192, including the support of eight Democrats. Two Democratic amendments were considered and failed by a recorded vote. No Republican amendments were considered to H.R. 748, and the legislation passed by a vote of 270–157, which included the support of 54 Democrats.

Mr. Speaker, I once again rise in support of the Child Interstate Abortion Notification Act. However, this time we will consider the legislation passed by our colleagues in the Senate. S. 403 passed the Senate by a vote of 65–34 two months ago, and it is a very close facsimile to H.R. 748. Indeed, it is almost identical to the House bill.

So, as I begin my remarks, I would like to recognize and thank Representative ILEANA ROS-LEHTINEN for her dedication and leadership not only on the House version of this legislation but also on the overall issue of protecting children.

Likewise, I would like to offer a special thank you to Senator JOHN ENSIGN of Nevada for sponsoring today's legislation and both the Senate and House leadership for their willingness to address this vital issue.

Mr. Speaker, like the debate we had in April of 2005, I anticipate that the opponents of this bill will demagogue it as an assault on a woman's so-called right to choose. Despite this allegation, S. 403 has nothing to do with Supreme Court imposed rights but simply ensures that no minor is deprived of protection by her parents under the laws of her State.

S. 403 is a common sense bill that will prohibit the transportation of a minor under age 18 across a State line to obtain an abortion when the child's home State requires parental consent. This bill makes an exception in those rare cases in which the abortion is medically necessary to save the life of the minor.

In addition, the Child Custody Protection Act affirms the responsibility of a physician prior to performing an abortion on a minor from another State to make sure that they are acting in accordance with the law. In other words, this bill not only ensures the protection of minors, but it also clarifies the responsibility of the physician to make sure that he or she is not inappropriately performing an abortion on a minor without the legally mandated consent of her parent from her home State.

The Child Custody Protection Act also affirms the principles of Federalism and it prevents the circumvention and violation of laws passed by State legislatures. Thirty-four States, let me repeat, 34 States have passed parental notification laws. In fact, in my home State of Georgia, the legislature passed a new abortion notification law just last year in overwhelming and, I might add, bipartisan fashion. Now this legislative body has the responsibility to defend that Federalism and the integrity of State laws on interstate matters.

Mr. Speaker, I can address this issue wearing three different hats. As an OB/GYN physician who has delivered many babies over the course of a 31-year medical career; as a Member of Congress; and, most importantly, as a proud father.

I have four children, three of whom are grown women and two of them with children of their own. As a father, I have an obligation to defend my children and grandchildren against danger. As a Member of this body, of Congress, I have the same obligation to the children and grandchildren of every parent in this country. As a physician, I have the obligation under the Hippocratic Oath to, in the first place, do no harm.

The Child Custody Protection Act recognizes this fundamental bond between parents and a child, and it reaffirms the obligation of a parent to be involved and help make important decisions affecting both the life and health of a minor child.

In a society where children cannot be given aspirin at school without their parents' permission, I cannot comprehend how anyone could possibly believe that having an abortion is less traumatic than taking an aspirin. However, I understand that this is exactly what the opponents of this bill are saying through their opposition to S. 403.

During this debate I want to encourage my colleagues to remain focused on the matter at hand and remember that this legislation seeks to uphold the legislatively guaranteed rights of parents and their minor children.

I ask my colleagues, please support this rule and pass this much-needed underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Georgia, Dr. GINGREY, for yielding me the customary 30 minutes.

Mr. Speaker, this rule will allow the House to consider an amendment in the nature of a substitute to S. 403, the Child Custody Protection Act. It provides for only one hour of debate and, as usual, it is closed to any amendments.

I would appeal to my colleagues on both sides of the aisle as a matter of principle to vote against this rule. There is an addiction with this leadership to close processes, and it has to stop. This is not good for our democracy, this is not what this House of Representatives is about, and unless people on both sides of the aisle start coming together to vote no on these closed rules, you are going to see more and more closed rules. So let me begin by again urging all my colleagues to vote against this closed rule.

Mr. Speaker, the other side of the aisle would like us to believe that their bill only has in mind the needs of desperate and troubled teens. If that were genuinely the case, if they were indeed truly interested in children's welfare, then this House would have already passed legislation to provide America's young men and women with comprehensive pregnancy prevention and education.

As a father, I would like to think that we live in a world where incest, rape and unintended pregnancies did not occur. Sadly, Mr. Speaker, that is simply not the case. All too often, young women find themselves in difficult situations with few, if any, sympathetic people to turn to for advice.

Like all my House colleagues, I would hope that the first person to come to mind would be a parent. But, Mr. Speaker, every single Member of this Chamber knows that that is not always the case. Research shows that at least 60 percent of minors considering an abortion freely turn to and involve their parents. Those who do not, however, are often victims of violence and have multiple reasons for not doing so. Currently, 23 States have some type of parental involvement laws, including my own State of Massachusetts. Twenty-seven do not.

This bill pretends to open the lines of communication between parents and teens, but daily we are shown examples of parents who not only may not know what is best for their child but who may themselves be part of the problem.

I am reminded of Katherine Hancock Ragsdale, a Episcopal priest from Massachusetts who spoke before the Senate Judiciary Committee in 2004. She recounted a story of a young girl who became pregnant as a result of date rape. Afraid to tell her father, the girl went to her school nurse. The nurse agreed that it was in the girl's best interests not to tell her father for fear of the girl's safety.

While driving an hour into Boston, Reverend Hancock Ragsdale chatted with the girl, who divulged that she felt very guilty about becoming pregnant. Compassionate about these feelings of guilt, the Reverend spoke with the girl about the incident. She told the priest about "a really cute boy" from her school she had met and who had asked her out. He asked her to have sex and she refused. He asked her again and again. Then he pushed her down and forced himself on her. Since he did not threaten her with a weapon or cause any bodily harm, she did not know to call it rape. She blamed herself for not knowing he wasn't a nice guy and she blamed herself for getting pregnant.

Reverend Hancock Ragsdale offered solace and advice. In her most desperate hours, this girl was able find the comfort she so desperately needed. In addition to providing emotional support, the Reverend was able to help this girl fill out the mountains of paperwork and fill the necessary prescriptions. The advice and guidance a child would hope to receive from a parent was administered in this case by a trusted spiritual leader.

□ 1145

Mr. Speaker, the American Medical Association, the American Academy of Pediatrics, the American Psychological Association, the American College of Physicians all, all agree that mandatory parental consent notification can be highly detrimental to young women.

Shouldn't we be inviting the experts in health care to help us in drafting and making these recommendations and protocol? Instead, we come to the House floor under a closed rule, stand on our soapboxes, and declare that we know what is best for every single child under every single circumstance in America.

Mr. Speaker, my friends on the other side of the aisle will claim that this bill makes improvements to the Senate bill, that this bill provides protections for victims of incest, that this bill is somehow good policy. The truth is this bill weakens an already bad Senate bill.

While it is true that the Sensenbrenner amendment would preclude an incestuous parent from suing a person who accompanies a minor to a doctor out of State for abortion care, this bill still makes it a Federal crime for anyone other than a parent to accompany a teenaged incest survivor for abortion care out of State. In other words, grandma can go to jail for years just for taking her granddaughter across State lines to abort a pregnancy caused by the young girl's father, but the father can't sue the grandmother in court.

Who in this Chamber believes that a child should be forced to go forward with a pregnancy caused by her father or brother or her uncle or her stepfather? I wish I never had to think about such scenarios, but they occur all too frequently. And it would be foolish for us to compound the horror of this child by joining all the other adults who turned a blind eye to her desperate situation.

Yes, we should reduce the number of children having sex. Yes, we should reduce the number of unintended pregnancies. Yes, we should all work together to reduce the number of abortions. But this bill does not address these issues.

Mr. Speaker, there is a reason we are considering this bill one week before the House adjourns for the midterm elections: Politics. It is the political season, and anything that gets the juices flowing on the so-called hot button issues is fair game. But that is not the way we should be legislating. This isn't the first time the sensitive issue of abortion will be used for political purposes, and it won't be the last, and I urge my colleagues to reject politics as usual and defeat this closed rule.

Even if there are individuals in this House who are sympathetic in terms of supporting this bill, again, reject this rule. This habit of closing everything down, of basically locking out democracy has to end, and Members of both sides need to have the guts to stand up and vote "no" on these rules.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. I thank the gentleman for the opportunity to speak on behalf of the rule, supporting the rule, that would move this legislation to the floor.

We have been debating this issue for a number of years, since certainly before I came to Congress in 2001, and it is a very important issue. It is an issue of respect.

My colleagues and I, many of us, served in State legislatures before we came here; and we had the opportunity to move forward legislation that would require parental notification, parental consent before a minor girl could be subjected to the procedure called abortion.

Unfortunately, there are still some States that do not have such laws, though they are in the minority. My State of Pennsylvania is one that does have one of these laws, and the people in the Commonwealth are overwhelmingly supportive of it. Unfortunately, some neighboring States don't have these laws, and we have heard terrible stories in recent years of young girls as young as 12 brought across the border by often the perpetrator of a rape to be given an abortion, to hide the crime, to hide the relationship and, unfortunately, further providing further damage to that young girl.

What this bill would do is prevent this from happening. If a State has the requirement for parental notification or consent before a minor girl can have an abortion, then other States must respect the home State's law.

It only makes sense, Mr. Speaker, for government to respect the relationship between the parent and the child. It is most important for us to respect that relationship, because that is the relationship that will guide that girl into responsible adulthood. Currently, unfortunately, we allow many States to interject and interrupt and really disrespect that relationship.

This bill will remedy the problem. This remedy will make it a criminal offense to transport a child across the State lines for the purpose of having an abortion. In many of these cases, it has been an adult male who has exploited the teenager who then becomes pregnant and is, of course, pressuring her to get an abortion and sometimes is the one to transport her across the State lines.

The idea of doing so defies all logic. Critics argue that these young girls are in the worst possible situation, like rape or incest should be exempted from this law, that this is especially cruel to them. But these girls are in the worst situation of all, and it is certainly most important for us to protect these girls, because rape and incest could be hidden if we don't pass this bill.

Mr. Speaker, I rise today in support of the rule and in support of the bill, and I am sure my colleagues will do the same, especially now that the Senate has agreed to it.

Mr. McGOVERN. Mr. Speaker, I yield 6 minutes to the gentlewoman from New York, the ranking member on the House Rules Committee, Ms. SLAUGHTER.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding.

I have been standing on the floor of this House for years talking about this very issue. And thinking about what I have just heard: If a young girl 10 or 12 years old, as I understand it, was victimized by rape or incest, we should not help her to do something not to carry a child but to support her. I wish I had time to elaborate on that further. What kind of support do you give a 10-

year-old pregnant girl? What do we do for her?

But I rise today in strong opposition to this bill, because, once again, we are playing politics with women's lives. We could be spending this week before adjournment working to help Americans in real ways by raising the minimum wage, for example, or making higher education more accessible, or reducing the national debt. But, instead of doing that, this Congress could think of nothing better to do than to meddle with one of the most private decisions that women have to make in their lives.

The Child Custody Protection Act is almost exactly the same as the bill we voted on earlier in the year, and I guess it was found to be such a crowd pleaser we would like an encore. That bill, like this one, was an invasion into the private lives of American families as well as an attack on the legal rights afforded to all women in this country. We do have legal rights as women.

Not only will this bill fail to enhance the health of young women in America, it will fail to reduce the number of abortions that take place each year. It will force vulnerable young women to seek out illegal and unsafe venues for terminating pregnancies, and most of us in my generation know women who had to do that.

Now, if we really wanted to reduce unwanted pregnancies, in Congress, we could pass the Prevention First Act which is just lying around in limbo here. It would reduce the abortions by expanding teen education about preventing pregnancy and approve their access to contraception.

And this bill is not going to do anything to promote healthy families. It will criminalize grandparents. Imagine sending Granny to jail. Other caregivers are also subject to great penalties, while letting the people who committed the real crime, the rapists, the person who committed incest, they go scot free, and they can even sue the girl.

In all the years that I have spent working on behalf of women's health, I have never seen a single drop of evidence that supports this supposed epidemic we are going to talk about here today. There is no evidence that young women are being transported in great numbers across State lines for abortions.

So why are we here? Why are we here? Because this is a crowd pleaser, as I said before. It is not about protecting young women. It is gaining political points. We have a duty in this body to maximize the freedom, the quality, and the rights of our citizens, the strands that form the fabric of our society. But to toss these fundamental rights away simply to score a few points at the polls is indefensible. We can do better. I urge all the Members to oppose this bill.

Mr. GINGREY. Mr. Speaker, at this time I am proud to yield 3 minutes to the author of the legislation, the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I rise in strong support of the rule on Senate bill 403, the Child Custody Protection Act. I would like to commend Chairman SENSENBRENNER for his continued leadership on this bill throughout the years, as well as Majority Mr. Leader BOEHNER for his help in bringing this crucial legislation to the floor this morning.

Abortion is perhaps one of the most life-altering, obviously, and life-threatening of procedures. It leaves lasting medical, emotional, and psychological consequences, especially for young girls.

The Child Custody Protection Act makes it a Federal offense to transport a minor girl across State lines in order to circumvent that State's abortion parental notification or consent laws.

This legislation has passed the House of Representatives once, twice, three times; and it passed the Senate this Congress by a bipartisan vote of 65–34.

In April of 2005, this Chamber overwhelmingly passed my bill, the Child Interstate Abortion Notification Act, CIANA. CIANA incorporates all of the provisions that were previously contained in the Child Custody Protection Act and requires that, in a State without a parental notification requirement, that abortion providers notify a parent. This important provision will be included in this legislation, and I urge my colleagues to support this provision and ensure that we pass a more comprehensive bill.

There are many rules and regulations in our society that work to ensure the safety of our Nation's youth through parental support, parental guidance. In most schools, an under-aged child is prohibited from attending a school field trip without first obtaining a signed permission slip from a parent or a legal guardian. I have signed many for my daughters. But the decision of whether or not to obtain an abortion, a life-changing, potentially fatal and serious medical procedure, that seems to be an exception to these rules.

As a mother of two young ladies, I want to know what is going on with my girls on something as significant and as medically life-altering as an abortion. This legislation closes a loophole that allows adults to help minors break State laws by obtaining an abortion without parental consent. It is amazing, Mr. Speaker, that such a bill would even be necessary, because transporting a minor across State lines without parental permission for any other reason but to have an abortion is already a crime.

Therefore, I ask my colleagues to join me once again in supporting this commonsense legislation and the substitute amendment to strengthen the bill to ensure that our precious children are protected and that the right of our parents are upheld.

Mr. McGOVERN. Mr. Speaker, I just would like to respond by making a couple of points.

I have heard a number of people get up here and say they strongly support a rule. How can you strongly support a closed process? How can you not be in favor of allowing Members of this House, who have various concerns about this bill and different opinions about this bill and different opinions about how we can best deal with some of these very delicate issues, how can you be proud and strongly in support of a process that says that nobody has any right to come here and make any suggestions and offer any amendments? I find that appalling. I find it appalling.

And the fact of the matter is this bill amends the Senate bill. The Senate bill was a bad bill. This makes it even worse. And somehow to claim that what we are doing is trying to make the lives of troubled teenaged girls easier in dealing with horrible circumstances, I mean, does anybody believe that a young girl who is a victim of incest or a young girl who has been raped by her stepfather or her brother is going to feel that she can go to her mother? Maybe. But, in many cases, I don't believe that is what will happen. So you are taking a tragic situation and adding more tragedy to it.

So I find that puzzling, that we have people coming to the floor telling us how this is the right thing to do and that we should somehow praise this process that closes off any amendments and any real debate. This is a bad bill, and it is a bad process under which it is coming to the floor. I don't care what you believe on the issue of choice. The fact of the matter is this notion that these bills should come to the floor under closed rules I think is just wrong.

I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I want to let the gentleman from Massachusetts know I have no other requests for time, and I will reserve for the purpose of closing.

Mr. McGOVERN. Mr. Speaker, let me close by once again urging all Members of this House, Democrats and Republicans, to vote "no" on this rule. Vote "no" on this rule regardless of what you believe about the underlying bill, because we have a broken process in this House of Representatives.

It is wrong for a bill like this or even the previous bill, bills that are controversial, to come to this floor under a closed process. It is wrong.

□ 1200

That has become a pattern in this House of Representatives. In this Congress, with the exception of appropriation bills, every bill that has come to this floor has been under a restricted process with the exception of one open rule.

What a horrendous record. That is not good for this democracy. That does not result in good legislation. It is an insult to all of the Members of this House, Democrat and Republican, who have good ideas who want to be able to legislate. That is what we are sent here for. If we want this to end, Members of both sides of the aisle need to stand up and have the guts to vote "no" on some of these closed rules.

Madam Speaker, I yield back the balance of my time.

Mr. GINGREY. Madam Speaker, as I close this debate, I want to respond to some of the points that my good friends on the other side of the aisle have stated. They stated their concern about situations where a minor has been raped or a minor has been abused by her own parent, indeed, a case of incest and what do you want to do about that. I want to make sure that our colleagues on the other side of the aisle, indeed, on both sides of the aisle understand that there are clear exceptions in this bill. And they are important. They are very important exceptions, and I don't argue with that point that is made.

Let me, Madam Speaker, enumerate a couple of those exceptions. It allows an out-of-state abortion to be performed without parental notification if it is done to save the life of the minor. And it allows an out-of-state abortion, and this is most important to that point, an out-of-state abortion to be performed where a physician is given documentation showing that the court in the minor's home State has waived parental notification requirements which certainly would be waived in those situations.

Madam Speaker, in closing, let me reemphasize the importance of Senate bill S. 403, the Child Custody Protection Act, as a safeguard of parental rights and protection for our minors. Almost 80 percent of Americans favor parental notification laws according to a poll conducted by the New York Times, yet current State laws can be circumvented and violated through the interstate transportation of minors. Allowing our children to be carted across State lines by nonguardians to get an abortion is absolutely immoral and fundamentally wrong.

I would challenge my colleagues on the other side of the aisle, and we can talk about process all day long, you have a right, but to vote against this rule and this bill is just beyond my imagination.

With over 30 States already requiring some type of parental notification, Congress cannot turn a blind eye to those who would violate the law and endanger our children.

Madam Speaker, this Congress has an obligation and a moral duty to children and to their parents to make sure State laws are upheld to prevent nonguardians from making medical decisions for our children.

Frankly, Madam Speaker, our Nation's parents and children deserve better, and this bill will ensure that they get the care and consideration that they need. Again, I would like to thank the sponsors of this legislation, Ms. ROS-LEHTINEN in the House and Mr. ENSIGN in the Senate; and I want to thank all of my colleagues who support efforts to preserve the authority of parents to oversee the well-being of their own children.

Madam Speaker, I encourage my colleagues to vote "yes" on this rule and "yes" on the underlying bill.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: adoption of House Resolution 1038, by the yeas and nays; adoption of House Resolution 1039, by the yeas and nays; motion to suspend on H.R. 5092, by the yeas and nays; motion to suspend on H.R. 4772, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 2679, VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 1038, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 229, nays 177, not voting 26, as follows:

[Roll No. 474]

YEAS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello

Crowley
Cummings
Davis (AL)
Davis (CA)
DeFazio
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—26

Beauprez
Brown (OH)
Castle
Culberson
Davis (FL)
Davis (IL)
DeGette
Evans
Fattah
Ford
Green (WI)
Hinojosa
Istook
Jefferson
Kirk
Lewis (GA)
Meehan
Millender-McDonald
Moran (VA)
Myrick
Neal (MA)
Ney
Oxley
Platts
Strickland
Weldon (PA)

☐ 1237

Messrs. KILDEE, RANGEL, BUTTERFIELD and SPRATT changed their vote from "yea" to "nay."

Messrs. SULLIVAN, CRAMER, BOREN and McINTYRE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. MORAN of Virginia. Mr. Speaker, on rollcall No. 474, I was delayed in traffic. Had I been present, I would have voted "nay."

PROVIDING FOR CONSIDERATION OF S. 403, CHILD CUSTODY PROTECTION ACT

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 1039, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 249, nays 157, not voting 26, as follows:

[Roll No. 475]

YEAS—249

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—157

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (CA)
DeFazio
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kilpatrick (MI)
Kind
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—26

Beauprez
Blunt
Brown (OH)
Castle
Davis (FL)
Davis (IL)
DeGette
Evans
Fattah
Ford
Green (WI)
Hall
Hinojosa
Istook
Jefferson
Kirk
Lewis (GA)
Meehan
Millender-McDonald
Myrick
Neal (MA)
Ney
Oxley
Platts
Strickland
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1248

Mr. SIMMONS changed his vote from "yea" to "nay."

Mr. RAHALL and Ms. KAPTUR changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, on rollcall Nos. 474 and 475, I was unavoidably detained. Had I been present, I would have voted "yea."

BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (BATFE) MODERNIZATION AND REFORM ACT OF 2006

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5092, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5092, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 277, nays 131, not voting 24, as follows:

[Roll No. 476]

YEAS—277

Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Meek (FL)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanders
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Walden (OR)
Walsh
Wamp
Watt
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—131

Abercrombie
Ackerman
Andrews
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Clay
Cleaver
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Delahunt
DeLauro
Dicks
Doggett
Doyle
Emanuel
Engel
Eshoo
Farr
Ferguson
Filner
Fossella
Frank (MA)
Gonzalez
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick (MI)
King (NY)
Kirk
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meeks (NY)
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Ramstad
Rangel
Reichert
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Schwartz (PA)
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Solis
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—24

Beauprez
Bonner
Brown (OH)
Castle
Cuellar
Davis (FL)
Davis (IL)
DeGette
Evans
Fattah
Ford
Green (WI)
Hinojosa
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Myrick
Neal (MA)
Ney
Oxley
Strickland
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote

☐ 1257

Mr. MEEK of Florida changed his vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table

Stated for:

Mr. CUELLAR. Madam Speaker, on rollcall No. 476, had I been present, I would have voted "yea."

Mr. BONNER. Mr. Speaker, on Tuesday, September 26, 2006, I was absent for a vote. Had I been present, I would have voted "yea" on rollcall No. 476.

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 2006

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4772, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4772, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 234, nays 172, not voting 26, as follows:

[Roll No. 477]

YEAS—234

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Berry
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Etheridge
Everett
Feeney
Filner
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler

Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NAYS—172

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
DeFazio
Delahunt
DeLauro
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Farr
Ferguson
Fitzpatrick (PA)
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Price (NC)
Rahall
Rangel
Regula
Reichert
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn

NOT VOTING—26

Beauprez
Brown (OH)
Castle
Cleaver
Davis (FL)
Davis (IL)
DeGette
Dicks
Evans
Fattah
Ford
Green (WI)
Hinojosa
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Myrick
Neal (MA)
Ney
Oxley
Shays
Strickland
Thomas
Weldon (PA)

□ 1306

Mr. GUTIERREZ changed his vote from "yea" to "nay."

So (two-thirds of those voting having not responded in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. SHAYS. Madam Speaker, on rollcall No. 477, I would have voted "no," like I did in the 106th Congress, but I was unavoidably detained.

PERSONAL EXPLANATION

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes. If I had been present, I would have voted as follows:

Rollcall vote No. 474, on agreeing to the resolution H. Res. 1038—Providing for consideration of the bill 2679, to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees, I would have voted "aye."

Rollcall vote No. 475, on agreeing to the resolution H. Res. 1039—Providing for consideration of the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, I would have voted "aye."

Rollcall vote No. 476, on Motion to suspend the rules and pass H.R. 5092—The Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Modernization and Reform Act of 2006, I would have voted "aye."

Rollcall vote No. 477, on Motion to suspend the rules and pass H.R. 4772—The Private Property Rights Implementation Act of 2006, I would have voted "aye."

PRIVILEGED MOTION TO RESOLVE THE HOUSE INTO SECRET SESSION

Ms. PELOSI. Madam Speaker, pursuant to clause 9 of rule XVII, I offer a privileged motion calling for a secret session on the reported intelligence assessment that the war in Iraq is hindering our global efforts against terrorism.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Pursuant to clause 9 of rule XVII of the rules of the House of Representatives, Ms. PELOSI moves that the House be cleared of all persons except the Members, Delegates, Resident Commissioner, and officers of the House to consider communications which she believes should be kept secret for the present.

The SPEAKER pro tempore. The question is on the nondebatable motion offered by the gentlewoman from California (Ms. PELOSI).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. PELOSI. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 171, nays 217, not voting 44, as follows:

[Roll No. 478]

YEAS—171

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson

Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NAYS—217

Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—44

Abercrombie
Aderholt
Beauprez
Berman
Brady (TX)
Brown (OH)
Case
Castle
Cleaver
Costa
Crowley
Davis (FL)
Davis (IL)
DeGette
Evans
Fattah
Ford
Fortenberry
Gonzalez
Green (WI)
Harris
Hinojosa
Hooley
Istook
Jefferson
Lewis (GA)
Linder
McCollum (MN)
McKinney
Meehan
Melancon
Millender-McDonald
Moore (KS)
Moran (VA)
Neal (MA)
Ney
Oxley
Rangel
Stark
Strickland
Thomas
Weldon (PA)
Wu
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1335

Mrs. JOHNSON of Connecticut, Messrs. PEARCE, McHENRY, PETRI, FRELINGHUYSEN, and MARSHALL changed their vote from "yea" to "nay."

Mr. DICKS changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FORTENBERRY. Madam Speaker, on Tuesday, September 26, 2006, I was unavoidably detained and thus I missed rollcall vote. No. 478. Had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. WELDON of Pennsylvania. Madam Speaker, I was unable to record my votes during the last series of votes.

On rollcall vote No. 474, had I been present, I would have voted "yea."

On rollcall vote No. 475, had I been present, I would have voted "yea."

On rollcall vote No. 476, had I been present, I would have voted "yea."

On rollcall vote No. 477, had I been present, I would have voted "nay."

On rollcall vote No. 478, had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. GREEN of Wisconsin. Madam Speaker, I was absent from Washington on Tuesday, September 26, 2006. As a result, I was not recorded for rollcall vote Nos. 474, 475, 476, 477 and 478. Had I been present, I would have voted "aye" on rollcall Nos. 474, 475, 476, and 477. I would have voted "no" on rollcall No. 478.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

OPEN SPACE AND FARMLAND PRESERVATION ACT

Mr. GOODLATTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5313) to reserve a small percentage of the amounts made available to the Secretary of Agriculture for the farmland protection program to fund challenge grants to encourage the purchase of conservation easements and other interests in land to be held by a State agency, county, or other eligible entity, and for other purposes.

The Clerk read as follows:

H.R. 5313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Open Space and Farmland Preservation Act".

SEC. 2. ADDITIONAL TITLE-HOLDING OPTION UNDER FARMLAND PROTECTION PROGRAM.

(a) ADDITIONAL TITLE-HOLDING OPTION; RESERVATION OF FUNDS.—Section 1238I of the Farm Security Act of 1985 (16 U.S.C. 3838I) is amended by adding at the end the following new subsection:

"(d) OPTION FOR TITLE TO BE HELD BY ELIGIBLE ENTITY.—

"(1) RESERVATION OF FUNDS; PURPOSE.—Of the funds made available under section 1241(a)(4) for a fiscal year to carry out this section, the Secretary shall reserve not less than 15 percent to make grants to support cooperative efforts by an eligible State agency, a county, and one or more other eligible entities to purchase conservation easements and other interests in eligible land under subsection (a), the title to which will be held by an eligible entity rather than the United States.

"(2) COST SHARING.—Notwithstanding subsection (c)(1), the share of the cost of purchasing a conservation easement or other interest in eligible land borne by the United States under this subsection shall not exceed 25 percent. The State agency involved in the purchase shall contribute 25 percent of the purchase price, the county involved in the purchase shall contribute 25 percent of the purchase price, and the other eligible entities involved in the purchase shall contribute 25 percent of the purchase price.

"(3) PROHIBITION ON USE OF GRANT FUNDS.—Federal funds made available under this subsection may not be used by grant recipients for administrative purposes.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, urban sprawl continues to threaten the Nation's farmland. Social and economic changes over the past three decades have influenced the rate at which land is converted to nonagricultural uses. Population growth, demographic changes, preferences for larger lots, expansion of transportation systems, and economic prosperity have contributed to increases in agricultural land conversion rates.

The amount of farmland lost to development is not the only significant concern. Another cause for concern is the quality and pattern of farmland being converted. In most States, prime farmland is being converted at two to four times the rate of other, less-productive agricultural land.

There continues to be an important national interest in the protection of farmland. Land use devoted to agriculture provides an important contribution to meeting the Nation's food and fiber needs, environmental quality, protection of the Nation's historical and archeological resources and scenic beauty.

The farmland protection program is administered by NRCS and provides funds to State, tribal, and local governments and nongovernmental organizations to help them purchase conservation easements from willing sellers to limit conversion of farmland to nonagricultural uses.

The farmland protection program has received funding applications for 300 percent more dollars than the program was appropriated. The result in fiscal year 2005 was $262 million in unfunded projects. There simply weren't enough Federal dollars to match the number of applications to preserve farmland.

H.R. 5313, the Open Space and Farmland Preservation Challenge Grant Act, was introduced to aid in reducing the number of unfunded projects. Currently, the farmland protection program provides up to a 50 percent Federal match on these easement projects. By lowering the Federal match on a small portion of farmland protection program funding, we believe that less Federal funds can be used to protect more land.

The bill before us today, H.R. 5313, amends the Farm Security Act of 1985 to set aside 15 percent of farmland protection funds for cost-share grants, 25 percent maximum Federal share, to support eligible State agencies, county, and one or more eligible entities, local government or private entities, to purchase conservation easements.

This bill allows Federal dollars to go further by lowering the Federal match fund to a maximum of 25 percent and allowing other entities to make up the other 75 percent. States where the State, county, and local grassroots effort is strong can make better use of increasingly limited dollars. For example, Pennsylvania, which has great grassroots efforts to protect farmland, had the most unfunded easement applications, 65 for fiscal year 2005, which accounted for 6,200 acres not being able to be put into this program. By being able to use these reserved funds, more acres, with help from more groups, can be protected.

There is no new spending authorized in this bill. It simply creates a set-aside out of existing Federal farmland protection dollars. Any funds not used will go back into the general disbursement of farmland protection funds.

Madam Speaker, obviously, it is in this country's best interests to protect some of its great farmland. This program is immensely popular in many States, proven by the numbers of applications for the program each year. States like Connecticut, with $14 million in projects that could not be funded; Maryland had $17 million; Michigan, $22 million; New Hampshire, $15 million; Ohio, $12 million; and Pennsylvania, $20 million. This bill gives States that have tremendous grassroots organizations the ability to protect more farmland with less Federal money.

I would like to thank the ranking member of the committee, Congressman PETERSON, for working with us on this matter, as well as Congressman GERLACH, who introduced the measure, and Congressman TIM HOLDEN, a member of the committee, from Pennsylvania, who has legislation addressing this issue.

Madam Speaker, I reserve the balance of my time

Mr. PETERSON of Minnesota. Madam Speaker, the farmland protection program is an important program that helps farmers preserve their land for the future and to combat urban sprawl.

The program works with State and local groups to purchase conservation easements to ensure farmland is kept continually in agricultural use for future generations.

I want to thank the chairman for recognizing the importance of preserving open space and hope that we can continue to work together to strengthen the Federal program in the next farm bill.

Madam Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Madam Speaker, I am pleased to yield to the gentleman from Pennsylvania (Mr. GERLACH) 3 minutes.

Mr. GERLACH. Madam Speaker, I rise in support of H.R. 5313, the Open Space and Farmland Preservation Act, a bill I introduced to strengthen the Federal Farm and Ranch Lands Protection Program.

Under the bill, 15 percent of the funds made available for the program would be reserved in order to make challenge grants available to preserve the most threatened farmland, farmland in States, counties, municipalities, or private entities all agree are vital to preserve.

Simply put, if a State contributes 25 percent, a county contributes 25 percent, and a municipality or private entity contributes 25 percent towards the preservation of eligible farmland, the effort would then be eligible for a 25 percent Federal match.

I know that every, State, county, and municipality's commitment to farmland preservation is different, but it is my hope that creating this challenge grant will encourage more efforts at these levels of government.

States like Pennsylvania and Pennsylvania's counties and municipalities have invested heavily in preserving farmland. The challenge grant created through H.R. 5313 would only help to encourage other States in more local municipalities to follow this example and compete for Federal dollars available through the challenge grant.

I also believe that this challenge grant will steer Federal resources towards those projects already getting wide support from counties, States, and municipalities, or private organizations. This ensures that the increasingly limited Federal resources are being used to preserve the most threatened farmland.

This is an important measure that will help preserve farmland and open space in suburban and exurban communities. For residents of these areas like my constituents in Pennsylvania's Sixth Congressional District, preservation of open space and farmland is a quality of life issue that can not be overlooked.

I want to thank Chairman GOODLATTE and his staff for their efforts in bringing this bill to the floor today, as well as the efforts of Ranking Member PETERSON. I would also like to thank my colleague, Congressman MARK KIRK of Illinois, for his foresight and leadership in the creation of the Suburban Agenda Caucus. His efforts and the efforts of the leaders of the Caucus have helped shed light on the issues that those of us in the suburban communities care deeply about.

Madam Speaker, I urge my colleagues to support H.R. 5313, the Open Space and Farmland Preservation Act.

Mr. PETERSON of Minnesota. Madam Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Madam Speaker, at this time, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Madam Speaker, I want to thank Congressman JIM GERLACH for his leadership for the entire Nation in protecting suburban green and open space.

Now, we all support the National Park System, and I believe the next President should set a goal of doubling the National Park System. But we also need to take action to protect more green and open space near home.

□ 1345

Without this bill, more green and open space would disappear in an unending series of strip malls. In my own district, we just set aside 77 acres of Lake Michigan shoreline as part of a new park to preserve habitat for all time. But we need to do more.

Under Congressman GERLACH's leadership, this bill became part of our bipartisan suburban agenda to meet the education, health care, conservation and economic needs of suburban families. This bill advances those needs by making sure that we preserve more green and open space in the suburbs.

In my own State of Illinois, we are losing over 41,000 acres of farmland to development, 71 percent in suburban areas. The rate of farmland loss in our State has increased over 130 percent in the 1990s. This bill directly meets that need, and I want to thank Chairman GOODLATTE for moving this legislation that makes sure that suburban families have more green and open space near home.

Mr. GOODLATTE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5313.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONVEYANCE OF FORMER KONNAROCK LUTHERAN GIRLS SCHOOL IN SMYTH COUNTY, VIRGINIA

Mr. GOODLATTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5103) to provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia, which is currently owned by the United States and administered by the Forest Service, to facilitate the restoration and reuse of the property, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, FORMER KONNAROCK LUTHERAN GIRLS SCHOOL, JEFFERSON NATIONAL FOREST, SMYTH COUNTY, VIRGINIA.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Evangelical Lutheran Coalition for Mission in Appalachia (in this section referred to as the "recipient") all right, title, and interest of the United States in and to a parcel of real property in the Mount Rogers National Recreation Area, Smyth County, Virginia, located in the vicinity of the junction of Virginia Routes 600 and 603, consisting of not more than six acres, and containing the former Konnarock Lutheran Girls School and its outbuildings, as depicted on the map entitled "Proposed Area for New Legislation or Sale-Konnarock School-Being a Portion of USA Tract J-935".

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the recipient accept the real property described in such subsection in its condition at the time of the conveyance, commonly known as conveyance "as is".

(c) DESCRIPTION OF PROPERTY.—Subject to the acreage limitation specified in subsection (a), the exact acreage and legal description of the real property to be conveyed under such subsection shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 5103, a bill to provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia. The Konnarock property is located in Representative RICK BOUCHER's congressional district, just south of my district in the southwestern part of Virginia. The land and buildings were acquired by the Forest Service in 1967. The facility, at that time, was not in use. It was last used as a school in 1959.

The Forest Service used the buildings to house fire crews and summer trail crews, as well as the job corps operations. By the early 1980s, continued deterioration rendered the facility unusable. There has been considerable continued deterioration since that time. The facility is now in severe disrepair.

Prior to Forest Service acquisition, the facility was owned by the local Lutheran Church. This legislation would convey the land to the Evangelical Lutheran Coalition for the mission in Appalachia, which plans to restore/preserve the historic structures; develop a retreat center; partner with area colleges to use the property as an environmental learning center; and develop, archive, and exhibit the history of the school and the community.

This bill was passed by the House Committee on Agriculture favorably last week with the recommendation that it does pass. Today's bill takes the bare minimum necessary to convey this property to an owner who will have an opportunity to invest in the buildings and restore them to their historical significance.

Prior to the committee's consideration of the bill, we were advised by the Congressional Budget Office that the small area conveyed and the deterioration of the buildings ensures that the bill will not have a significant impact on spending.

I thank my colleague, the gentleman from Virginia (Mr. BOUCHER), for introducing this good measure and the gentleman from Minnesota (Mr. PETERSON), the ranking member, for helping us get it to the floor. I urge my colleagues to adopt this bill.

Madam Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 5103. Mr. BOUCHER's bill will convey about 6 acres of land within Jefferson National Forest back to the Lutheran Church to allow them to restore and preserve the historic Konnarock Lutheran Girls School in Smyth County, Virginia.

The Lutheran Evangelical Coalition for Missions in the Appalachias has developed a thoughtful plan for the site that includes the restoration and preservation of the building, a retreat center, and an environmental learning center that will work in conjunction with local schools.

This is a worthwhile use of Federal forest land and an excellent project which deserves congressional support.

Madam Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BOUCHER), the author of the bill.

Mr. BOUCHER. Madam Speaker, I thank the gentleman for yielding me this time, and I want to express my appreciation to the gentleman from Virginia (Mr. GOODLATTE), chairman of the House Agriculture Committee, and the gentleman from Minnesota (Mr. PETERSON) for moving this measure through the committee and bringing the bill to the House floor today.

The Lutheran Girls School building in Konnarock, Virginia, is a historic structure; and it is presently listed on the National Register of Historic Places. It was constructed of wood and stone, hewed from the mountains where the building is located during the 1920s, and has graceful architecture that is typical of the rustic buildings constructed during that era.

It was constructed by the Women's Missionary Society of the Lutheran Church in America and was operated by the Lutheran Church as a girls school from the middle 1920s until 1959. At that time the school was closed and the building at that point entered a very long period of disuse.

In 1967 the Forest Service acquired that building as part of a much larger acquisition of 680 acres, all of which bordered the national forest. Today, the building has fallen into a severe state of disrepair and is in danger of collapse unless substantial remedial work is performed in the very near future.

The bill before us would convey the building and up to 6 acres of lands, the exact amount to be determined by conducting a survey, from the Federal Government and to the Evangelical Lutheran Coalition for Mission in Appalachia. That is an organization that is affiliated with the Lutheran Church.

The Lutheran Coalition intends to restore and renovate the property in a manner consistent with its historic status. Its future use will be as a retreat center for the Lutheran Coalition, and it will be available for use as a retreat center and by other nonprofit entities and faith-based organizations.

The coalition also plans to partner with area colleges to establish exhibits and a learning center for matters relating to the unique mountain environment in which this building is located.

Through this conveyance, we can assure that the restoration and future maintenance of this historic structure will occur. I thank Chairman GOODLATTE and Mr. PETERSON for their work in bringing this bill to the floor. I join with them in urging its approval by the House

Mr. PETERSON of Minnesota. Madam Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Madam Speaker, I urge my colleagues to support the legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5103, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONVEYANCE OF CERTAIN NATIONAL FOREST SYSTEM LAND TO LAONA AND WABENO, WISCONSIN

Mr. GOODLATTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4559) to provide for the conveyance of National Forest System land to the towns of Laona and Wabeno, Wisconsin, to authorize the Secretary of Agriculture to convey certain isolated parcels of National Forest System land in Florence and Langlade Counties, Wisconsin, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CHEQUAMEGON-NICOLET NATIONAL FOREST LAND TO TOWNS OF LAONA AND WABENO, WISCONSIN.

(a) CONVEYANCE TO TOWN OF LAONA.—

(1) CONVEYANCE.—At the request of the town of Laona, Wisconsin (referred to in this subsection as the "town"), the Secretary of Agriculture shall convey to the town all right, title, and interest of the United States in and to the parcel of National Forest System land in Forest County, Wisconsin, consisting of approximately 176 acres, as further described in paragraph (2), for the purpose of permitting the town to use the parcel as a site for an industrial park and for other purposes.

(2) LEGAL DESCRIPTION.—The parcel of land referred to in paragraph (1) consists of the N½SW¼, SW¼NW¼, S½SE¼NW¼, and that part of the W½NE¼ lying south of the Rat River, excluding Lot #1 of Forest County Certified Survey Map #157861 and a 100-foot wide former rail road right-of-way running through the W½NE¼, all in section 6, township 35 north, range 15 east, Laona Township, Forest County, Wisconsin.

(3) CONSIDERATION.—As consideration for the conveyance under this subsection, the town shall pay to the Secretary an amount equal to $300,000, which is the appraised fair market value of the parcel of National Forest System land to be conveyed.

(b) CONVEYANCE TO TOWN OF WABENO.—

(1) CONVEYANCE.—At the request of the town of Wabeno, Wisconsin (referred to in this subsection as the "town"), the Secretary of Agriculture shall convey to the town all right, title, and interest of the United States in and to the parcel of National Forest System land in Forest County, Wisconsin, consisting of approximately 173 acres, as further described in paragraph (2), for the purpose of permitting the town to use the parcel as a site for an industrial park and for other purposes.

(2) LEGAL DESCRIPTION.—The parcel of land referred to in paragraph (1) consists of the S½NW¼, E½SW¼, and east 17.30 acres of the NW¼SW¼, excluding a 100-foot wide former rail road right-of-way running through the NE¼SW¼ and SE¼NW¼ and a 0.02 acre parcel in the SW¼NW¼, a 0.93 acre parcel in the SE¼SW¼, and a 2.36 acre parcel in the E½SW¼ reserved for highway purposes, as described in volume 7, 276-277, Forest County Records, and all in section 7, township 34 north, range 15 east, Wabeno Township, Forest County, Wisconsin.

(3) CONSIDERATION.—As consideration for the conveyance under this subsection, the town shall pay to the Secretary an amount equal to $320,000, which is the appraised fair market value of the parcel of National Forest System land to be conveyed.

(c) SURVEY.—If necessary, the exact acreage and legal description of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of a survey shall be borne by the recipient of the land.

(d) DEPOSIT AND USE OF PROCEEDS.—

(1) DEPOSIT.—The Secretary shall deposit the proceeds from the conveyance of land under this section in the fund established under Public Law 90-171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

(2) USE.—Funds deposited pursuant to paragraph (1) shall be available to the Secretary, without further appropriation and until expended—

(A) to acquire land and interests in land for inclusion in the Chequamegon-Nicolet National Forest in Wisconsin; and

(B) to reimburse costs incurred by the Secretary in carrying out the conveyances under this section, including the payment of any real estate broker commissions.

(3) ADMINISTRATION.—The lands acquired under paragraph (2)(A) shall be included in the Chequamegon-Nicolet National Forest and administered in accordance with the laws applicable to that National Forest.

(e) WITHDRAWAL.—Subject to valid existing rights, the land to be conveyed under this section is withdrawn from location, entry, and patent under the public land laws, mining laws, and mineral leasing laws, including geothermal leasing laws.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 4559. This bill simply provides the Forest Service with the required legislative authority to sell two tracts in Wisconsin to neighboring towns for a set price which the Forest Service and the towns agree represents fair market value.

The intent of the land sale is to spur economic development by providing the towns room to grow and allow the Forest Service to acquire more sensitive lands that have higher natural resource value. The proceeds of these sales will be used by the Forest Service to acquire other higher priority lands in the Chequamegon-Nicolet National Forest.

I thank the gentleman from Wisconsin (Mr. GREEN) for introducing this legislation, and I thank Mr. PETERSON for working with us on the committee to move this legislation forward. I urge my colleagues to support the bill.

Madam Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 4559. Mr. GREEN's bill would allow the towns of Laona and Wabeno in Wisconsin to purchase two parcels of marginal Forest Service land for development. Those towns, as was noted, suffer from low timber prices and a limited tax base, and this bill is an effort to provide economic development in these communities.

This bill allows the Forest Service to use the proceeds of the sale to buy land with greater environmental value which will improve the forest. This project is a sensible transfer of Federal forest land, and it deserves congressional support.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 4559, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the conveyance of certain National Forest System land to the towns of Laona and Wabeno, Wisconsin, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

□ 1400

CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006

Mr. HERGER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the House amendments to the Senate bill (S. 3525) to amend subpart 2 of part B of title IV of the Social Security Act to improve outcomes for children in families affected by methamphetamine abuse and addiction, to reauthorize the promoting safe and stable families program, and for other purposes.

The Clerk read as follows:

Senate amendments to House amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child and Family Services Improvement Act of 2006".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) For Federal fiscal year 2004, child protective services (CPS) staff nationwide reported investigating or assessing an estimated 3,000,000 allegations of child maltreatment, and determined that 872,000 children had been abused or neglected by their parents or other caregivers.

(2) Combined, the Child Welfare Services (CWS) and Promoting Safe and Stable Families (PSSF) programs provide States about $700,000,000 per year, the largest source of targeted Federal funding in the child protection system for services to ensure that children are not abused or neglected and, whenever possible, help children remain safely with their families.

(3) A 2003 report by the Government Accountability Office (GAO) reported that little research is available on the effectiveness of activities supported by CWS funds—evaluations of services supported by PSSF funds have generally shown little or no effect.

(4) Further, the Department of Health and Human Services recently completed initial Child and Family Service Reviews (CFSRs) in each State. No State was in full compliance with all measures of the CFSRs. The CFSRs also revealed that States need to work to prevent repeat abuse and neglect of children, improve services provided to families to reduce the risk of future harm (including by better monitoring the participation of families in services), and strengthen upfront services provided to families to prevent unnecessary family break-up and protect children who remain at home.

(5) Federal policy should encourage States to invest their CWS and PSSF funds in services that promote and protect the welfare of children, support strong, healthy families, and reduce the reliance on out-of-home care, which will help ensure all children are raised in safe, loving families.

(6) CFSRs also found a strong correlation between frequent caseworker visits with children and positive outcomes for these children, such as timely achievement of permanency and other indicators of child well-being.

(7) However, a December 2005 report by the Department of Health and Human Services Office of Inspector General found that only 20 States were able to produce reports to show whether caseworkers actually visited children in foster care on at least a monthly basis, despite the fact that nearly all States had written standards suggesting monthly visits were State policy.

(8) A 2003 GAO report found that the average tenure for a child welfare caseworker is less than 2 years and this level of turnover negatively affects safety and permanency for children.

(9) Targeting CWS and PSSF funds to ensure children in foster care are visited on at least a monthly basis will promote better outcomes for vulnerable children, including by preventing further abuse and neglect.

(10) According to the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration, the annual number of new uses of Methamphetamine, also known as "meth," has increased 72 percent over the past decade. According to a study conducted by the National Association of Counties which surveyed 500 county law enforcement agencies in 45 states, 88 percent of the agencies surveyed reported increases in meth related arrests starting 5 years ago.

(11) According to the 2004 National Survey on Drug Use and Health, nearly 12,000,000 Americans have tried methamphetamine. Meth making operations have been uncovered in all 50 states, but the most wide-spread abuse has been concentrated in the western, southwestern, and Midwestern United States.

(12) Methamphetamine abuse is on the increase, particularly among women of child-bearing age. This is having an impact on child welfare systems in many States. According to a survey administered by the National Association of Counties ("The Impact of Meth on Children"), conducted in 300 counties in 13 states, meth is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements because of meth in 2005.

(13) It is appropriate also to target PSSF funds to address this issue because of the unique strain the meth epidemic puts on child welfare agencies. Outcomes for children affected by meth are enhanced when services provided by law enforcement, child welfare and substance abuse agencies are integrated.

SEC. 3. REAUTHORIZATION OF THE PROMOTING SAFE AND STABLE FAMILIES PROGRAM.

(a) FUNDING OF MANDATORY GRANTS AT $345 MILLION PER FISCAL YEAR.—Effective October 1, 2006, section 436(a) of the Social Security Act (42 U.S.C. 629f(a)) is amended by striking "fiscal year 2006." and all that follows and inserting "each of fiscal years 2007 through 2011".

(b) FUNDING OF DISCRETIONARY GRANTS.—Section 437(a) of such Act (42 U.S.C. 629g(a)) is amended by striking "2002 through 2006" and inserting "2007 through 2011".

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—

(1) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services $10,000,000 for fiscal year 2006 to carry out section 436 of the Social Security Act, in addition to any amount otherwise made available for fiscal year 2006 to carry out such section.

(2) AVAILABILITY OF FUNDS.—Notwithstanding sections 434(b)(2) and 436(b)(3) of such Act, the amount appropriated under paragraph (1) of this subsection—

(A) shall remain available for expenditure through fiscal year 2009 solely for the purpose described in section 436(b)(4)(B)(i) of such Act;

(B) shall not be used to supplant any Federal funds paid under part E of title IV of such Act that could be used for that purpose; and

(C) shall not be made available to any Indian tribe or tribal consortium.

(d) ELIMINATION OF FINDINGS.—Section 430 of such Act (42 U.S.C. 629) is amended by striking all through "(b) PURPOSE.—The purpose" and inserting the following:

"SEC. 430. PURPOSE.

"The purpose".

(e) ANNUAL BUDGET REQUESTS, SUMMARIES, AND EXPENDITURE REPORTS.—

(1) IN GENERAL.—Section 432(a)(8) of such Act (42 U.S.C. 629b(a)(8)) is amended—

(A) by inserting "(A)" after "(8)"; and

(B) by adding at the end the following:

"(B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

"(i) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

"(ii) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

"(I) the numbers of families and of children served by the State agency;

"(II) the population served by the State agency;

"(III) the geographic areas served by the State agency; and

"(IV) the actual expenditures of funds provided to the State agency; and".

(2) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—Section 432 of such Act (42 U.S.C. 629b) is amended by adding at the end the following:

"(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—The Secretary shall compile the

reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

(3) EFFECTIVE DATE; INITIAL DEADLINES FOR SUBMISSIONS.—The amendments made by this subsection take effect on the date of enactment of this Act. Each State with an approved plan under subpart 1 or 2 of part B of title IV of the Social Security Act shall make its initial submission of the forms required under section 432(a)(8)(B) of the Social Security Act to the Secretary of Health and Human Services by June 30, 2007, and the Secretary of Health and Human Services shall submit the first compilation required under section 432(c) of the Social Security Act by September 30, 2007.

(f) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(1) IN GENERAL.—Section 434 of such Act (42 U.S.C. 629d) is amended—

(A) in subsection (a), by inserting '', subject to subsection (d),'' after ''shall''; and

(B) by adding at the end the following:

''(d) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—The Secretary shall not make a payment to a State under this section with respect to expenditures for administrative costs during a fiscal year, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year under the State plan approved under section 432.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to expenditures made on or after October 1, 2007.

SEC. 4. TARGETING OF PROMOTING SAFE AND STABLE FAMILIES PROGRAM RESOURCES.

(a) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(1) RESERVATION AND USE OF FUNDS.—Section 436(b) of the Social Security Act (42 U.S.C. 629f(b)) is amended by adding at the end the following:

''(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

''(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e)—

''(i) $5,000,000 for fiscal year 2008;

''(ii) $10,000,000 for fiscal year 2009; and

''(iii) $20,000,000 for each of fiscal years 2010 and 2011.

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

''(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).''.

(2) ALLOTMENT OF FUNDS.—Section 433 of such Act (42 U.S.C. 629c) is amended—

(A) in subsection (d), by inserting ''subsection (a), (b), or (c) of'' before ''this section'' the 1st and 2nd places it appears; and

(B) by adding at the end the following:

''(e) ALLOTMENT OF FUNDS RESERVED TO SUPPORT MONTHLY CASEWORKER VISITS.—

''(1) TERRITORIES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year, the Secretary shall allot to each jurisdiction specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the jurisdiction has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423 (without regard to the initial allotment of $70,000 to each State).

''(2) OTHER STATES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year that remains after applying paragraph (1) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) not specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the State has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount equal to such remaining amount multiplied by the food stamp percentage of the State (as defined in subsection (c)(2) of this section) for the fiscal year, except that in applying subsection (c)(2)(A) of this section, 'subsection (e)(2)' shall be substituted for 'such paragraph (1)'.''.

(3) PAYMENTS TO STATES.—Section 434(a) of such Act (42 U.S.C. 629d(a)), as amended by section 3(f)(1) of this Act, is amended by striking ''the lesser of—'' and all that follows and inserting the following: ''the sum of—

''(1) the lesser of—

''(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

''(B) the allotment of the State under subsection (a), (b), or (c) of section 433, whichever is applicable, for the fiscal year; and

''(2) the lesser of—

''(A) 75 percent of the total expenditures by the State in accordance with section 436(b)(4)(B) during the fiscal year or the immediately succeeding fiscal year; or

''(B) the allotment of the State under section 433(e) for the fiscal year.''.

(b) SUPPORT FOR TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

(1) RESERVATION OF FUNDS.—Section 436(b) of such Act (42 U.S.C. 629f(b)), as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

''(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f)—

''(A) $40,000,000 for fiscal year 2007;

''(B) $35,000,000 for fiscal year 2008;

''(C) $30,000,000 for fiscal year 2009; and

''(D) $20,000,000 for each of fiscal years 2010 and 2011.''.

(2) TARGETED GRANTS.—

(A) IN GENERAL.—Section 437 of such Act (42 U.S.C. 629g) is amended by adding at the end the following:

''(f) TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

''(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse.

''(2) REGIONAL PARTNERSHIP DEFINED.—

''(A) IN GENERAL.—In this subsection, the term 'regional partnership' means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

''(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

''(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

''(iii) An Indian tribe or tribal consortium.

''(iv) Nonprofit child welfare service providers.

''(v) For-profit child welfare service providers.

''(vi) Community health service providers.

''(vii) Community mental health providers.

''(viii) Local law enforcement agencies.

''(ix) Judges and court personnel.

''(x) Juvenile justice officials.

''(xi) School personnel.

''(xii) Tribal child welfare agencies (or a consortia of such agencies).

''(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

''(B) REQUIREMENTS.—

''(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

''(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

''(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

''(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

''(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).

''(3) AUTHORITY TO AWARD GRANTS.—

''(A) IN GENERAL.—In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2007 through 2011 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than $500,000 and not more than $1,000,000 per grant per fiscal year.

''(B) REQUIRED MINIMUM PERIOD OF APPROVAL.—A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years.

''(4) APPLICATION REQUIREMENTS.—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

''(A) Recent evidence demonstrating that methamphetamine or other substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

''(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

''(i) enhance the well-being of children receiving services or taking part in activities conducted with funds provided under the grant;

''(ii) lead to safety and permanence for such children; and *"(iii) decrease the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.*

"(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

"(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and where appropriate, the child's family.

"(E) A description of the strategies for—

"(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

"(ii) consulting, as appropriate, with—

"(I) the State agency described in paragraph (2)(A)(ii); and

"(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

"(F) Such other information as the Secretary may require.

"(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

"(A) Family-based comprehensive long-term substance abuse treatment services.

"(B) Early intervention and preventative services.

"(C) Children and family counseling.

"(D) Mental health services.

"(E) Parenting skills training.

"(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

"(6) MATCHING REQUIREMENT.—

"(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

"(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

"(ii) 80 percent for the third and fourth such fiscal years; and

"(iii) 75 percent for the fifth such fiscal year.

"(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

"(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall—

"(A) take into consideration the extent to which applicant regional partnerships—

"(i) demonstrate that methamphetamine or other substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

"(ii) have limited resources for addressing the needs of children affected by such abuse;

"(iii) have a lack of capacity for, or access to, comprehensive family treatment services; and

"(iv) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period; and

"(B) after taking such factors into consideration, give greater weight to awarding grants to regional partnerships that propose to address methamphetamine abuse and addiction in the partnership region (alone or in combination with other drug abuse and addiction) and which demonstrate that methamphetamine abuse and addiction (alone or in combination with other drug abuse and addiction) is adversely affecting child welfare in the partnership region.

"(8) PERFORMANCE INDICATORS.—

"(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall establish indicators that will be used to assess periodically the performance of the grant recipients under this subsection in using funds made available under such grants to achieve the purpose of this subsection.

"(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall consult with the following:

"(i) The Assistant Secretary for the Administration for Children and Families.

"(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

"(iii) Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

"(iv) Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection.

"(9) REPORTS.—

"(A) GRANTEE REPORTS.—

"(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.

"(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

"(B) REPORTS TO CONGRESS.—On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

"(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

"(ii) the performance indicators established under paragraph (8); and

"(iii) the progress that has been made in addressing the needs of families with methamphetamine or other substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.".

(B) CONFORMING AMENDMENTS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

*(i) in the section heading, by inserting "**AND TARGETED**" after "**DISCRETIONARY**"; and*

(ii) in subsection (e), by striking "this section" and inserting "subsection (a)".

(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Section 435(c) of such Act (42 U.S.C. 629e(c)) is amended to read as follows:

"(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Of the amount reserved under section 436(b)(1) for a fiscal year, the Secretary shall use not less than—

"(1) $1,000,000 for evaluations, research, and providing technical assistance with respect to supporting monthly caseworker visits with children who are in foster care under the responsibility of the State, in accordance with section 436(b)(4)(B)(i); and

"(2) $1,000,000 for evaluations, research, and providing technical assistance with respect to grants under section 437(f).".

SEC. 5. ALLOTMENTS AND GRANTS TO INDIAN TRIBES.

(a) INCREASE IN SET-ASIDES FOR INDIAN TRIBES.—

(1) MANDATORY GRANTS.—Section 436(b)(3) of the Social Security Act (42 U.S.C. 629f(b)(3)) is amended by striking "1" and inserting "3".

(2) DISCRETIONARY GRANTS.—Section 437(b)(3) of such Act (42 U.S.C. 629g(b)(3)) is amended by striking "2" and inserting "3".

(3) EFFECT OF RESERVATION OF FUNDS FOR TARGETED PROGRAM RESOURCES ON AMOUNTS RESERVED FOR INDIAN TRIBES.—Section 436(b)(3) of such Act (42 U.S.C. 629b(b)(3)) is amended by striking "The" and inserting "After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the".

(b) AUTHORITY FOR TRIBAL CONSORTIA TO RECEIVE ALLOTMENTS.—

(1) ALLOTMENT OF MANDATORY FUNDS.

(A) IN GENERAL.—Section 433(a) of such Act (42 U.S.C. 629c(a)) is amended—

(i) in the subsection heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by adding at the end the following new sentence: "If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.".

(B) CONFORMING AMENDMENT.—Section 436(b)(3) of such Act (42 U.S.C. 629f(b)(3)) is amended—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortia" after "Indian tribes".

(2) ALLOTMENT OF ANY DISCRETIONARY FUNDS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(A) in subsection (b)(3)—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortia" after "Indian tribes"; and

(B) in subsection (c)(1)—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by adding at the end the following new sentence: "If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PLANS OF INDIAN TRIBES.—Section 432(b)(2) of such Act (42 U.S.C. 629b(b)(2)) is amended—

(i) in the paragraph heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES";

(ii) in subparagraph (A), by inserting "or tribal consortium" after "Indian tribe" each place it appears; and

(iii) in subparagraph (B)—

(I) by inserting "or tribal consortium" after "Indian tribe"; and

(II) by inserting "and tribal consortia" after "Indian tribes".

(B) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS.—Section 434(c) of such Act (42 U.S.C. 629d(c)) is amended—

(i) in the subsection heading, by inserting "OR TRIBAL CONSORTIA" after "TRIBES"; and

(ii) by inserting "or tribal consortium" after "Indian tribe" the first place it appears; and

(iii) by inserting "or in the case of a payment to a tribal consortium, such tribal organizations of, or entity established by, the Indian tribes that are part of the consortium as the consortium shall designate" before the period.

(C) EVALUATIONS; RESEARCH; TECHNICAL ASSISTANCE.—Section 435(d) of such Act (42 U.S.C. 629e(d)) is amended in the matter preceding paragraph (1), by inserting "or tribal consortia" after "Indian tribes".

(c) COLLECTION OF DATA ON TRIBAL PROMOTING SAFE AND STABLE FAMILIES PLANS.—Section 432(b)(2)(A) of such Act (42 U.S.C. 629b(b)(2)(A)), as amended by subsection (b)(3)(A)(ii) of this section, is amended by striking "any requirement of this section that the Secretary determines" and inserting "the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements".

SEC. 6. IMPROVEMENTS TO THE CHILD WELFARE SERVICES PROGRAM.

(a) FUNDING.—Subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620–628b) is amended by striking sections 420 and 425 and inserting after section 424 the following:

"LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

"SEC. 425. To carry out this subpart, there are authorized to be appropriated to the Secretary not more than $325,000,000 for each of fiscal years 2007 through 2011.".

(b) PURPOSE OF PROGRAM.—Such subpart is further amended—

(1) by striking section 424;

(2) by redesignating sections 421 and 423 as sections 423 and 424, respectively, and by transferring section 423 (as so redesignated) so that it appears after section 422; and

(3) by inserting after the subpart heading the following:

"PURPOSE

"SEC. 421. The purpose of this subpart is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families, by—

"(1) protecting and promoting the welfare of all children;

"(2) preventing the neglect, abuse, or exploitation of children;

"(3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;

"(4) promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

"(5) providing training, professional development and support to ensure a well-qualified child welfare workforce.".

(c) MODIFICATION OF STATE PLAN REQUIREMENTS.—Section 422 of such Act (42 U.S.C. 622) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (3) through (5) and inserting the following:

"(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;";

(B) by striking paragraph (6) and inserting after paragraph (3) (as added by subparagraph (A) of this paragraph) the following:

"(4) contain a description of—

"(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

"(B) the child welfare services staff development and training plans of the State;";

(C) by redesignating paragraphs (7) through (9) as paragraphs (5) through (7), respectively;

(D) in paragraph (10)—

(i) by striking subparagraph (A);

(ii) in subparagraph (B)(iii)(II), by inserting ", which may include a residential educational program" after "in some other planned, permanent living arrangement";

(iii) by redesignating subparagraph (B) as subparagraph (A); and

(iv) by striking subparagraph (C) and inserting after subparagraph (A) the following:

"(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;";

(E) in paragraph (14), by striking "and" at the end;

(F) in paragraph (15), by striking the period and inserting a semicolon;

(G) by redesignating paragraphs (10) through (15) as paragraphs (8) through (13), respectively; and

(H) by adding at the end the following:

"(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;

"(15) describe how the State actively consults with and involves physicians or other appropriate medical professionals in—

"(A) assessing the health and well-being of children in foster care under the responsibility of the State; and

"(B) determining appropriate medical treatment for the children; and

"(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

"(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

"(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

"(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

"(D) preserve essential program records; and

"(E) coordinate services and share information with other States."; and

(2) by adding at the end the following:

"(c) DEFINITIONS.—In this subpart:

"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

"(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.".

(d) PROVISIONS RELATING TO STATE ALLOTMENTS.—Section 423 of such Act, as so redesignated by subsection (b)(2) of this section, is amended—

(1) in subsection (a)—

(A) by inserting "IN GENERAL.—" after "(a)"; and

(B) by striking "420" and inserting "425"; and

(2) in subsection (b), by inserting "DETERMINATION OF STATE ALLOTMENT PERCENTAGES.—" after "(b)";

(3) in subsection (c), by inserting "PROMULGATION OF STATE ALLOTMENT PERCENTAGES.—" after "(c)";

(4) in subsection (d)—

(A) by inserting "UNITED STATES DEFINED.—" after "(d)"; and

(B) by striking "fifty" and inserting "50"; and

(5) by adding at the end the following:

"(e) REALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—The amount of any allotment to a State for a fiscal year under the preceding provisions of this section which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

"(A) need sums in excess of the amounts allotted to such other States under the preceding provisions of this section, in carrying out their State plans so developed; and

"(B) will be able to so use such excess sums during the fiscal year.

"(2) CONSIDERATIONS.—The Secretary shall make the reallotments on the basis of the State plans so developed, after taking into consideration—

"(A) the population under 21 years of age;

"(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

"(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

"(3) AMOUNTS REALLOTTED TO A STATE DEEMED PART OF STATE ALLOTMENT.—Any amount so reallotted to a State is deemed part of the allotment of the State under this section.".

(e) PAYMENTS TO STATES; LIMITATIONS ON USE OF FUNDS.—

(1) LIMITATIONS RELATED TO STATE EXPENDITURES FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, AND ADOPTION ASSISTANCE PAYMENTS.—Section 424 of such Act, as so redesignated by subsection (b)(2) of this section, is amended by striking subsections (c) and (d) and inserting the following:

"(c) LIMITATION ON USE OF FEDERAL FUNDS FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, OR ADOPTION ASSISTANCE PAYMENTS.—The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

"(d) LIMITATION ON USE BY STATES OF NON-FEDERAL FUNDS FOR FOSTER CARE MAINTENANCE PAYMENTS TO MATCH FEDERAL FUNDS.—For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments *shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.".*

(2) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(A) IN GENERAL.—Section 424 of such Act (42 U.S.C. 623), as so redesignated by subsection (b)(2) of this section, is amended by adding at the end the following:

"(e) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to expenditures made on or after October 1, 2007.

(f) CONFORMING AMENDMENTS.—

(1) Section 428(b) of such Act (42 U.S.C. 628(b)) is amended by striking "421" and inserting "423".

(2) Section 429 of such Act (42 U.S.C. 628a) is amended—

(A)(i) by striking the following:

"CHILD WELFARE TRAINEESHIPS

"SEC. 429. The Secretary"; and

(ii) inserting the following:

"(c) CHILD WELFARE TRAINEESHIPS.—The Secretary"; and

(B) by transferring the provision to the end of section 426 (as amended by section 11(b) of this Act).

(3) Section 429A of such Act (42 U.S.C. 628b) is redesignated as section 429.

(4) Section 433(b) of such Act (42 U.S.C. 629c(b)) is amended by striking "421" and inserting "423".

(5) Section 437(c)(2) of such Act (42 U.S.C. 629g(c)(2)) is amended by striking "421" and inserting "423".

(6) Section 472(d) of such Act (42 U.S.C. 672(d)) is amended by striking "422(b)(10)" and inserting "422(b)(8)".

(7) Section 473A(f) of such Act (42 U.S.C. 673b(f)) is amended by striking "423" and inserting "424".

(8) Section 1130(b)(1) of such Act (42 U.S.C. 1320a-9(b)(1)) is amended to read as follows:.

"(1) any provision of section 422(b)(8), or section 479; or".

(9) Section 104(b)(3) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914(b)(3)) is amended by striking "422(b)(14) of the Social Security Act, as amended by section 205 of this Act" and inserting "422(b)(12) of the Social Security Act".

SEC. 7. MONTHLY CASEWORKER STANDARD.

(a) STATE PLAN REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as amended by section 6(c) of this Act, is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children.".

(b) ENFORCEMENT.—Section 424 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act, is amended by adding at the end the following:

"(e)(1) The Secretary may not make a payment to a State under this subpart for a period in fiscal year 2008, unless the State has provided to the Secretary data which shows, for fiscal year 2007—

"(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

"(B) the percentage of the visits that occurred in the residence of the child.

"(2)(A) Based on the data provided by a State pursuant to paragraph (1), the Secretary, in consultation with the State, shall establish, not later than June 30, 2008, an outline of the steps to be taken to ensure, by October 1, 2011, that at least 90 percent of the children in foster care under the responsibility of the State are visited by their caseworkers on a monthly basis, and that the majority of the visits occur in the residence of the child. The outline shall include target percentages to be reached each fiscal year, and should include a description of how the steps will be implemented. The steps may include activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

"(B) Beginning October 1, 2008, if the Secretary determines that a State has not made the requisite progress in meeting the goal described in subparagraph (A) of this paragraph, then the percentage that shall apply for purposes of subsection (a) of this section for the period involved shall be the percentage set forth in such subsection (a) reduced by—

"(i) 1, if the number of full percentage points by which the State fell short of the target percentage established for the State for the period pursuant to such subparagraph is less than 10;

"(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

"(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.".

(c) REPORTS.—

(1) PROGRESS REPORT.—Not later than March 31, 2010, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that outlines the progress made by the States in meeting the standards referred to in section 422(b)(17) of the Social Security Act, and offers recommendations developed in consultation with State officials responsible for administering child welfare programs and members of the State legislature to assist States in their efforts to ensure that foster children are visited on a monthly basis.

(2) INCLUSION OF INFORMATION ON CASEWORKER VISITS IN ANNUAL CHILD WELL-BEING OUTCOME REPORTS.—Section 479A of such Act (42 U.S.C. 679b) is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following:

"(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

"(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

"(B) the percentage of the visits that occurred in the residence of the child.".

SEC. 8. REAUTHORIZATION OF PROGRAM FOR MENTORING CHILDREN OF PRISONERS.

(a) IN GENERAL.—Section 439 of the Social Security Act (42 U.S.C. 629i) is amended—

(1) in subsection (c), by striking "2002 through 2006" and inserting "2007 through 2011"; and

(2) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

"(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2007 through 2011."; and

(B) in paragraph (2), by striking "2.5" and inserting "4".

(b) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g) SERVICE DELIVERY DEMONSTRATION PROJECT.—

"(1) PURPOSE; AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with an eligible entity that meets the requirements of paragraph (2) for the purpose of requiring the entity to conduct a demonstration project consistent with this subsection under which the entity shall—

"(A) identify children of prisoners in need of mentoring services who have not been matched with a mentor by an applicant awarded a grant under this section, with a priority for identifying children who—

"(i) reside in an area not served by a recipient of a grant under this section;

"(ii) reside in an area that has a substantial number of children of prisoners;

"(iii) reside in a rural area; or

"(iv) are Indians;

"(B) provide the families of the children so identified with—

"(i) a voucher for mentoring services that meets the requirements of paragraph (5); and

"(ii) a list of the providers of mentoring services in the area in which the family resides that satisfy the requirements of paragraph (6); and

"(C) monitor and oversee the delivery of mentoring services by providers that accept the vouchers.

"(2) ELIGIBLE ENTITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity under this subsection is an organization that the Secretary determines, on a competitive basis—

"(i) has substantial experience—

"(I) in working with organizations that provide mentoring services for children of prisoners; and

"(II) in developing quality standards for the identification and assessment of mentoring programs for children of prisoners; and

"(ii) submits an application that satisfies the requirements of paragraph (3).

"(B) LIMITATION.—An organization that provides mentoring services may not be an eligible entity for purposes of being awarded a cooperative agreement under this subsection.

"(3) APPLICATION REQUIREMENTS.—To be eligible to be awarded a cooperative agreement under this subsection, an entity shall submit to the Secretary an application that includes the following:

"(A) QUALIFICATIONS.—Evidence that the entity—

"(i) meets the experience requirements of paragraph (2)(A)(i); and

"(ii) is able to carry out—

"(I) the purposes of this subsection identified in paragraph (1); and

"(II) the requirements of the cooperative agreement specified in paragraph (4).

"(B) SERVICE DELIVERY PLAN.—

"(i) DISTRIBUTION REQUIREMENTS.—Subject to clause (iii), a description of the plan of the entity to ensure the distribution of not less than—

"(I) 3,000 vouchers for mentoring services in the first year in which the cooperative agreement is in effect with that entity;

"(II) 8,000 vouchers for mentoring services in the second year in which the agreement is in effect with that entity ; and

"(III) 13,000 vouchers for mentoring services in any subsequent year in which the agreement is in effect with that entity.

"(ii) SATISFACTION OF PRIORITIES.—A description of how the plan will ensure the delivery of mentoring services to children identified in accordance with the requirements of paragraph (1)(A).

"(iii) SECRETARIAL AUTHORITY TO MODIFY DISTRIBUTION REQUIREMENT.—The Secretary may modify the number of vouchers specified in subclauses (I) through (III) of clause (i) to take into account the availability of appropriations and the need to ensure that the vouchers distributed by the entity are for amounts that are adequate to ensure the provision of mentoring services for a 12-month period.

"(C) COLLABORATION AND COOPERATION.—A description of how the entity will ensure collaboration and cooperation with other interested parties, including courts and prisons, with respect to the delivery of mentoring services under the demonstration project.

"(D) OTHER.—Any other information that the Secretary may find necessary to demonstrate the capacity of the entity to satisfy the requirements of this subsection.

"(4) COOPERATIVE AGREEMENT REQUIREMENTS.—A cooperative agreement awarded under this subsection shall require the eligible entity to do the following:

"(A) IDENTIFY QUALITY STANDARDS FOR PROVIDERS.—To work with the Secretary to identify the quality standards that a provider of mentoring services must meet in order to participate in the demonstration project and which, at a minimum, shall include criminal records checks for individuals who are prospective mentors and shall prohibit approving any individual to be a mentor if the criminal records check of the individual reveals a conviction which would prevent the individual from being approved as a foster or adoptive parent under section 471(a)(20)(A).

"(B) IDENTIFY ELIGIBLE PROVIDERS.—To identify and compile a list of those providers of mentoring services in any of the 50 States or the District of Columbia that meet the quality standards identified pursuant to subparagraph (A).

"(C) IDENTIFY ELIGIBLE CHILDREN.—To identify children of prisoners who require mentoring services, consistent with the priorities specified in paragraph (1)(A).

"(D) MONITOR AND OVERSEE DELIVERY OF MENTORING SERVICES.—To satisfy specific requirements of the Secretary for monitoring and overseeing the delivery of mentoring services under the demonstration project, which shall include a requirement to ensure that providers of mentoring services under the project report data on the children served and the types of mentoring services provided.

"(E) RECORDS, REPORTS, AND AUDITS.—To maintain any records, make any reports, and cooperate with any reviews and audits that the Secretary determines are necessary to oversee the activities of the entity in carrying out the demonstration project under this subsection.

"(F) EVALUATIONS.—To cooperate fully with any evaluations of the demonstration project, including collecting and monitoring data and providing the Secretary or the Secretary's designee with access to records and staff related to the conduct of the project.

"(G) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—To ensure that administrative expenditures incurred by the entity in conducting the demonstration project with respect to a fiscal year do not exceed the amount equal to 10 percent of the amount awarded to carry out the project for that year.

"(5) VOUCHER REQUIREMENTS.—A voucher for mentoring services provided to the family of a child identified in accordance with paragraph (1)(A) shall meet the following requirements:

"(A) TOTAL PAYMENT AMOUNT; 12-MONTH SERVICE PERIOD.—The voucher shall specify the total amount to be paid a provider of mentoring services for providing the child on whose behalf the voucher is issued with mentoring services for a 12-month period.

"(B) PERIODIC PAYMENTS AS SERVICES PROVIDED.—

"(i) IN GENERAL.—The voucher shall specify that it may be redeemed with the eligible entity by the provider accepting the voucher in return for agreeing to provide mentoring services for the child on whose behalf the voucher is issued.

"(ii) DEMONSTRATION OF THE PROVISION OF SERVICES.—A provider that redeems a voucher issued by the eligible entity shall receive periodic payments from the eligible entity during the 12-month period that the voucher is in effect upon demonstration of the provision of significant services and activities related to the provision of mentoring services to the child on whose behalf the voucher is issued.

"(6) PROVIDER REQUIREMENTS.—In order to participate in the demonstration project, a provider of mentoring services shall—

"(A) meet the quality standards identified by the eligible entity in accordance with paragraph (1);

"(B) agree to accept a voucher meeting the requirements of paragraph (5) as payment for the provision of mentoring services to a child on whose behalf the voucher is issued;

"(C) demonstrate that the provider has the capacity, and has or will have nonfederal resources, to continue supporting the provision of mentoring services to the child on whose behalf the voucher is issued, as appropriate, after the conclusion of the 12-month period during which the voucher is in effect; and

"(D) if the provider is a recipient of a grant under this section, demonstrate that the provider has exhausted its capacity for providing mentoring services under the grant.

"(7) 3-YEAR PERIOD; OPTION FOR RENEWAL.—

"(A) IN GENERAL.—A cooperative agreement awarded under this subsection shall be effective for a 3-year period.

"(B) RENEWAL.—The cooperative agreement may be renewed for an additional period, not to exceed 2 years and subject to any conditions that the Secretary may specify that are not inconsistent with the requirements of this subsection or subsection (i)(2)(B), if the Secretary determines that the entity has satisfied the requirements of the agreement and evaluations of the service delivery demonstration project demonstrate that the voucher service delivery method is effective in providing mentoring services to children of prisoners.

"(8) INDEPENDENT EVALUATION AND REPORT.—

"(A) IN GENERAL.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

"(B) DEADLINE FOR REPORT.—Not later than 90 days after the end of the second fiscal year in which the demonstration project is conducted under this subsection, the Secretary shall submit the report required under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include—

"(i) the number of children as of the end of such second fiscal year who received vouchers for mentoring services; and

"(ii) any conclusions regarding the use of vouchers for the delivery of mentoring services for children of prisoners.

"(9) NO EFFECT ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—A voucher provided to a family under the demonstration project conducted under this subsection shall be disregarded for purposes of determining the eligibility for, or the amount of, any other Federal or federally-supported assistance for the family.".

(2) CONFORMING AMENDMENTS.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section and paragraph (1) of this subsection, is amended—

(A) in subsection (a)—

(i) in the subsection heading, by striking "PURPOSE" and inserting "PURPOSES"; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking "PURPOSE" and inserting "PURPOSES";

(II) by striking "The purpose of this section is to authorize the Secretary to make competitive" and inserting "The purposes of this section are to authorize the Secretary—

"(A) to make competitive";

(iii) by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(B) to enter into on a competitive basis a cooperative agreement to conduct a service delivery demonstration project in accordance with the requirements of subsection (g).";

(B) in subsection (c)—

(i) by striking "(h)" and inserting "(i)"; and

(ii) by striking "(h)(2)" and inserting "(i)(2)";

(C) by amending subsection (h) (as so redesignated by paragraph (1)(A) of this subsection) to read as follows:

"(h) INDEPENDENT EVALUATION; REPORTS.—

"(1) INDEPENDENT EVALUATION.—The Secretary shall conduct by grant, contract, or cooperative agreement an independent evaluation of the programs authorized under this section, including the service delivery demonstration project authorized under subsection (g).

"(2) REPORTS.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit a report to the Congress that includes the following:

"(A) The characteristics of the mentoring programs funded under this section.

"(B) The plan for implementation of the service delivery demonstration project authorized under subsection (g).

"(C) A description of the outcome-based evaluation of the programs authorized under this section that the Secretary is conducting as of that date of enactment and how the evaluation has been expanded to include an evaluation of the demonstration project authorized under subsection (g).

"(D) The date on which the Secretary shall submit a final report on the evaluation to the Congress."; and

(D) in subsection (i) (as so redesignated)—

(i) in the subsection heading, by striking "RESERVATION" and inserting "RESERVATIONS"; and

(ii) in paragraph (2)—

(I) by amending the paragraph heading to read as follows: "RESERVATIONS";

(II) by striking "The" and inserting the following:

"(A) RESEARCH, TECHNICAL ASSISTANCE, AND EVALUATION.—The"; and

(III) by adding at the end the following:

"(B) SERVICE DELIVERY DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of awarding a cooperative agreement to conduct the service delivery demonstration project authorized under subsection (g), the Secretary shall reserve not more than—

"(I) $5,000,000 of the amount appropriated under paragraph (1) for the first fiscal year in which funds are to be awarded for the agreement;

"(II) $10,000,000 of the amount appropriated under paragraph (1) for the second fiscal year in which funds are to be awarded for the agreement; and

"(III) $15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

"(ii) ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least $25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.".

SEC. 9. REAUTHORIZATION OF THE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended in each of subsections (c)(1)(A) and (d) by striking "2006" and inserting "2011".

SEC. 10. REQUIREMENT FOR FOSTER CARE PROCEEDING TO INCLUDE, IN AN AGE-APPROPRIATE MANNER, CONSULTATION WITH THE CHILD THAT IS THE SUBJECT OF THE PROCEEDING.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting "(i)" after "with respect to each such child,";

(2) by striking "and procedural safeguards shall also" and inserting "(ii) procedural safeguards shall"; and

(3) by inserting "and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;" after "parents;".

SEC. 11. TECHNICAL AMENDMENTS.

(a) UPDATING OF ARCHAIC LANGUAGE.—

(1) Section 423 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act—

(A) is amended by striking "per centum" and inserting "percent"; and

(B) by striking "He" and inserting "The Secretary".

(2) Section 424(a) of such Act, as so redesignated by section 6(b)(2) of this Act, is amended by striking "per centum" and inserting "percent".

(b) ELIMINATION OF OBSOLETE PROVISION.—Section 426 of such Act (42 U.S.C. 626) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(c) TECHNICAL CORRECTION.—Section 431(a)(6) of such Act (42 U.S.C. 629a(a)(6)) is amended by striking "1986" and inserting "1996".

SEC. 12. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to subpart 1 of part B, or a State plan approved under subpart 2 of part B or part E, of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—Section 3(c) shall take effect on the date of the enactment of this Act.

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Act, insert the following: "An Act to amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.".

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of S. 3525, the Child and Family Services Improvement Act of 2006. I would like to thank the gentleman from Washington (Mr. MCDERMOTT) and many other Members for their support of this bipartisan legislation.

This legislation reauthorizes and improves oversight and accountability of numerous child protection programs that will provide about $4 billion during the next 5 years to help keep children safe.

In recent years, the subcommittee I chair has held a dozen hearings on our Nation's child protection system. Every witness testified about the need to reform this broken system, which too often has lost track of children or placed them in homes where they suffered continued abuse and neglect.

The legislation before us today includes a number of provisions designed to improve the monitoring of children in foster care and to hold States more accountable for the care they provide. This legislation will require States to ensure that at least 90 percent of children in foster care are visited on a monthly basis in response to research highlighting the importance of frequent visits in promoting child safety.

This legislation also makes substantial improvements to the Child Welfare Services program. For example, this program now is permanently authorized. As a result, there has been little oversight and monitoring of the Child Welfare Services program in recent decades. This legislation will authorize this program through fiscal year 2011, ensuring that future Congresses examine this program, as improved in this bill, to make sure that it is operating properly.

This legislation also stresses preventing abuse and neglect from occurring, not just managing its effects. Among other measures, it targets new funds to a key cause of child abuse and neglect: parental drug abuse, including by parents who abuse methamphetamine, which is a major concern in my own northern California congressional district. A total of $145 million in program funds will be available to community groups working with child welfare officials to help keep parents off drugs.

Mr. Speaker, I have highlighted just a few of the many improvements this legislation will make to our Nation's child protection system, but there is still much more work to do. Children still linger in foster care waiting for permanent families. Every year, almost 24,000 of these youths age out of foster care without a family of their own. We will continue to work to ensure this system protects these children and promotes a brighter future. We also will continue our efforts to ensure that Federal taxpayer dollars are being spent properly within these programs. Today marks one step forward towards those goals.

This legislation has the support of numerous organizations including the Children's Defense Fund, the Child Welfare League of America, and the National Indian Child Welfare Association.

I thank all the Members and staff who have worked to bring this legislation to the floor today. The Child and Family Services Improvement Act is good legislation, and I urge all my colleagues to support it.

Mr. Speaker, I rise today in strong support of S. 3525, the Child and Family Services Improvement Act of 2006. I'm pleased to be here today with the gentleman from Washington who is a cosponsor of this bipartisan legislation. I'd like to thank the many Members from both sides of the aisle for their support. This has been a truly bipartisan effort at all stages and I'm pleased we are here today to move this legislation forward to the President for his signature.

This legislation reauthorizes and improves numerous child protection programs that combined will provide about $4 billion during the next 5 years to keep children safe. These programs are the Promoting Safe and Stable Families program, the Child Welfare Services program, the Court Improvement program, and the Mentoring Children of Prisoners program.

S. 3525 takes an important step forward in our efforts to prevent child abuse and neglect by keeping families together and preventing, whenever possible, the unnecessary separation of children from their families. Over the past 6 years, the subcommittee that I chair has held 12 hearings to explore our Nation's child protection system. Every witness has testified to improvements and reforms that are necessary to fix this broken system. The legislation before us today includes a number of provisions that address these issues we have heard so much about.

First, time and time again we have seen stories of children lost by caseworkers, children who have gone missing in the foster care system, or even worse, children who have suffered abuse in homes in which they are placed. No one who sat through these hearings will soon forget the images of four boys in New Jersey who were starved by their adopted parents and were discovered by a neighbor rummaging for food in the trash. There is little doubt that States need to increase oversight and monitoring of these children and the legislation before us today will ensure that happens.

S. 3525 will require all States to ensure at least 90 percent of children in foster care are visited on a monthly basis by their caseworker, and to ensure that the majority of these visits occur in the child's residence. States will work with the Department of Health and Human Services to establish targets to reach this goal by fiscal year 2012. In any year in which a State fails to reach its target, we will continue to make the State's full Federal allotment available to them but the State will need to increase their own spending in order to access those funds. Further, to help States achieve this standard, the legislation directs $95 million to be spent on activities that help ensure children are visited on a monthly basis and that these visits are well-planned and focused on assessing the child's safety and well-being.

Second, we have heard repeatedly how Federal funds for child welfare disproportionately assist kids after they have been removed from their homes, instead of preventing the abuse or neglect that results in the need for their removal in the first place. This legislation will encourage States to invest more dollars in activities that keep families together when appropriate by limiting the amount that can fund basic administrative costs as well as by targeting these dollars for prevention and family support services. Also, States will be required to submit actual spending data for these programs, which will enhance our oversight of State activity on behalf of these children.

And third, substance abuse by parents and caretakers, particularly abuse of methamphetamine, is having a substantial impact on the child welfare system in some areas. This legislation will direct $145 million for grants to law enforcement personnel, court personnel, and others involved with the child welfare system to partner with the State child welfare agency to devise solutions to this problem.

I'm pleased this legislation continues the Mentoring Children of Prisoners program and provides for a voucher pilot program to expand the availability of mentoring services for children. There are approximately 4,000 mentoring organizations nationwide, and these vouchers will enable families to select an organization from which children can receive these important services. Few dispute the tremendous impact a mentor can have in the life of a troubled child. I'm very pleased we have reached an agreement to include this program, a priority of the Bush administration, in this legislation.

Mr. Speaker, I've highlighted just a few of the many improvements this legislation will make to our Nation's child protection system. But there is still much more work to do. Children linger in foster care waiting for permanent families. Every year almost 20,000 of these youths age out of foster care without a family of their own. We will continue to work to ensure this system protects these children and promotes a brighter future for them. Today is a major step forward towards that goal.

I thank all the Members and staff who have worked to bring this legislation to the floor today. This legislation has the support of numerous child welfare organizations, including the Children's Defense Fund, Catholic Charities USA, Mentor, and the National Indian Child Welfare Association.

This is an excellent bill and I urge all my colleagues to support it. Attached below is a summary of the legislation.

Report Accompanying S. 3525, The Child and Family Services Improvement Act of 2006, as Amended

PREPARED BY THE STAFF OF THE U.S. HOUSE COMMITTEE ON WAYS AND MEANS AND THE U.S. SENATE COMMITTEE ON FINANCE—SEPTEMBER 26, 2006

Section 1—Short title

"The Child and Family Services Improvement Act of 2006"

Section 2—Findings

The legislation makes a number of findings regarding the provision of services under two child welfare programs authorized under Title IV-B of the Social Security Act, the Child Welfare Services (CWS) program and the Promoting Safe and Stable Families (PSSF) program. The findings note the importance of monthly caseworker visits in improving outcomes for children. They also outline the relationship between the entry of children into the child welfare system and their parent's abuse of methamphetamine and other substances.

Section 3—Reauthorization of the Promoting Safe and Stable Families Program

Current Law

For fiscal year (FY) 2006, authorizes mandatory funding of $345 million for the Promoting Safe and Stable Families (PSSF) program (Title IV-B, Subpart 2 of the Social Security Act) and discretionary funding of $200 million for each of FYs 2002 through 2006.

S. 3525

The legislation extends the mandatory PSSF funding authorization of $345 million for five years (FYs 2007 through 2011) and extends the discretionary funding authorization of $200 million for each of those same five years. The legislation expands the reporting requirement to include both proposed spending and actual spending under the CWS and PSSF programs, and at State option, other programs that support child abuse prevention activities and child welfare services. The legislation also prohibits HHS from making any payment of PSSF funds to a State for administrative costs that exceed 10 percent of total program expenditures (Federal and non-Federal) of a State.

Reason for Change

The PSSF program supports four categories of services provided to children and families: family preservation services, community-based family support services, time-limited reunification services, and adoption promotion and support services. The legislation recognizes the importance of encouraging States to invest in these activities. Thus the legislation provides for the $200 million increase in mandatory PSSF funds over the next five years included in the Deficit Reduction Act of 2005 (P.L. 109-171). In total $345 million in mandatory funds (the recent $305 million allotment of annual mandatory funds, plus a $40 million annual increase provided under the Deficit Reduction Act of 2005) will be provided in each of FYs 2007 through 2011.

The legislation also will ensure better oversight and accountability of spending under the CWS and PSSF programs by requiring States to report on projected and actual spending under these two programs. Specifically, data on actual spending will help track State investments for the four priorities of the PSSF program.

Section 4—Targeting of Promoting Safe and Stable Families Program resources

Current Law

Current law requires States to include assurances in their PSSF plan that they will spend significant portions of their PSSF funds in each of four priority areas: (1) family preservation services; (2) community-based family support services; (3) time-limited family reunification services; and (4) adoption promotion and support services.

S. 3525

The legislation retains the four priorities of PSSF while targeting the additional $40 million per year provided under the Deficit Reduction Act of 2005 (P.L. 109-171) to two new priorities: (1) support for monthly caseworker visits; and (2) competitive grants to promote the well-being of children in or at risk of placement in the child welfare system as a result of their parent's abuse of methamphetamine or other substances.

The legislation provides a total of $95 million to States to support monthly caseworker visits of children in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology. States will receive $40 million from FY 2006 PSSF funds (with these funds available through FY 2009), $5 million in FY 2008, $10 million in FY 2009, and $20 million in each of FYs 2010 and 2011 to support monthly caseworker visits. States cannot use these funds to supplant any Federal funds already paid to the State under the Title IV-E program that could be used for the purposes outlined above.

To promote the well-being of children affected by their parent's abuse of methamphetamine or other substances, the legislation provides a total of $145 million to the Secretary of the Department of Health and Human Services (HHS) to award competitive grants to regional partnerships to pursue innovative approaches to help children and families. Funding will be $40 million in FY 2007, $35 million in FY 2008, $30 million in FY 2009, and $20 million in each of FYs 2010 and 2011. Partnerships must include the State child welfare agency or an Indian tribe and at least one other eligible partner, including: child welfare service providers (non-profit and for-profit), community providers of health or mental health services, local law enforcement agencies, judges and court personnel, juvenile justice officials, school personnel, the State agency responsible for administering the substance abuse prevention and treatment block grant (authorized under Title XIX-B, Subpart II of the Public Health Services Act), and any other providers, agencies, personnel, officials or entities related to the provision of child and family services. Grants of between $500,000 and $1 million per year will be awarded for 2 to 5 year periods.

A priority will be given to grant applications that propose to combat methamphetamine abuse, given its substantial affect on child welfare in some areas. Funding for the grants must be used to support the purposes of this program, which may include family-based comprehensive long-term substance abuse treatment services, early intervention and prevention services, mental health services, parent skills training, and replication of successful models for providing family-based comprehensive long-term substance abuse treatment services. Grantees must provide a 15 percent match in the first and second year, a 20 percent match in the third and fourth year, and a 25 percent match in the fifth year. In-kind contributions can qualify towards the match requirement. The Secretary of HHS must consult with State leaders to develop performance indicators and reporting is required of all grant recipients.

The legislation also redirects current PSSF research funding to support evaluation, research, and technical assistance related to the above two PSSF funding priorities. In each of FYs 2007 through 2011, at least $1 million must be spent for research and technical assistance activities that support monthly caseworker visits and at least $1 million must be spent for research and technical assistance activities with respect to the competitive grant program to promote the well-being of children in or at risk of placement in the child welfare system due to a parent's abuse of methamphetamine or other substances.

Reason for Change

The targeting of funds to support monthly visits of foster children is in response to research highlighting how monthly visits lead to better outcomes for children. The Child and Family Service Reviews (CFSRs) completed in each State found a strong correlation between frequent caseworker visits with children and positive outcomes for children, such as timely achievement of permanency and other indicators of child well-being. However, despite the fact that nearly all States had written standards suggesting monthly visits were State policy, a December 2005 report completed by the HHS Office of the Inspector General found that only 20 States were able to produce reports showing whether caseworkers actually visited children in foster care on at least a monthly basis. States are encouraged to invest these resources in those activities with proven effectiveness in supporting monthly caseworker visits of foster children and should be cognizant that these funds may not supplant what States already spend from their Title IV-E programs for these activities. These resources are intended to increase State investment in these important areas.

Parental substance abuse is a well-known problem affecting the child welfare system, and the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration reported that the number of new uses of methamphetamines (meth) has increased 72 percent in the past decade. A study by the National Association of Counties which surveyed 300 counties in 13 States reported that meth abuse is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements due to meth abuse in 2005.

Section 5—Allotments and Grants to Indian Tribes

Current Law

Requires that 1 percent of all mandatory PSSF funds, and 2 percent of any discretionary appropriations for the PSSF program, be set aside for tribal programs. (The minimum tribal funding provided is $3.45 million and the maximum annual tribal funding possible is $7.45 million.)

Out of the tribal funds reserved, Indian tribes or tribal organizations with an approved plan must be allotted PSSF funds (based on the relative share of tribal persons under age 21 but only among tribes or tribal organizations with approved plans). The Secretary of HHS may exempt a tribe from any plan requirement that it determines would be inappropriate for that tribe (taking into account the resources, needs, and other circumstances of that tribe). However, no tribe or tribal organization may have an approved plan (or receive funds) unless its allotment is equal to at least $10,000. Funds allotted are paid directly to the tribal organization of the Indian tribe to which the money is allotted.

S. 3525

The legislation increases the set-aside for tribal programs to 3 percent of any discretionary funds appropriated. It also increases the set-side for tribal programs to 3 percent of the mandatory funds authorized and which remain after the separate reservation of funds is made for (1) monthly caseworker visits, and (2) competitive grants to combat methamphetamine and other substance abuse. Therefore, the minimum funding available per year for tribal programs would be $9.15 million and the maximum funding would be $15.15 million. The legislation eliminates the ability of the Secretary of HHS to exempt tribes from the PSSF plan requirements related to nonsupplantation, data reporting, and monitoring. However, the Secretary retains the ability to waive for Indian tribes the PSSF requirement to invest significant amounts of program funds in each of the four PSSF activities and to spend no more than 10 percent of PSSF funds on administrative costs.

The legislation also permits tribal consortia to have access to an allotment of PSSF funds (and related technical assistance) on the same basis as such funds are currently available to Indian tribes. A tribal consortium's allotment is to be determined based on the number of tribal persons under age 21 in each tribe that is a part of the tribal consortium. If tribes choose to apply collectively as a consortium, the population of tribal persons under age 21 for each tribe would be combined in order to determine the size of the grant to the consortium, including whether the consortium meets the $10,000 eligibility threshold in the Act. A tribal consortium could select which Indian tribal organization (among the tribes in the consortium) would receive the direct payment of its allotment.

Reason for Change

The legislation recognizes the importance of assisting tribes in their efforts to assist abused and neglected children. The legislation significantly increases the amount of funds provided to tribes and allows tribal consortia to apply for PSSF funds. This step is being taken to encourage the further development of tribal child welfare programs, which largely serve severely disadvantaged communities and families and can do so in a culturally appropriate manner. Permanency outcomes for Indian children can be improved if tribal consortia are able to have access to an allotment of PSSF funding on the same basis as is currently available to Indian tribes. This will facilitate smaller tribes' building their own programs and will allow for administrative efficiencies in tribal program administration.

To collect additional data and ensure proper oversight of these funds, tribes and tribal consortia interested in applying for this substantial increase in PSSF funds will be required to adhere to the same data and monitoring plan requirements as States. This additional data will inform how these funds have helped the tribes better ensure the safety, permanency, and wellbeing of tribal children.

Section 6—Improvements to the Child Welfare Services (CWS) Program

Current Law

Up to $325 million annually is authorized on an indefinite basis for the Child Welfare Services (CWS) program, which provides funds to States to support a wide range of child welfare activities. Federal funding represents 75 percent of total funding for this program, and States are required to contribute 25 percent of total CWS funding from State funds.

S. 3525

The legislation maintains the annual discretionary authorization level of $325 million per year but limits the funding authorization to FYs 2007 through 2011. The legislation also specifies that the purpose of the CWS program for which funds may be expended is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and that ensures all children are raised in safe, loving families, by: (1) protecting and promoting the welfare of all children; (2) preventing the neglect, abuse, or exploitation of children; (3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner; (4) promoting the safety, permanence and well-being of children in foster care and adoptive families; and (5) providing training, professional development and support to ensure a well-qualified child welfare workforce.

The legislation eliminates the plan requirements related to child day care standards and those related to the use of paraprofessionals or volunteers and restates and renumbers the remaining provisions with generally the same intent. It rewrites the provision concerning policies and procedures for children abandoned shortly after birth to assert that a State must have in effect administrative and judicial procedures for children who are abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) to ensure expeditious decisions can be made for their permanent placement. Further, it clarifies that the State may include residential educational programs as a living arrangement for children for whom reunification, adoption, or guardianship have been ruled out as permanency goals. This provision does not undermine current State policies regarding placement of children in adoptive homes and does not eliminate the 25 bed policy.

Beginning October 1, 2007 (i.e. the beginning of FY 2008), the legislation limits administrative funding to 10 percent, but defines administrative funds to exclude caseworker services and supervision of such services. Also beginning in FY 2008, the legislation limits how much each State can expend from Federal CWS funding for foster care maintenance payments, adoption assistance payments, or child day care to what the State can show that it spent for such purposes in FY 2005. Further, beginning with FY 2008, States are not allowed to use State spending on foster care maintenance payments to meet the State matching requirement to receive Federal CWS funds in amounts that exceed what the State spent from such funds in FY 2005.

The legislation also adds new requirements to the CWS plan the State submits to (1) describe how the State consults with and involves physicians and other appropriate medical professionals in the assessment of children in foster care and in determining appropriate medical treatment, and (2) develop a plan on how to respond, track and continue care for children receiving child welfare services in the event of a disaster.

Reason for Change

The legislation will reorganize and update the CWS program and encourage more effective oversight. It also aligns the program to be coterminous with the reauthorization of the PSSF program to allow for better coordination between the two programs. It will encourage States to invest funding in prevention services, but allows each State to maintain in the coming years its FY 2005 level of spending from Federal CWS funds for foster care, adoption assistance and child care purposes. It adds a new State planning requirement to ensure consultation with medical professionals as well as State planning to continue the availability of child welfare services during a disaster.

Section 7—Monthly Caseworker Standard

Current Law

There is no minimum Federal standard for monthly visits of foster children in State custody.

S. 3525

The legislation requires the State to update its CWS State plan by October 1, 2007 to describe its standards for the content and frequency of caseworker visits of foster children in State custody, which at a minimum must ensure that children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, pennanency, and well-being of children.

The legislation also sets a minimum Federal standard requiring each State and territory to achieve by October 1, 2011 monthly caseworker visits for at least 90 percent of foster children in State custody, with the majority of those visits occurring in the child's residence. Each State and territory would be held accountable for its efforts and the legislation prescribes a planning process to achieve this goal. To receive FY 2008 CWS funds, States must submit to HHS data for FY 2007 on the percentage of foster children visited on a monthly basis by their caseworker and the percentage of those visits that occurred in the child's residence. Based on this data, HHS will work with each State to set target levels for the State to meet to achieve a 90 percent monthly visitation standard by FY 2012 and will establish these target levels by June 30, 2008. Then, beginning in FY 2009, States must achieve their annual goal for the percentage of caseworker visits and the percentage of visits that occur in the child's residence, or face an enhanced matching requirement in order to draw down their full allotment of Federal CWS funds. The share of non-Federal spending that is required in a State that does not meet its visitation target level in a year increases by a minimum of 1 percentage point, up to a maximum of 5 percentage points, depending on the degree to which the State has missed its target level; absent the commitment of additional State funds, Federal funds would be reduced to yield the modified State share of overall CWS funding, consistent with the degree of the State's failure to achieve its visitation target for that year.

No later than March 31, 2010, HHS must submit to the House Committee on Ways and Means and the Senate Committee on Finance a report that outlines the progress States have made in meeting their caseworker visitation standards and that offers recommendations, developed in consultation with State administrators of child welfare programs and members of State legislatures, to assist States in meeting this standard.

Reason for Change

Holding States accountable for achieving monthly caseworker visits for at least 90 percent of foster children responds to research highlighting how monthly visits lead to better outcomes for children. HHS shall work with the States to establish a plan to achieve this goal by FY 2012 and States are encouraged to invest the new PSSF resources provided in FY 2006 and later fiscal years in activities that have been shown to be effective in achieving increased caseworker visitation of foster children. The above accountability measure will ensure that, even in the case of a State that fails to fulfill its specified level of caseworker visits, the full Federal CWS allotment to a State will remain available so long as that State increases its State CWS spending modestly, according to the provisions of the legislation.

Section 8—Reauthorization of Program for Mentoring Children of Prisoners

Current Law

The Mentoring Children of Prisoners program is administered by HHS and makes competitive grants to support the establishment or expansion and operation of programs that provide mentoring services to children of prisoners.

S. 3525

The legislation reauthorizes the existing Mentoring Children of Prisoners program through FY 2011 at such sums as may be necessary and increases the HHS set-aside for research, technical assistance, and evaluation from 2.5 percent to 4 percent. It authorizes a new 3-year pilot program to provide vouchers to qualified mentoring groups to offer services to individual children of prisoners, but specifies both annual caps on funding for this purpose and that at least $25 million must be available each year for site-based grants provided under the program. The voucher pilot program will be administered by a national group that will work closely with HHS to manage the program with the goal to distribute at least 3,000 vouchers in the first year, 8,000 vouchers in the second year and 13,000 vouchers in the third year. The legislation specifies that the national group must identify in its voucher distribution plan how the group will prioritize providing vouchers to children in areas which have not been served under the current site-based mentoring program. During the third year of this pilot HHS shall provide a report based on an independent evaluation to the House Committee on Ways and Means and the Senate Committee on Finance on the number of children who received vouchers for mentoring services and any conclusions regarding the voucher pilot program's effectiveness.

Reason for Change

The continuation of the Mentoring Children of Prisoners program will enable public and private organizations to establish or expand projects that provide one-on-one mentoring for children of incarcerated parents and those recently released from prison. At the same time, children have not been able to access mentoring services in some States and rural areas because of the absence of a site-based grant to provide this service. The voucher pilot program will evaluate the effectiveness of using vouchers to expand the delivery of mentoring services to children of prisoners, including to children in rural and underserved areas.

Section 9—Reauthorization of the Court Improvement Program

Current Law

For each of FYs 2002 through 2006, an eligible highest State court (with an approved application) is entitled to a share of funds to assess and make improvements to its handling of child welfare procedures. A set-aside of $10 million from the mandatory funds authorized and 3.3 percent of any discretionary appropriation is provided from the PSSF program to support the Court Improvement Program. To receive its full allotment of these funds the court, in each of FYs 2002 through 2006, is required to provide at least 25 percent of the expenditures for this purpose.

S. 3525

The legislation reauthorizes the funding for the Court Improvement Program for 5 years, through FY 2011.

Reason for Change

The Court Improvement Program has played an important role in assisting State courts in their efforts to expedite judicial proceedings for at-risk children. The legislation will ensure these funds continue to remain available, and is in addition to the $100 million provided over FYs 2006 through 2010 under the Deficit Reduction Act of 2005 (P.L. 109-171) to support training and data collection efforts of State courts.

Section 10—Requirement for foster care proceedings to include, in an age-appropriate manner, consultation with the child that is the subject of the proceeding

Current Law

Current law does not include a standard for consulting with children in court proceedings.

S. 3525

The legislation requires States to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults in an age-appropriate manner with the child regarding the plan being proposed for the child.

Reason for Change

Each child deserves the opportunity to participate and be consulted in any court proceeding affecting his or her future, in an age-appropriate manner.

Section 11—Technical amendments

Section 12—Effective dates

The legislation will become effective on October 1, 2006, except for provisions with other specified effective dates or if HHS determines that a State legislature must act before the State can comply with the changes.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of Senate bill 3525, the Child and Family Services Improvement Act. By passing this legislation, we will better protect our most vulnerable children, the children who are abused and neglected in our society.

This legislation would not have been possible without the leadership and compassion of Mr. WALLY HERGER, the chairman of the Human Resources Subcommittee, I thank him for that, and I recognize the efforts of his staff to collaborate with me and others to write legislation that will make a difference in the lives of vulnerable kids.

For many of these children, we are the last line of defense, separating hope from despair. The Child and Family Services Improvement Act is a lifeline that will save lives. Today, we are first responders to children who need us to rescue them for abuse and neglect.

S. 3525 combines the key features of the legislation we worked together to pass in this House in July, and the bill includes several important provisions authored by the Senate. So it is truly collaborative, both bicameral and bilateral here. This legislation is an example of what is possible when we forget party labels and work together for the common good.

We know the problems confronting our Nation's child welfare system are staggering. We won't solve them all in one day or with one bill. This Improvement Act is not a comprehensive solution. It is, however, a modest but important step in the right direction, a step that can save the lives of abused and neglected children.

This legislation extends for 5 years the Promoting Safe and Stable Families Program. This is the largest source of Federal funding dedicated to preventing child abuse, to safely reuniting troubled families, and promoting adoption when kids can't return home.

The bill also brings the mandatory funding that Indian tribes receive from this program better in line with what the tribes really deserve, and I am proud to say that the measure does more than merely continue current resources.

In this legislation, we fought to recognize the importance of a consistent interaction between caseworkers and foster children. We do this by including meaningful incentives for States to make progress toward ensuring that children in foster care are checked on at least once a month by qualified State caseworkers. Caseworkers are the first responders for children. We recognize that in this legislation, and we support them.

Here is how we do it: To assist the States in assuring that children are visited by first-rate caseworkers, the bill provides States an additional $95 million over the next 5 years to improve their child welfare workforce. These funds will be used to enhance the retention, recruitment, and training of caseworkers, as well as increase their access to useful technology. I personally see this investment as a down payment in the people who are best able to protect vulnerable kids.

The current level of turnover for child welfare caseworkers, that is, tenure on the job, is less than 2 years. That is detrimental to the well-being of foster kids.

Our legislation also makes progress on another issue that threatens the welfare of children. That is substance abuse. Building on a proposal that originated in the Senate, the bill will provide competitive grants for States and community based organizations to launch really a rescue mission for families and children whose health and safety are threatened by their parents' substance abuse problems. We are going to be proactive, and we are going to address this issue and meet the needs head on.

This new grant program would have a special focus on methamphetamine drug use because of the dramatic destabilizing effect it has on families. However, the grants also could be provided to organizations combating other serious drugs, such as heroin and crack cocaine.

I would also like to highlight a provision in this bill that would require the States to have disaster preparedness plans for their child welfare programs. This would require procedures to track displaced foster kids, identify children who may be newly in need of child welfare services because of disaster, preserve essential records, and have a process for communicating and coordinating with other States.

We really don't have to look any further than what happened in this country in Hurricane Katrina to understand why such a requirement is necessary, or to the report I requested the Government Accounting Office conduct, showing that the States are lacking in any kind of plan.

Finally, this bill would extend for 5 years a program that helps our court system track child welfare cases and a program that provides mentoring services for children of prisoners. We will also try a limited demonstration project to test the feasibility and effectiveness of providing services through vouchers.

Today, we have an opportunity to launch a rescue mission for vulnerable kids. I strongly urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. HERGER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), who is an active member of the committee and a former chairman of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to support this legislation; and I am very pleased that it is a bipartisan approach to strengthening our Child and Family Services Improvement Act.

We have heard a great deal during our work on the Human Resources Subcommittee about the Federal Government spending a lot of money reimbursing States to remove children from their homes and place them in foster care. If the State does not remove the child under our Federal foster care program, the Federal Government keeps the funds. It is the only Federal program that actually pays States to remove children from their homes. That is why this legislation is so critical and so important.

Unlike the problematic Federal foster care system, the money in Safe and Stable Families goes to States to target at-risk families, helping States treat the child in their homes, prevent abuse and neglect, and adjust the entire family system to place child outcomes and family permanence above family breakups and foster care.

Pediatricians and teachers will tell you they know early on which families will struggle. We need more community based solutions focused on earlier intervention as well as treatment and care management, which is why I am pleased we are reauthorizing this important legislation and adding a number of provisions to it. One will add $40 million annually. Twenty million of this money will go to increase the number of home visits caseworkers make to at-risk families. This will certainly strengthen the preventative and care quality of our family support systems.

But the other $20 million will increase funding for substance abuse treatment, and I am particularly pleased about that $20 million. As the former Chair of a child guidance clinic many years ago, ever since that day right up to the present day, most experts in this field will tell you that where a family is having difficulty, there is substance abuse. Some member of that family is probably having trouble with alcohol or more serious drugs. So I am very pleased that we are putting some additional dollars behind making substance abuse treatment available to members of these families as we also move to a more holistic approach to strengthening families to prevent the outplacement of children in foster care.

I also want to mention the extension of the Court Improvement Program because this has made a very great difference at the local level in our ability to manage these families, to help these families, to put the appropriate services in place to support them, and has also revealed the great lack of community based services to the court in the service of these families. So that is a very important provision that was introduced by my colleague, Congresswoman DEB PRYCE. As a former judge, she understood the great need for us to better educate the judiciary on the options for children and families, to strengthen those families rather than outplace their children.

I also want to commend the chairman and ranking member on their strengthening of the Mentoring Children of Prisoners Program because this, too, helps prepare the ground for a prisoner to return to an active parenting role and strengthens thereby not only the prisoner but also the children.

□ 1415

Mr. McDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding me the time.

I support 3525 and urge my colleagues to support it. I thank Mr. HERGER and Dr. McDERMOTT for their work in guiding this bill through committee and maintaining funding for case worker improvements and home visits.

The gentlewoman from Connecticut mentioned that she had been on the committee. I have actually been on the committee since the day it was organized in 1975. And the work we are doing here today, led by our chairman, reminds me of much of the bipartisan improvements that have been brought to the support systems for disadvantaged people and children.

There is a lot more to do. There are 800,000 kids who spend time in foster care each year, and the people who provided case work support are understaffed, underpaid, overworked. This bill will go a good ways toward helping them.

In the last report that we had from GAO, we found that in 1999, of the children who aged out, turned 19, out of foster care, that 40 percent of them became dependent on public assistance and Medicaid.

Fifty-one percent were unemployed. Twenty-five percent had spent some time homeless. Twenty-seven percent of the males had been incarcerated at least once.

In the next 15 years we are going to have 300,000 or more foster kids age out, without any transition support. So now I hope that the chairman will join with me and the ranking member as we proceed to see what we can do to make that transition, provide support during those periods of transition so that the foster kids can enter the adult world and become independent and supportive members of society as I know the Chair would like.

I would like to mention one issue, and see if I could indulge the chairman in a brief dialogue on this. There is a practice that just became apparent to us that the Social Security benefits which some of the foster children get, either because they are disabled or their parents have died, they get a Social Security benefit, a small one.

That benefit in almost all States is taken by the States. If the children had a parent alive, that benefit could very well be saved for these children, and when they age out of foster care, could be used for college education, job training, perhaps to buy a car so they could get to their job. And I hope that the Chair would join with me so that we can study the possibility of finding a way to save those Social Security benefits for those children who would not have a parent or would be disabled, so that it will help them in their transition to a responsible adulthood.

I yield to the gentleman from California.

Mr. HERGER. Mr. Speaker, I would like to thank the gentleman from California (Mr. STARK) for your work in this area. I thank you for your support and work on this specific legislation.

I look forward to working with you on the issue that you have just outlined, this issue, and many other issues in this area.

Mr. STARK. I thank the gentleman.

Mr. McDERMOTT. Mr. Speaker, in closing, I would only point out that this bill has been supported by the Child Welfare League of America, Children's Defense Fund, Catholic Charities, Conferences of State Court Administrators and Chief Justices, the Center For Law and Social Policy, Fight Crime, Invest in Kids, the Mentoring Partnership, the National Indian Child Welfare Association, the National Congress of American Indians, the Association of American Indian Affairs.

Mr. Speaker, I think it is a good bill, and it ought to pass by a voice vote.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, the Child and Family Services Improvement Act is good legislation that will help ensure the safety of vulnerable children. It will hold States accountable for visiting children in foster care on at least a monthly basis.

It will target existing resources to help States and local communities address the impact of parental substance abuse on child welfare programs. Again, I would like to thank the gentleman from Washington (Mr. McDERMOTT) and all of my colleagues on both sides of the aisle for their work in crafting this legislation.

Mr. Speaker, I believe it will take an important step towards improving our Nation's child protection system.

Mr. STARK. Mr. Speaker, I rise today to commend my colleagues on both sides of the aisle for working together to produce this important legislation. I would like to especially thank the gentleman from California, Mr. HERGER, Chairman of our Human Resources subcommittee, and the gentleman from Washington, Dr. McDERMOTT, Ranking Member on our subcommittee, for their work in guiding this bill through and reaching a compromise with our Senate counterparts. This bill is an important, although by no means final; step toward improving our child welfare system and providing hope and a bright future to the 800,000 children that spend time in foster care each year. I urge my colleagues to vote yes.

For far too long many foster children and abused children have suffered because their caseworkers are underpaid, overworked, and turnover frequently. A 2003 GAO report concluded that frontline caseworkers should not handle more than 18 cases at a time. Yet data collected by the American Public Human Services Association (APHSA) showed that caseworkers around the country handle an average of 24–31 cases simultaneously. The GAO also found that the average tenure of caseworkers was less than 2 years.

There is a direct relationship between positive outcomes for foster children and the frequency and quality of their interaction with their caseworkers. The more frequent the visits, the safer children are and the better chance they have of gaining permanency. Improving states' abilities to recruit, train, and retain highly skilled caseworkers is one concrete way to help our most vulnerable children.

This bill includes $95 million in funding over 6 years for workforce improvements with the goal of ensuring that 90 percent of foster children are visited by their caseworker at least once a month. This funding is a great first step and one worthy of applause. Mr. HERGER and Dr. McDERMOTT showed tremendous leadership in reaching a compromise with the Senate that maintained funding for caseworker improvement. However, we should not expect that such a relatively small amount of money will transform a troubled system overnight. There is more that we must do in this and other areas to bring about positive changes for foster children.

Fixing our child welfare system has repercussions throughout our society. Foster children who age out of the child welfare system without having developed family supports or skills that can lead to employment create a large societal cost. Consider that a 1999 GAO report found that 40 percent of adults who had aged out of foster care were dependent on public assistance or Medicaid. 51 percent were unemployed; 25 percent had experienced homelessness; 27 percent of males had been incarcerated at least once. In the next 15 years 300,000 foster children will age out of care without any transition supports. This body has a moral obligation to do all we can to confront these sad realities.

Even as I celebrate the progress that the bill before us today represents, I call on my colleagues on both sides of the aisle to take the next step and implement changes that will provide support for children transitioning out of foster care. One such change would be to eliminate the scandalous state practice of robbing foster children of their social security benefits. Nearly every state in the nation confiscates foster children's disability and survivor's benefits when those children are under the responsibility of the state. If this practice were prohibited, foster children could use the money that rightly belongs to them for job training, housing, and transportation expenses. These funds would ease foster children's transition to adulthood and provide them with hope for the future.

I urge you to support the bill before us, but please remember that we still have work to do.

Mr. THOMAS. Mr. Speaker, I rise in strong support of S. 3525, the Child and Family Services Improvement Act of 2006. This legislation reflects a bipartisan agreement developed by the House Ways and Means Committee and the Senate Finance Committee to reauthorize and improve important child welfare programs under our jurisdictions.

Other bills might attract more media attention, but few are more important. This agreement reflects our mutual interest in doing more to ensure children are protected from harm. To achieve this goal, the bill increases resources for activities and services that will help prevent child abuse and neglect from occurring. But it also involves spending more intelligently and with greater accountability the money we have previously committed for these purposes.

For example, we know from numerous reports and simple common sense that when caseworkers visit children in foster care, children are safer and more quickly placed in permanent homes. While most States agree that children in foster care should be visited at least once per month, there currently is no consequence for States that fail to meet that standard. Moreover, data suggest that most States can't even tell which foster children are visited and how often. Very simply, these children and the Federal taxpayers who support these programs deserve much better.

The Child and Family Services Improvement Act is designed to address this shortcoming by requiring additional accountability. Specifically, the legislation will require States to ensure that, within 5 years, they can document caseworker visits once a month to at least 900 percent of foster children.

This is a significant step in the right direction. This legislation requires States to increase child protection funding or risk losing Federal funds. That's the right structure—continue today's generous level of Federal support, but insist that States that don't make the grade contribute more of their own funds to improve these programs.

This agreement will also target $145 million over the next 5 years for preventing and treating parental substance abuse, including involving methamphetamines. This is an issue of great concern to me because the State of California, its Central Valley region, and Kern County, which I represent, unfortunately have significant levels of methamphetamine production, use, and distribution.

The Child and Family Services Improvement Act is good policy; it not only targets increased resources for prevention, it also is fully paid for, which protects taxpayers. Thus, it is not surprising that numerous groups including Catholic Charities, the Center for Law and Social Policy, Lutheran Social Services, and the National Congress of American Indians, have endorsed this important legislation.

Finally, I would like to thank Ways and Means Human Resources Subcommittee Chairman WALLY HERGER and Ranking Member JIM MCDERMOTT, and Senate Finance Committee Chairman CHARLES GRASSLEY and Ranking Member MAX BAUCUS for their hard work on this legislation. Accordingly, I ask my colleagues to support this legislation and send it to the President's desk without delay.

Mr. HERGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and concur in the Senate amendments to the House amendments to the Senate bill, S. 3525.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments to the House amendments to the Senate bill were concurred in.

A motion to reconsider was laid on the table.

PERMITTING EXPENDITURES FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND

Mr. CHOCOLA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6131) to permit certain expenditures from the Leaking Underground Storage Tank Trust Fund.

The Clerk read as follows:

H.R. 6131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPENDITURES PERMITTED FROM THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking "section 9003(h)" and inserting "sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013", and

(2) by striking "Superfund Amendments and Reauthorization Act of 1986" and inserting "Public Law 109–168".

(b) CONFORMING AMENDMENTS.—Section 9014(2) of the Solid Waste Disposal Act is amended by striking "Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986" and inserting "Fund".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. CHOCOLA) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana.

GENERAL LEAVE

Mr. CHOCOLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. CHOCOLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6131, a bill that would permit certain expenditures from the Leaking Underground Storage Trust Fund. I want to thank the Energy and Commerce Committee for their leadership in assisting to move this bill forward, and I urge my colleagues to join me in passing this legislation.

Moneys appropriated from the Leaking Underground Storage Tank Trust Fund, which is often referred to as the LUST trust fund, are used for detection, prevention and clean-up of leaking underground storage tanks in order to reduce water pollution. This bill would codify within the Internal Revenue Code an updated list of permitted expenditures from the fund as sought by the Energy and Commerce Committee and the Environmental Protection Agency within the Energy Policy Act of 2005.

This bill should not be controversial, as it is in everyone's interest to keep our Nation's drinking water from being contaminated. In addition, the bill has no spending or revenue effect.

H.R. 6131 will allow the LUST trust fund to be used for expanding corrective action in response to releases from underground storage tanks, including those containing MTBEs, and will provide additional measures to protect groundwater.

It will expand Federal and State enforcement efforts, improve prevention measures and compliance, and expand inspections of underground storage tanks. Mr. Speaker, we have the opportunity today to join together and continue our efforts to keep our Nation's water supply clean. I urge my colleagues to vote in favor of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us, H.R. 6131, does some good. It would change the rules regarding the Leaking Underground Storage trust fund and allow these funds to address the MTBE leaks. That is shorthand for gasoline additives in underground tanks at your neighborhood gas station.

MTBE leaks are dangerous and destructive, and this legislation will amend the energy bill in a good way. Unfortunately, these additives get into water and create problems for human beings. The legislation does nothing to address the other dangers and destructive leaks in the President's energy policy, however. It does not amend the bill to repeal the tax giveaways the President's energy bill gives Big Oil.

It does not repeal the $30 billion in corporate welfare Republicans have given to Big Oil and their energy companions. It does not make America less dependent on oil, and it does not make America less vulnerable to nations that have the oil resources that we need.

Oil and gas companies continue to line their pockets with American taxpayer dollars. The Republicans have delivered billions in tax breaks last year. That was after the Republicans handed over billions in 2004. Republicans gave oil companies a sweetheart tax break that climbs in value as the process and profits claim. You pay and pay, while they keep and keep.

That sums up the Republican energy policy. Today, we should act to stop one big leak in the Nation's energy policy. It will take removing Republicans in the midterm election to begin to plug the other big leaks in the Republican energy policy.

Mr. Speaker, I reserve the balance of my time.

Mr. CHOCOLA. Mr. Speaker, I continue to reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I also rise today to discuss H.R. 6131, legislation to make technical corrections to the Energy Policy Act of 2005. We are here today to make these technical corrections because of the hastily drafted Energy Policy Act of 2005.

As ranking Democrat of the Environment and Hazardous Materials Subcommittee, which has authorization over the leaking underground storage tank program, I will support the policy to fix this piece of legislation.

However, the bill should not mask the failure of the Bush administration and the Republican-led Congress to adequately fund this Federal program. The Leaking Underground Storage Tank program is responsible for protecting groundwater and local drinking water supplies by preventing and cleaning up MTBE and petroleum contamination from leaking underground storage tanks in our communities.

More than a year ago, Congress dramatically increased the funding authorization for the EPA Leaking Underground Storage Tank program to $605 million annually. This increase was necessary to support additional clean-ups of leaky tanks to ensure States have funding to carry out new inspections, operator training, delivery prohibition, and secondary containment requirements.

However, President Bush proposed a reduction in funding to clean up MTBE and petroleum from the tens of thousands of leaking tanks throughout the country in his fiscal year 2007 budget. The budget which has been approved by the rubber-stamp Congress, in my opinion, is outrageous.

During this time of high gas prices, Americans are being taxed one-tenth of 1 cent for every gallon of gasoline they purchase with the expectation this money will be contributed to the Leaking Underground Storage Tank trust fund and released to help to clean up contamination.

The tax on the American public raises $190 million every year, and by the end of fiscal year 2007, the trust fund will have a surplus of more than $2.7 billion.

Yet President Bush only sought $72.8 million for the clean-up and protection of our water supplies, an amount that the Republican-led Congress said was needed. The amount is nearly $120 million less than what taxpayers will be contributing next year.

Rather than use this money to clean up contamination and protect water supplies, the administration and Republican-led Congress are holding onto the money to offset the cost of Republican budget priorities, such as tax cuts to the wealthy.

Congress acted in the Energy Policy Act of 2005 to take steps to prevent leaks before they occurred by adding new requirements for inspections, operating training, delivery prohibition, and secondary containment. And during consideration of EPACT, Congress authorized $155 million annually to carry out these prevention activities.

Again, the President only requested $37.5 million in his fiscal year 2007 budget, only 24 percent of what Congress authorized. This Congress appropriated even less. The rubber-stamp Congress approved only $17.5 million, only 9 percent of what we authorized for this program.

As a result of Congress's failure to adequately fund the program, States are now facing unfunded mandates. Between 2005 and 2007, States have lost $899 million in Federal support. The lack of Federal support is leading States to consider turning back their programs to the Federal Government, including their tank programs.

In a letter dated December 9, 2005, a coalition of State officials, gasoline marketers, convenience store owners, stated: "If the administration and Congress do not break with tradition and appropriate significantly higher amounts from the fund in the coming years, EPA and the States will be unable to implement those important reforms."

□ 1430

It is unacceptable that our States are being saddled with these unfunded mandates. There is absolutely no reason to justify saddling our States with unfunded mandates and failing to appropriately use taxpayer money.

Mr. Speaker, I will insert at this point in the RECORD a letter Ranking Member DINGELL and I sent to the EPA and the EPA's response.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, February 22, 2006.

Hon. STEPHEN L. JOHNSON,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR JOHNSON: Last summer, the Congress completed the conference on the Energy Policy Act of 2005, and the President signed it into law on August 8, 2005 (P.L. 109–58). Title XV, Subtitle B of the Energy Policy Act of 2005, dramatically increased the authorization for the Environmental Protection Agency Leaking Underground Storage Tank (LUST) program to $605 million annually. This was necessary to support increased cleanups of leaking underground storage tanks and provide funding to States to carry out new inspection, operator training, delivery prohibition, and secondary containment/financial responsibility requirements.

Much of the debate in Congress on this subject over the past few years centered on the escalating costs to cleaning up contamination of drinking water supplies from methyl tertiary butyl ether (MTBE) with the most widely cited estimate being $29 billion. According to the Environmental Protection Agency (EPA) 2006 Annual Performance Plan and Congressional Justification, MTBE contamination can increase cleanup costs from 25 percent to more than 100 percent. This debate led Congress to authorize $400 million per year from the LUST Trust Fund to fund petroleum and MTBE cleanups to minimize the continuing impacts on drinking water supplies and the environment (Section 9014 2(A) & (B) of the Solid Waste Disposal Act).

The President's budget acknowledges that there is a national backlog of over 119,000 confirmed releases in need of cleanup. In addition, the budget documents indicate that new confirmed releases averaged 10,844 annually between FY1999 and FY2005. We also note that completed cleanups nationwide will fall dramatically from 18,518 in FY2003 to the target of 13,000 set forth in the President's FY2007 Budget request.

We also note that the Energy Policy Act of 2005 extended until 2011 the 0.1 cent per gallon tax on motor fuels that all motorists in America pay. According to the budget documents, revenues from this tax were $189 million in FY2005 and are estimated to climb to $194 million in FY2006 and $196 million in FY2007.

The tax revenues are dedicated to the LUST Trust Fund, which will increase from $2.349 billion in FY2005 to an estimated $2.764 billion in FY2007. However, with over $2.7 billion in a dedicated LUST Trust Fund and over $190 million in revenues for FY2007, the President is only requesting $72.8 million—a slight reduction from his FY2006 budget request and less than the enacted level from FY2006. The following table shows the budget requests and enacted levels for the past four Fiscal Years:

LEAKING UNDERGROUND STORAGE TANKS FOR CLEANUP

[Millions]

Budget request		Enacted	
FY2004	$75.5	FY2004	$75.6
FY2005	72.5	FY2005	69.4
FY2006	73.0	FY2006	76.2

LEAKING UNDERGROUND STORAGE TANKS FOR CLEANUP—Continued

[Millions]

Budget request		Enacted	
FY2007	72.8	FY2007	

The President's budget request for FY2007 ignores the clear Congressional intent, demonstrated by a $400 million annual authorization in the Energy Policy Act of 2005, to increase funding for cleanup of leaking underground storage tanks. Why did the President support and sign into law an additional approximate $1 billion in taxes on U.S. motorists if he is not willing to request that the money be spent for the specific purpose for which it is collected?

On December 9, 2005, a coalition of State officials, gasoline marketers, convenience store owners, and major environmental organizations joined together to request that you and Office of Management and Budget, Director Joshua Bolten change the "minimal annual budget requests and appropriations levels . . ." Their letter to you further stated as follows:

"Clearly, the LUST Trust Fund is being used as a Federal deficit reduction device rather than for the important purpose originally envisioned by Congress—protection of the environment. This situation must change. We request your assistance in making this change happen as soon as possible . . .

"The Energy Policy Act of 2005 contained several reforms to the Federal UST [underground storage tank] program that expand the permitted uses of Federal LUST Trust Fund dollars and place substantial new responsibilities on the EPA and State UST agencies. The legislation authorized significant increases in appropriations from the Fund to assure that EPA has the financial resources to implement these reforms, to assure that the new regulatory provisions do not represent an unreasonable burden on the States, and to allow EPA and states to expand their response to UST petroleum releases, including those containing MTBE. If the Administration and Congress do not break with tradition and appropriate significantly higher amounts from the Fund in the coming years, EPA and the States will be unable to implement these important reforms."

This request from State officials who implement the program, tank owners, and public interest groups appears to have fallen on deaf ears. The question is why—particularly since the source of funding for the LUST Trust Fund is a direct tax on the motoring public. We look forward to your response.

We are also aware that the President's FY2007 budget requests an increase in funding from $11 million to $37.5 million, from the State Tribal Assistance Grant (STAG) account for new inspection, operating training, delivery prohibition, and secondary containment/financial responsibility requirements imposed by the Energy Policy Act of 2005. However, the Energy Policy Act of 2005 authorized $155 million (Section 9014(2)(C) & (D) of the Solid Waste Disposal Act) to carry out these specific prevention activities. The President's budget request is only 24 percent of the authorized amount. By what analysis did you determine that $37.5 million was an adequate amount? How much will each State receive? Please provide any analyses that EPA has conducted concerning the adequacy of the President's budget request to fund these important prevention requirements.

We also note and strongly oppose the President's budget request to cut $35 million from the same STAG account for grants to the States to implement the Clean Air Act, and questions on that requested cut will be the subject of separate correspondence.

Please provide a response by no later than Wednesday, March 8, 2006. If you have any questions concerning this request please have your staff contact Richard A. Frandsen, Senior Minority Counsel to the Committee, at (202) 225–3641.

Sincerely,

JOHN D. DINGELL,
Ranking Member, Committee on Energy and Commerce.
HILDA L. SOLIS,
Ranking Member, Subcommittee on Environment and Hazardous Materials.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 30, 2006.

Hon. JOHN D. DINGELL,
Ranking Member, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR CONGRESSMAN DINGELL: Thank you for your February 22, 2006, letter to Administrator Johnson regarding funding for the Environmental Protection Agency's (EPA's) implementation of the underground storage tank (UST) provisions of the Energy Policy Act (EPAct). Implementing these new provisions as well as our ongoing efforts to prevent and clean up leaks from USTs is an important priority for the Agency.

As you noted in your letter, the President's Fiscal Year 2007 budget requested an additional $26 million (for a total of $37.6 million) in state tribal assistance grants (STAG) to support state efforts to implement the UST provisions in EPAct. Most of these provisions help to strengthen prevention aspects of the underground storage tank program (e.g., mandatory inspections, requiring training for UST operators and prohibiting delivery of fuel to ineligible facilities).

EPA believes that the most pressing issue facing states in implementing the UST provisions of EPAct will be completing all of the required inspections and have therefore focused our requested increase to enable states to accomplish this task. Based on estimates of the full cost per inspector (including training and follow-up enforcement support), and the number of inspections that one inspector can do per year, we estimate that the $26 million increase can fund up to 40,000 additional inspections. We believe that this amount, plus what EPA and states are currently doing, should put states in a position to meet the 3-year inspection cycle required by EPAct.

Although EPAct expanded the allowable uses of the Leaking Underground Storage Tank (LUST) Trust Fund to cover compliance and leak prevention activities, a provision inserted in the Transportation Equity Act of 2005 limited EPA's ability to use LUST Trust Fund monies for the purposes authorized by the EPAct. If EPA were to use LUST Trust Fund monies for purposes other than for carrying out leaking underground storage tank cleanup activities authorized by Section 9003(h) of the Solid Waste Disposal Act in effect at the time of the enactment of Section 205 of the Superfund Amendments and Reauthorization Act of 1986, future tax revenue would not be appropriated into the LUST Trust Fund. Expending LUST Trust Fund appropriations for the compliance and leak prevention activities authorized by the EPAct would trigger this provision. For this reason, the President has requested the additional appropriation from STAG rather than from the LUST Trust Fund to provide financial assistance to states to carry out their compliance and leak prevention responsibilities under the EPAct.

Also included in the President's FY 2007 budget is a request for nearly $73 million in LUST funds to be used by EPA, states, and tribes to clean up releases caused by leaking underground storage tanks. To date, almost 330,000 releases have been cleaned up. In fact, since FY 2000, a period when LUST funding levels have averaged about $72 million a year, more than 80,000 sites have been cleaned up, reducing the cleanup backlog from more than 160,000 sites to less than 120,000 sites. As is the case with every budget, EPA must weigh the needs of all programs and we will continue to re-evaluate the adequacy of resources to address this important priority. However, the agency believes that if Congress appropriates the President's request for FY 2007, EPA, states and tribes will be able to continue to make progress cleaning up releases and reducing the backlog of sites needing cleanup.

Thank you, again, for your continued interest in the underground storage tank program. We look forward to working with you as we implement the UST provisions of the EPAct. If you have any further questions or concerns, please contact me, or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

SUSAN PARKER BODINE,
Assistant Administrator.

The President's budget and the actions taken by this rubber-stamp Congress will result in more leaky tanks, more contamination of drinking water supplies, fewer cleanups and very few adverse impacts on the public health and well-being of our communities.

I support, believe it or not, H.R. 6131 and the necessary technical changes it makes, but we must not ignore the real issue at hand, the failure of this President and the administration to prevent contamination of our water supplies and to protect the public health.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

I would simply say, Mr. Speaker, that I think from the previous speaker and myself you understand that this bill does not do any harm. I think that is why we will support it. It does not do very much about the energy problems in this country, and I really think that is where we ought to be spending our time.

If the Federal Government really was interested in cleaning up the environment, they would spend the money that is there. It is there for that purpose. However, they need it to cover the debts of war and a whole lot of other things which, in my opinion, are not the way this money should have been spent.

So I personally will urge a voice vote and pass the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. CHOCOLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the bottom line is that the Energy Policy Act of 2005 authorized an additional $400 million annually for inspection, prevention and cleanup of our water supply; and without passage of this legislation, none of that money can be spent, regardless if you agree with the level of appropriations or not.

So I think it is important that we pass this piece of legislation, and I encourage my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Indiana (Mr. CHOCOLA) that the House suspend the rules and pass the bill, H.R. 6131.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

Mr. SMITH of Texas. Mr. Speaker, pursuant to House Resolution 1038, I call up the bill (H.R. 2679) to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1038, the amendment in the nature of a substitute printed in the bill is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 2679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006".

SEC. 2. LIMITATIONS ON CERTAIN LAWSUITS AGAINST STATE AND LOCAL OFFICIALS.

(a) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is amended—

(1) by inserting "(a)" before the first sentence; and

(2) by adding at the end the following:

"(b) The remedies with respect to a claim under this section are limited to injunctive and declaratory relief where the deprivation consists of a violation of a prohibition in the Constitution against the establishment of religion, including, but not limited to, a violation resulting from—

"(1) a veterans' memorial's containing religious words or imagery;

"(2) a public building's containing religious words or imagery;

"(3) the presence of religious words or imagery in the official seals of the several States and the political subdivisions thereof; or

"(4) the chartering of Boy Scout units by components of States and political subdivisions, and the Boy Scouts' using public buildings of States and political subdivisions.".

(b) ATTORNEY'S FEES.—Section 722(b) of the Revised Statutes of the United States (42 U.S.C. 1988(b)) is amended by adding at the end the following: "However, no fees shall be awarded under this subsection with respect to a claim described in subsection (b) of section nineteen hundred and seventy nine.".

SEC. 3. LIMITATIONS ON CERTAIN LAWSUITS AGAINST THE UNITED STATES AND FEDERAL OFFICIALS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a court shall not award reasonable fees and expenses of attorneys to the prevailing party on a claim of injury consisting of the violation of a prohibition in the Constitution against the establishment of religion brought against the United States or any agency or any official of the United States acting in his or her official capacity in any court having jurisdiction over such claim, and the remedies with respect to such a claim shall be limited to injunctive and declaratory relief.

(b) DEFINITION.—As used in this section, the term "a claim of injury consisting of the violation of a prohibition in the Constitution against the establishment of religion" includes, but is not limited to, a claim of injury resulting from—

(1) a veterans' memorial's containing religious words or imagery;

(2) a Federal building's containing religious words or imagery;

(3) the presence of religious words or imagery in the official seal of the United States and in its currency and official Pledge; or

(4) the chartering of Boy Scout units by components of the Armed Forces of the United States and by other public entities, and the Boy Scouts' using Department of Defense and other public installations.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date of the enactment of this Act and apply to any case that—

(1) is pending on such date of enactment; or

(2) is commenced on or after such date of enactment.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SMITH) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 2679, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2679, the Veterans' Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006, which was introduced by our colleague from Indiana (Mr. HOSTETTLER); and I would like to thank him for his leadership on this issue.

Mr. Speaker, this legislation was reported out of the House Judiciary Committee on November 7 by voice vote. Let me describe the unfair situation that this legislation addresses.

Today, under Federal law, attorneys' fees can be demanded in lawsuits against States or localities brought in under the Constitution's Establishment Clause.

These lawsuits could mandate, for example, that veterans' memorials must be torn down because they happen to have religious symbols on them; that the Ten Commandments must be removed from public buildings; and that the Boy Scouts cannot use public property.

The case law under the Establishment clause is so confused that States and localities know defending themselves in such lawsuits is simply unpredictable.

In 2005, for example, the Supreme Court issued two rulings on the same day that contained opposite holdings in cases involving the public display of the Ten Commandments. In one case, the court found a framed copy of the Ten Commandments in a courthouse hallway to be an unconstitutional establishment of religion, but in the other case the court upheld a Ten Commandments monument on the grounds of the Texas State Capitol. Not only were these two rulings different, but different constitutional tests were used in each case.

The threat to States and towns having to pay attorneys' fees in such cases, should they happen to lose at any level, often leads those States and localities to give up whatever rights they might have under the Constitution, even before such cases go to trial.

This bill will prevent the legal extortion that currently makes State and local governments, and the Federal Government, accede to demands for the removal of religious imagery when such removal is not even constitutionally compelled by the Constitution.

The Supreme Court has stated that "the State may not establish a religion of secularism in the sense of affirmatively opposing or showing hostility to religion, thus preferring those who believe in no religion over those who do believe."

Contrary to that principle, current litigation rules are hostile to religion because they allow some groups to coerce States and localities into removing any reference to religion in public places.

This unfair result is made possible because 42 United States Code, section

1983, and 42 United States Code, section 1988, allow advocacy organizations to put the following choice to localities: either do what we want and remove religious words and imagery from the public square, or risk a single adverse judgment by a single judge that requires you to pay tens or hundreds of thousands of dollars in legal fees in a case you cannot afford to litigate.

Consequently, local governments are being forced to accede to the demands of those seeking to remove religious words or tear down symbols, and ban religious people from using the public square, even when allowing those uses might, in fact, be constitutional.

H.R. 2679 amends 42 U.S.C. so that attorneys' fees could not be awarded to prevailing parties in Establishment Clause cases. It amends 42 U.S.C. to make clear that while Establishment Clause cases can continue to be brought against State and local governments, they can be brought only for injunctive or declaratory relief.

This means that a court can still order that a State official or local government stop doing whatever was an alleged violation of the Establishment Clause.

One example of the unfairness this legislation would prevent is a recent case in which the County of Los Angeles was forced to remove a tiny cross from its official county seal that symbolized the founding of that city by missionaries. This tiny cross was on the seal for 47 years. This is costing the county $1 million, as it entailed changing the seal on some 90,000 uniforms, 6,000 buildings, and 12,000 county vehicles.

In Redlands, California, the city council reluctantly gave in to demands and agreed to change their official seal. But Redlands did not have the municipal funds to replace the seal. As reported by the Sacramento Bee, "rather than face the likelihood of costly litigation," Redlands residents now "see blue tape covering the cross on city trucks, while some firefighters have taken electric drills to 'obliterate it' from their badges."

Mr. Speaker, this is just the kind of injustice this bill seeks to correct.

Finally, Mr. Speaker, H.R. 2679 is clearly constitutional. It has a secular legislative purpose, namely that of preventing the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits their constitutional actions. In doing so, this bill restores the original purpose of 42 U.S.C., which was to protect individual rights, not Establishment Clause claims.

H.R. 2679 also does not have the primary effect of either promoting or inhibiting religion. Rather, it simply removes the burdensome effects of the current legal rules.

So, again, Mr. Speaker, this bill is constitutional and does not prevent lawsuits from being filed.

I urge my colleagues to join me in supporting this legislation and protect the religious rights of all citizens.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas has a complaint, but his complaint is not against the American Civil Liberties Union, nor is it against section 1983 of the Code. His complaint is against the first amendment of the United States Constitution.

The authors of this bill do not like the protection the courts have given to plaintiffs who allege that their constitutional rights against the establishment of religion in the first amendment have been violated. So he says let us be punitive for winning.

The law says that anyone who brings a lawsuit against the government, Federal, State or local government, and alleges that that government, under color of law, is violating their constitutional rights, if that plaintiff wins, if the court says, and it is not just one judge because it is appealable up to the Supreme Court, but if the court says, yes, Mr. Plaintiff, that government official, mayor so and so, police commissioner so and so, or whatever violated your constitutional rights, you can get damages if you have, in fact, been damaged, monetary damages as you can in any civil lawsuit. You can get an injunction, stop, do not keep doing it, do not keep violating constitutional rights. And you can apply for attorneys' fees.

That is a very important provision. Because these lawsuits can be expensive, and if you cannot get attorneys' fees, it is very difficult to sue, even if you have a very well-established violation of your constitutional rights, and these attorneys' fees are only if you win the lawsuit.

So what does his bill come along and say? Only for establishment cases. We do not like establishment cases. We do not like the Establishment Clause of the Constitution. Only for Establishment Clause violations, you cannot get damages if you prove the government has violated your rights. Only for Establishment Clause cases, you cannot get attorneys' fees if you prove the government has violated your rights.

For any other deprivation of rights under law, violation of the free exercise clause of religion, violation of freedom of speech, freedom of press, whatever, you can get damages; you can get attorneys' fees.

This puts at a disadvantage in enforcing the law one class of people, religious minorities, basically, people who will sue the government for violating their rights under the Establishment Clause.

In more than a century, nothing like this has ever been done. We have always expanded rights under section 1983, our Nation's oldest and most durable civil rights laws. We have never curtailed them.

Just to be sure, I checked with the Congressional Research Service; and I place their memorandum to that effect in the RECORD at this point.

CONGRESSIONAL RESEARCH SERVICE,
July 25, 2006.

To: House Judiciary Committee.
From: Kenneth R. Thomas, Legislative Attorney, American Law Division.
Subject: Scope of the Proposed Public Expression of Religion Act of 2005.

The memorandum is in response to your request to examine the scope of H.R. 2679, the Public Expression of Religion Act of 2005, which would limit the relief available and the payment of attorney's fees for cases brought under 42 U.S.C. §1983 when the underlying case involves the Establishment Clause of the First Amendment of the Constitution. Specifically, you requested an analysis of whether Congress had previously limited the types of damages available under 1983 as regards particular constitutional provisions. Second, you requested an analysis as to whether the bill would be limited to the public expression of religious faith in a governmental context, or whether this bill would also affect other Establishment Clause issues.

42 U.S.C. §1983 addresses a broad array of rights and privileges protected by the United States Constitution. It provides that:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

The proposed Public Expression of Religion Act of 2005 would appear to limit certain litigants from receiving either damages or attorneys fees. Specifically, the proposed Act provides that "[t]he remedies with respect to a claim under [42 U.S.C. §1983] where the deprivation consists of a violation of a prohibition in the Constitution against the establishment of religion shall be limited to injunctive relief." The bill also amends 42 U.S.C. 1988(b) to provide that no attorney's fees shall be awarded with respect to a claim under 42 U.S.C. §1983 regarding the Establishment Clause.

42 U.S.C. §1983 was first passed in 1871. Although it has been recodified and relatively recently amended, it has not been substantially altered since 1871. It does not appear that it has been amended so as to limit the type of damages available to litigants who choose to utilize its provisions regarding particular constitutional issues. Whether such a limitation is constitutional is beyond the scope of this memorandum.

The provisions of the proposed Public Expression of Religion Act of 2005, despite its title, would appear to include both the public expression of religion under governmental auspices and a variety of other issues. The types of cases which the bill would cover would appear to include, among other things, cases involving financial assistance to church-related institutions, governmental encouragement of religion in public schools (prayers, bible reading), access of religious groups to public property, tax exemptions of religious property, exemption of religious organizations from generally applicable laws, Sunday closing laws, conscientious objectors, regulation of religious solicitation, religion in governmental observances, and religious displays on government property.

It is especially ironic because my friends who today are supporting this bill only yesterday brought forward a bill that would expand the rights of real estate developers, garbage dumps and adult bookstores under section 1983. So the rights they would give to adult bookstores, we would take away from people whose religious freedom rights are violated. That is, I guess, what has become of the party of Lincoln. That is their civil rights agenda in 2001.

This bill is aimed at people who have proved in court that the government has violated their religious liberty protected by the first amendment. By denying them their normal relief for monetary damages and the bill to petition for attorneys' fees, we will deny them not just their day in court, we would also be telling government officials everywhere that Congress thinks it is okay for them to violate people's religious liberty with impunity.

It is especially galling after everyone here, well, almost everyone, has taken a victory lap for reauthorizing the Voting Rights Act, in which we actually enhanced the attorneys' fees provisions by adding a right to be awarded the cost of expert witnesses in addition to the right to be awarded the cost of lawyers.

As the Judiciary Committee stated in its report on the Voting Rights Act, "The committee received substantial testimony indicating that much of the burden associated with either proving or defending a section 2 vote dilution claim is established by information that only an expert can prepare. In harmonizing the Voting Rights Act of 1965 with other Federal civil rights laws, the committee also seeks to ensure that those minority voters who have been victimized by continued acts of discrimination are made whole."

But here we want to say that people with minority religious views who are victimized by government breaking of the Establishment Clause, they shall not be made whole because we do not like them.

☐ 1445

I would warn my colleagues that starting down this path will only lead to depriving other unpopular groups of their civil rights remedies. It wasn't so long ago that attacks on unelected judges and ACLU lawyers, as we heard a few moments ago, stirring up trouble, was the common language of the militant segregationists. It is distressing, and sadly ironic, that today that language is being used to gut the Nation's oldest and most durable civil rights law.

It is all chillingly reminiscent of the infamous 1963 inauguration speech of Alabama's Governor George Wallace who said, "From this day, from this hour, from this minute we give the word of a race of honor that we will tolerate their boot in our face no longer, and let those certain judges put that in their opium pipes of power and smoke it for what it is worth." I think the Governor would feel right at home in this House today.

Or consider the notorious "Southern Manifesto" signed by Members of both houses in defiance of the Supreme Court's school desegregation decision several decades ago:

"We regard the decisions of the Supreme Court in the school cases as a clear abuse of judicial power. It climaxes a trend in the Federal judiciary undertaking to legislate, in derogation of the authority of Congress, and to encroach upon the reserved rights of the States and the people."

Does any of this sound familiar? I would observe that abuses of judicial power are in the eyes of the beholder.

This is not to suggest that any Members of this House are segregationists. Far from it. I only recall the overheated rhetoric of a half century ago to urge Members to take care with their words. Unpopular minorities and decisions defending the rights of unpopular minorities against the will of the majority have always inflamed passions. People have always questioned our system of checks and balances, and especially the role of the independent judiciary.

Recourse to an independent judiciary is a bulwark of our liberties. We recognize this by allowing people to go to court and sue the government and force the government to respect their rights. We recognize this by allowing people victimized by the government to receive damage awards when the government has done damage. We recognize this by ensuring, just as we have done with the Voting Rights Act, that people who can prove their rights have been violated can get attorneys fees paid so that people with valid claims will be able to afford to go to court to vindicate those claims.

I would remind my friends that this legislation is not limited to religious symbols in public places. This legislation applies to any violation of the establishment clause. This would include forced prayer. If government forcing your child to say a prayer of another faith is not the establishment of religion, then the phrase has no meaning. If government at some locality decided that that locality was Hindu or Muslim or Wicca, or whatever, pick another unpopular or less popular religion, and all children in school must start the day by saying the profession of faith for that religion, you could go to court. It is a violation of the establishment clause. But under this, you couldn't get damages. You couldn't get attorneys fees. You would have to bear the burden of that lawsuit by yourself.

I want to lay to rest right now the red herring, the lie, that was put into this bill when its title was changed from the Public Expression of Religion Act to the Veterans' Memorials, Boy Scouts, Public Seals, and other Public Expressions of Religion Protection Act of 2006. I know that many sincere people have been misled into believing the ACLU, for example, wants to use section 1983 to force the removal of religious symbols from the individual gravestones of thousands of veterans across the Nation and around the world, hence the new title, hence the citation of these specific instances in this bill.

We received testimony from the American Legion to this effect and Members have received a great deal of mail on the subject because people are spreading misinformation. This assertion is a myth. If you are voting for this bill because you are concerned about national cemeteries, don't bother. Neither the ACLU nor anyone else has ever brought such a lawsuit.

As a matter of fact, I have a letter here from the ACLU taking the opposite position: that individual veterans have a first amendment right to have a religious symbol of their or their family's choice on their gravestones.

AMERICAN CIVIL
LIBERTIES UNION,
Washington, DC, July 25, 2006.

Re the Public Expression of Religion Act (H.R. 2679).

HOUSE OF REPRESENTATIVES,
Committee on the Judiciary,
Washington, DC.

DEAR REPRESENTATIVE, On behalf of the American Civil Liberties Union (ACLU), and its hundreds of thousands of members, activists, and fifty-three affiliates nationwide, we urge you to oppose H.R. 2679, the "Public Expression of Religion Act of 2005." This bill would bar damages and awards of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. H.R. 2679 would limit the longstanding remedies available in cases brought under the Establishment Clause under 42 U.S.C. 1988, which provides for attorneys' fees and costs in all successful cases involving constitutional and civil rights violations.

H.R. 2679 SHUTS THE COURTHOUSE DOORS

If this bill were to become law, Congress would, for the first time, single out one area protected by the Bill of Rights and prevent its full enforcement. The only remedy available to plaintiffs bringing Establishment Clause lawsuits would be injunctive relief. This prohibition would apply even to cases involving illegal religious coercion of public school students or blatant discrimination against particular religions.

Congress has determined that attorneys' fee awards in civil rights and constitutional cases, including Establishment Clause cases, are necessary to help prevailing parties vindicate their civil rights, and to enable vigorous enforcement of these protections. The Senate Judiciary Committee has found these fees to be "an integral part of the remedies necessary to obtain . . . compliance." The Senate emphasized that "[i]f the cost of private enforcement actions becomes too great, there will be no private enforcement. If our civil rights laws are not to become mere hollow pronouncements which the average citizen cannot enforce, we must maintain the traditionally effective remedy of fee shifting in these cases.

Unfortunately, H.R. 2679 would turn the Establishment Clause into a hollow pronouncement. Indeed, the very purpose of this bill is to make it more difficult for citizens to challenge violations of the Establishment Clause. It would require plaintiffs who have successfully proven that the government has violated their constitutional rights to pay their legal fees—often totaling tens, if not hundreds, of thousands of dollars. Few citizens can afford to do so, but more importantly, citizens should not be required to do so where there is a finding that our government has engaged in unconstitutional behavior.

The elimination of attorneys' fees for Establishment Clause cases would deter attorneys from taking cases in which the government has violated the Constitution; thereby leaving injured parties without representation and insulating serious constitutional violations from judicial review. This effectively leaves religious minorities unable to obtain counsel in pursuit of their First Amendment rights under the Establishment Clause.

H.R. 2679 DENIES JUST COMPENSATION

Despite proponents' assertions to the contrary, attorneys' fees are not awarded in Establishment Clause cases as a punitive measure. Rather, as in any case where the government violates its citizens' civil or constitutional rights, the award of attorneys' fees is reasonable compensation for the expenses of litigation awarded at the discretion of the court. After intensive fact-finding, Congress determined that these fees "are adequate to attract competent counsel, but . . . do not produce windfalls to attorneys." H.R. 2679 is contrary to good public policy—it reduces enforcement of constitutional rights; it has a chilling effect on those who have been harmed by the government; and it prevents attorneys from acting in the public's good.

The award of fees in Establishment Clause cases is not a means for attorneys to receive unjust windfalls—it is designed to assist those whose government has failed them.

H.R. 2679 FAVORS ENFORCEMENT OF THE FREE EXERCISE CLAUSE OVER THE ESTABLISHMENT CLAUSE

Among the greatest religious protections granted to American citizens are the Establishment Clause and the Free Exercise Clause. The right to practice religion, or no religion at all, is among the most fundamental of the freedoms guaranteed by the Bill of Rights. Religious liberty can only truly flourish when a government protects the Free Exercise of religion while prohibiting government-sponsored endorsement, coercion and funding of religion. H.R. 2679 creates an arbitrary congressional policy in favor of the enforcement of the Free Exercise Clause, while simultaneously impeding individuals wronged by the government under the Establishment Clause.

Through the denial of attorneys' fee awards under H.R. 2679, plaintiffs will be able to afford the expense of litigation only when they are seeking to protect certain constitutional rights but not others. This bad congressional policy serves to create a dangerous double standard by favoring cases brought under the Free Exercise Clause, but severely restricting cases under the Establishment clause.

Proponents of this bill have been spreading the urban myth that religious symbols on gravestones at military cemeteries will be threatened without passage of H.R. 2679. The supposedly "threatened" religious markers on gravestones has become a red-herring—indeed it is an urban myth—that has been invoked as a reason for the denial of attorneys' fees in Establishment Clause cases. It should be noted—in light of the wildly inaccurate statements that have repeatedly been made—that religious symbols on soldiers' grave markers in military cemeteries (including Arlington National Cemetery) are entirely constitutional.

Religious symbols on personal gravestones are vastly different from government-sponsored religious symbols or sectarian religious symbols on government-owned property. Gravestones and the symbols placed upon them are the choice of individual service members and their families. The ACLU would in fact vigorously defend the first amendment rights of all veteran Americans and service members to display the religious symbol of their choosing on their gravestone.

If the Constitution is to be meaningful, every American should have equal access to the federal courts to vindicate his or her fundamental constitutional rights. The ability to recover attorneys' fees in successful cases is an essential component of the enforcement of these rights, as Congress has long recognized. The bill is a direct attack on the religious freedoms of individuals, as it effectively shuts the door for redress for all suits involving the Establishment Clause. We urge members of Congress to oppose H.R. 2679.

If you have any questions, please contact Terri Schroeder, Senior Lobbyist.

Sincerely,

CAROLINE FREDRICKSON,
Director.
TERRI ANN SCHROEDER
Senior Lobbyist.

Mr. Speaker, it is an election year, and the months leading up to elections have long been known as the "silly season." We all understand that. But get an earmark for a bridge to nowhere or something, and leave the first amendment and our civil rights out of it.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 6 minutes to the gentleman from Indiana (Mr. HOSTETTLER), who is the author of this legislation.

Mr. HOSTETTLER. I thank the gentleman from Texas for yielding.

Mr. Speaker, I rise in support of H.R. 2679, the Public Expression of Religion Act. This legislation would allow establishment clause cases to go to court unfettered by fear or coercion on the part of the defendant. And as an aside, I want to thank the gentleman from New York for clarifying a position earlier made by that side of the aisle when it was suggested by the gentleman from Texas and the gentleman from Massachusetts that somehow this bill would actually affect free exercise cases. But as the gentleman from New York pointed out, this bill does not address free exercise cases.

The Public Expression of Religion Act would amend 42 U.S.C. sections 1983 and 1988 to prevent the mere threats of the legal system to intimidate communities, States, and groups like the American Legion into relenting without ever darkening the doorsteps of a Federal courthouse.

I first introduced the Public Expression of Religion Act in the 105th Congress after I realized that the mention of attorneys fees in these kinds of cases were jeopardizing our constituents' constitutional rights. An example of this was in 1993, when the Indiana Civil Liberties Union, which is affiliated with the American Civil Liberties Union, mailed a letter to all the public educators in the State of Indiana. In this letter, the ICLU informs the educators that should they support a prayer at graduation, the ICLU will sue both the school and any individuals who approve the graduation prayer. The letter plainly states the ICLU will win and that whoever is sued will have to pay not only their attorneys fees but the ICLU fees as well.

These threats to teachers, who are highly unlikely to be able to pay their own attorneys fees let alone the exorbitant attorneys fees of the ICLU, make it very likely educators would capitulate to the ICLU before even checking to make sure the ICLU has their facts right.

What makes this even more difficult for States and localities is that the jurisprudence in establishment clause cases is about as clear as mud. Different districts and even the Supreme Court itself flipflops on issues. For instance, last year, the Supreme Court handed down two Ten Commandments case decisions on the same day with a different decision in each.

In the Van Orden case, the court applied the Marsh test of historical perspective to determine the Ten Commandments in a public venue was constitutional in Texas; while the McCreary case used the Lemon test to determine the Ten Commandments in a public venue in Kentucky was unconstitutional. Clear as mud.

Our constituents who are being threatened with those lawsuits know even if they are right they will still have to pay their own attorneys fees to take the gamble the court will muddle through the jurisprudential mess of the establishment clause and come out on their side. If the court chooses to use the Marsh test, they might win. If the court chooses to use the Lemon test, they might lose. It is a toss-up.

Unfortunately, many of our constituents do not have the means by which to set aside a small fortune each year to defend their constitutional rights against intimidating liberal organizations. Nor do they look kindly on the fact that their constitutional rights have become subject to the whims of unelected judges; but, Mr. Speaker, that issue is for another legislative day. Regardless, many do not wish to roll the dice to have their day in court, so they capitulate to these organizations and their often questionable pronouncement of what is or is not constitutional.

A majority of the cases the ACLU and its affiliates represent are facilitated by staff attorneys or through pro bono work, so any attorneys fees awarded to them is icing on the cake. It is a win-win situation for them right now. On the other hand, States and localities have limited resources with which to fight court battles, thus another reason they are capitulating before they even go to court.

This was the case recently with the Los Angeles County seal. The ACLU threatened to sue L.A. County if they did not remove the tiny cross from the county seal. The cross symbolized Los Angeles' birth as a Spanish mission town. The county was forced to choose between paying to change the seal or paying to go to court and possibly pay exorbitant attorneys fees to the ACLU.

In the end, the L.A. county supervisors, in a 3–2 vote, decided to ignore the will of the people of Los Angeles County and pay to change the seal instead of paying to go to court. They had been advised by their attorneys that if they lost in court they would not only have to change the seal but they would additionally have to pay attorneys fees of the ACLU.

Mr. Speaker, I believe it is time to bring this extortion to an end. The Public Expression of Religion Act would make sure these cases are tried on their merits and are not merely used to extort behavior via settlements outside our judicial system.

As the ICLU said at the end of their letter: "The ICLU does not enjoy litigation. We, and you, have better things to do with our time." I for one would like to make sure the ICLU has to think long and hard before litigating, and this would be the case if they knew they would actually have to convince a court of their twisted view of the Constitution. I urge my colleagues to support the legislation.

Mr. NADLER. Mr. Speaker, I now yield 4 minutes to the distinguished gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague from New York. This bill, which is presented to the Congress under the banner of a so-called American values agenda, turns American values on their head. It is an example of false advertising at its very worst, and it forgets the lessons of American history.

This great country of ours was founded largely on the principle of religious liberty. Many of our earlier settlers to this country came to our shores to escape religious persecution from their mother countries. They didn't want the Church of England or any other government telling them how they should worship God, and they sought to escape a state-imposed religion, to escape the establishment of a state-sponsored religion. They wanted to practice religion according to the dictates of their own conscience, not the dictates of the state. And that is why the first amendment to the United States Constitution gives each individual the right of religious liberty and why it bars the state from imposing and establishing a state religion.

If this Congress and this government now seeks to impose certain religious faiths upon an individual, that individual can invoke the protections of the United States Constitution. Now, I would think all of us, all of us in this body, would agree that an individual should not have to pay to enjoy the protections of the United States Constitution. Those rights are given to each of us as American citizens under the Constitution, and we shouldn't have to pay when the state, whether it is a local government, a State government, or the Federal Government, violates those rights under the establishment clause or anything else. Yet that is exactly what this bill does.

Under current law, if the court finds a statute is violating your constitutional rights under the establishment clause, the State has to pay the cost that you incurred in protecting your rights against the State. If your government deprives you of your constitutionally guaranteed rights and liberties, the government should pay, not you, the individual citizen. This is a question of the force and muscle of the government and the States against an individual in trying to deprive an individual of his or her constitutionally protected right.

I would ask, since when is it an American value that you have to pay to enjoy the protections of our constitution? Since when is an American value that the government can trample on your religious liberty, deprive you of your rights, and then, when a court of law, whether the Supreme Court, a Federal Court, or any other court, has found indeed that the government did deprive you of your constitutional rights and you were right as an individual and the government was wrong, that you have to pay and not the government?

That is simply a way, when you think about it, that the government can discourage individual citizens from enforcing their constitutional rights. They have to take on the government. They have to take on people with lots of resources. Yet, at the end of the day, even when they win, and the court agrees that their constitutional rights have been violated, it is the citizen that has to pay to enjoy those protections, not the government.

This debate is about American values, and if you want to protect those American values and you want to protect the Constitution of the United States, you should vote "no" on this bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, I rise today in very strong support of H.R. 2679, the Public Expression of Religion Protection Act. With this bill, we will close a loophole that has allowed liberal groups like the ACLU to prey on taxpayers for far too long.

Originally, Congress sought to protect underprivileged civil rights applicants by allowing them to collect attorneys fees if they won their suit.

☐ 1500

Today, groups like ACLU scour the country looking to sue cities and States with any kind of religious display, regardless of how popular those religious displays are in those communities. If they sue and win, States and localities not only have to remove or remodel the historic items, but they also must pay the group's attorneys fees. In this backdoor way, the ACLU can collect taxpayer money to fuel even more lawsuits.

Tragically, citizens' precious symbols and monuments are being eroded with their own tax dollars. State seals in existence for hundreds of years have had to be redrawn. Many cities will not even fight in court for fear of paying costly attorneys fees, and some of them just capitulate at the first sign of a lawsuit.

We should not allow these liberal groups to fuel their agendas by exploiting hardworking Americans. The bill before us today removes that attorney fee provision from cases involving establishment of religion. This bill will stop the current taxpayer extortion once and for all.

I urge my colleagues to support this bill.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, any time you name a bill using the words "veterans memorials" and "religious protection," you can assume that we are just about to cut veterans health care.

Now, if we are going to deal with veterans issues, I would hope that we would fully fund the veterans health care VA expenditures rather than cut them. We ought to do more for veterans pensions, we ought to do more for veterans disability, rather than naming a bill which undermines the freedoms they actually fought for.

Thirty years ago, Mr. Speaker, Congress recognized the importance of passing a law to ensure that those who suffer violations of their constitutional rights or unconstitutional discrimination will be able to obtain legal representation to vindicate their civil rights; but only in cases where they actually win the case will they be able to get help with their attorneys fees.

This bill would rescind the ability of victims whose rights under part of the first amendment have been found to have been violated from receiving reimbursement for attorneys fees and costs. This means that only the most fortunate in our society will be able to enforce their civil rights and seek redress when those rights are violated. It means that the less fortunate can only get those rights if they can raise enough money to enforce them. When the cost of enforcement becomes too great, there will not be any private enforcement and then our constitutional rights will be reduced to hollow pronouncements for the average citizens because only the wealthy will be able to seek enforcement.

But this bill goes actually further, because the bill will specifically deprive victims whose rights have been found to be violated by a court and those whose rights continue to be violated after the court has ordered, from being able to seek remedies other than those provided in the bill, namely injunctive or declaratory relief.

Now, if a school system were to decide to ignore the Constitution and require school children to recite a state-sponsored Protestant prayer in some areas, or a Mormon prayer in others, what would happen? Or if a State or locality were to just declare itself to have a particular established religion, what would happen under the bill? Nothing. Nothing would happen, until such time as you have a wealthy individual willing to fund a lawsuit to try to vindicate the obvious violation of their constitutional rights.

In all other classrooms and all other localities where you don't have a wealthy individual to fund the lawsuit, nothing will happen, because the perpetrators of the violation will know that there is no sanction. Nothing can happen. The only thing that can happen is you just sit around and wait for a court to declare that you are in violation. Nothing else can happen. And even after that finding occurs, nothing will happen until the court actually starts enforcing the court order, and you will need additional attorneys fees to go in and get that order.

This just invites violations of the law because we know there is no sanction for violating the first amendment. We know that the establishment clause, part of the first amendment of the Bill of Rights, will be the only part of the Constitution without any remedy to effectively enforce the provisions of that Constitution. That is why virtually every civil rights group, religious organization and legal organization opposes the bill; and, Mr. Speaker, I hope we oppose the bill too.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some opponents of this legislation are arguing that attorneys fees are needed and that establishment clause lawsuits will be deterred unless the people bringing these lawsuits have their attorneys fees paid. This is simply not true.

First, we are aware of no organization that has said they will not bring a good cause case under the establishment clause if they can't be awarded attorneys fees. In fact, the ACLU has said just the opposite. Peter Eliasberg, a staff attorney for the ACLU of Southern California, has said recently, "Money has never been a deciding factor when we take cases." When asked specifically what the ACLU would do if attorneys fees in establishment clause cases were prohibited, he said, "It wouldn't stop us from bringing lawsuits."

Second, this section of the U.S. Code H.R. 2676 amends was never intended to apply to establishment clause cases. 42 U.S.C. 1988, which allows attorneys fees in cases brought under 42 U.S.C. 1983, was intended only to allow the award of attorneys fees under civil rights laws enacted by Congress after 1866.

The history of 42 U.S.C. is as follows: in Alaska Pipeline Service Company v. Wilderness Society, the Supreme Court held that Federal courts do not have inherent power to award prevailing party attorneys fees to remedy government violations of the law. The Court observed that the American rule, that is, the rule that each party bears its own attorneys fees "is deeply rooted in our history and in congressional policy."

Mr. Speaker, I want to make one more point, and that is to emphasize that under H.R. 2679, establishment clause cases can in fact continue to be brought against State and local governments for injunctive or declaratory relief, which means that the court can still order that a State official or local government stop doing whatever it was in alleged violation of the establishment clause

Mr. NADLER. Mr. Speaker, I reserve my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, in response to a discussion earlier about the notion of "false advertising" in relationship to this piece of legislation, I have developed some fairly thick skin over the last several years in this job, but I think that I should draw the line today with regard to suggesting that people such as the American Legion would engage in false advertising in their support of the Public Expression of Religion Act.

In a booklet published by the American Legion entitled "In the Footsteps of the Founders," the American Legion set out a course of action, a battle plan, if you will, in their desire to "mobilize America to urge passage of the Public Expression of Religion Act, or PERA."

They close in their mobilization in this regard: "There simply is no reasonable basis to support the profiteering and attorney fees awards ordered by judges in these cases," meaning establishment clause cases. "The very threat of such fees has made elected bodies, large and small, surrender to the ACLU's demands to secularly cleanse the public square."

They go further to say this: "The American Legion does not intend to surrender to the ACLU or anyone else in defense of veterans memorials, the Boy Scouts or the public display of American religious history and heritage. We are involved because we are veterans who served the Nation when our country called. But most of all, we are involved because we are Americans. 'For God and country' is our credo, and both are imperiled today. In order to win the battle, to safeguard and transmit to posterity the America the Founding Fathers created, it is clear what we must do. We must walk in the footsteps of the Founders. Being involved in making the Public Expression of Religion Act the law of the land is one small but extremely important step that must be taken. This is a crusade we can, we should, we must win, if we are to walk in the footsteps of the Founders. We Americans of this generation can do no less."

So, Mr. Speaker, those are the words of the American Legion themselves that say that today is the day that the House of Representatives must take a stand and must stand in the footsteps of our Founders.

We have heard a lot of discussion today about what this bill would do, that it would essentially eliminate the bringing of establishment clause cases to court. And as the gentleman from Texas has pointed out, even the liberal organizations that some would suggest their funds would be cut off have said this will do nothing to stop them in their pursuit to remove every vestige of religious heritage from our public places. So we should not take that argument at its face, because it is simply not true.

In fact, this bill allows the continuing allowance of injunctive relief, meaning if an individual wants a particular activity to stop or a particular display to be removed, the court can in fact still say that that display must be removed or that that activity must cease. Nothing in this bill eliminates injunctive relief or the ability to enjoin a State or local government to stop violating the establishment clause.

Mr. Speaker, in conclusion, there has likewise been a lot of discussion of the fact that in 1976 the Attorneys Fees Award Act began this march in civil rights with regard to establishment clause cases. That is simply not the fact. In 1962, in Engel v. Vitale, the Supreme Court held, 14 years before the Civil Rights Attorneys Award Act was put in place, the Supreme Court held that prayer in public schools in Engel v. Vitale was unconstitutional. They held a year later in Abington v. Shemp that Bible reading in public schools was unconstitutional as well.

To suggest that the removal of attorneys fees would stop the groups from bringing these cases to court is simply not borne out by history nor by their own words, and so I ask my colleagues to support the Public Expression of Religion Act.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Bilbray).

Mr. BILBRAY. Mr. Speaker, I stand today in support of H.R. 2679. Let me just say as a Representative from San Diego County, we have had a situation that I think both sides of the aisle would say was absolutely absurd, where there was a movement to destroy a war memorial on Mount Soledad, and the justification was because that war memorial happened to have been a religious symbol, a cross. One group, or a small plaintiff, not only was pushing for the destruction of the war memorial, but actually got the fees paid to gain profiteering from the destruction of this war memorial.

Now, you may say there must be a logical reason, it must be reasonable, there must have been some good reason to tear down this war memorial. Mr. Speaker, let me remind you that this body had a chance to vote on exactly the same issue, and this body voted 349 to preserve the war memorial, with 74 voting to destroy it. I think that it is quite clear that this body has said that the preservation of certain religious artifacts did not justify the profiteering by those who would want to destroy it.

I strongly ask us to look at this bill and just think about this: this profiteering not only affects the agencies or the people that have to pay out, like the city of San Diego, but that money could have gone to services throughout the community which proportionately help those needy, those poor and those who need it the most.

□ 1515

So, so much of this profiteering is being made at the expense of those who people on both sides of the aisle say do not get enough resources. I just think it is time that we tell the trial lawyers and we tell those who are profiteering from trying to destroy our religious heritage that we are no longer going to allow them to walk away from the courts with bags of the people's money and individuals' resources that can be used in better locations.

Mr. NADLER. I now recognize the gentleman from Virginia for a unanimous consent request.

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that letters from over a dozen organizations in opposition to this bill be entered into the Record to the extent that some of them have not been entered in the Record so far.

The SPEAKER pro tempore (Mr. Rehberg). Is there objection to the request of the gentleman from Virginia?

There was no objection.

African American Ministers
in Action,
Washington, DC, September 26, 2006.

House of Representatives,
Washington, DC.

Dear Representative: As pastors and leaders of predominately African American congregations across the country, we are writing urging you to oppose passage of H.R. 2679, the "Public Expression of Religion Act of 2005." Where would our nation be on the long march to ending segregation, providing equal education to all, ensuring free speech, enfranchising minorities and women to vote, and a host of other civil rights and civil liberties issues had damages and attorney's fees remedies been denied on those journeys?

This legislation represents an attack on the most fundamental enforcement tools available to people whose religious liberty rights have been violated by singling out those who seek to enforce their constitutional rights under the Establishment Clause of the First Amendment. This is a blatant attack on the religious freedoms of all people of faith. Religious expression is not threatened by the enforcement of the Establishment Clause, but is protected by it. The Establishment Clause promotes religious freedom for all by protecting against government sponsorship of religion.

Congress established enforcement remedies under § 1983 more than 100 years ago and, according to the Congressional Research Service, Congress has never limited or eliminated these remedies, let alone deny them to people seeking judicial enforcement of particular constitutional rights. As pastors, we strongly believe that H.R. 2679 is a deliberate attempt to roll back the clock on the protection of our religious freedoms and the protections we have against those who would attempt to force upon us their own religious ideology.

Should Congress adopt this legislation, the precedent would be set for future denials of these remedies for other constitutionally protected civil rights and liberties. While some claim this is merely technical, damages and the awarding of attorney's fees are critical ingredients necessary to ensure the proper representation in court and redress for constitutional violations. More importantly, they are critical for the protection of our civil rights and civil liberties serving as a disincentive for engaging in such violations.

Justice can be denied in many ways, and denying damages and attorney's fees to those seeking to enforce their constitutional rights will be tantamount to barring the courthouse door and any possibility of vindication of the rights we hold sacred. We urge you to oppose H.R. 2679.

Sincerely,

Rev. Timothy McDonald,
Chair.
Rev. Robert Shine,
Co-Chair.

Association of Trial
Lawyers of America,
Washington, DC, July 25, 2006.

Dear House Judiciary Committee Member: On behalf of the Civil Rights Section of the Association of Trial Lawyers of America, we strongly urge you to vote against H.R. 2679, "Public Expression of Religion Act of 2005." This bill strikes a serious blow against the religious liberties protected under the Establishment Clause of the U.S. Constitution and it sets a precedent for the erosion of other valued constitutional rights.

H.R. 2679 unfairly strips one set of plaintiffs—plaintiffs that bring claims of an Establishment Clause violation—of the important and longstanding civil remedies provided for under Sections 1979 and 722(b) of the Revised Statutes of the United States (42 U.S.C. 1983; 42 U.S.C. 1988(b)). As a result, the bill not only leaves religious minorities without a real means of protecting their constitutional rights, but also encourages state and local sponsored religious activities for the majority without an opportunity for adequate redress, and fosters the suppression of religious liberty for all others. At the core of our Democracy is the principle of religious freedom (i.e., separation of church and state) and the fact that the Establishment Clause forbids the government from forcing a single religious point of view on all Americans. Under the proposed legislation, however, that constitutional mandate and the foundation of our system of government are eviscerated, and religious minorities pay the price.

The current remedial scheme under H.R. 2679 of "limited to injunctive relief" simply does not work. There are countless instances when injunctive relief would not adequately remedy the harm one suffers when a state-actor imposes a religious point of view on a community. One obvious example is forced prayer in school. Once the prayer is read and an individual is harmed, there is nothing injunctive relief can do to redress that harm. In addition, the current draft of the bill does not afford additional protections to a plaintiff if the defendant state-actor breaches a court-imposed injunction. Thus, a state-actor is free from consequence if it does nothing to fulfill the injunctive relief granted and a plaintiff's harm is left without a remedy.

Not only would the remedial scheme under H.R. 2679 inadequately redress a victim's harm, but the effect of it will deter individuals from bringing causes of action for Establishment Clause violations. The proposed legislation does not permit a plaintiff to be awarded attorney's fees, even if he seeks the only civil remedy available—injunctive relief—and is successful. It is expensive to bring a civil action against the government, so if a victim of an Establishment Clause violation is stripped of the fee-shifting provision under Section 1988(b) it is unlikely that he will even bring a claim in the first place. Moreover, the whole purpose of including a fee-shifting provision under Section 1988(b) is to provide victims with limited means an opportunity to have their day in court and protect their constitutional rights against a defendant with limitless resources.

Finally, we ask that you vote against H.R. 2679, because it is a dangerous precedent. The proposed legislation would set the stage for future limitations on the remedies available for civil rights actions under Section 1983. If today we cite certain factors to distinguish the constitutional protections afforded under the Establishment Clause from other constitutional rights, it is just a matter of time before another group claims that one of the remaining constitutional rights is somehow distinguishable and proposes to subject it to limitation. The bottom line is that Section 1983 is the sole mechanism by which a citizen can protect his constitutional rights against unlawful state-action, thus it is imperative that we avoid any legislation that seeks to curtail the extent and potency of the civil actions provided for under that statute.

We strongly urge you to protect the constitutional rights of religious minorities and all Americans: oppose H.R. 2679.

Very Truly Yours,

MATTHEW DIETZ,
Civil Rights Section Chair, 2006–2007.
SUSAN ANN SILVERSTEIN,
Civil Rights Section Chair, 2005–2006.

THE AMERICAN JEWISH COMMITTEE,
OFFICE OF GOVERNMENT AND
INTERNATIONAL AFFAIRS,
Washington, DC, September 15, 2006.

DEAR REPRESENTATIVE: On behalf of the American Jewish Committee (AJC), the nation's oldest human relations organization with over 150,000 members and supporters represented by 32 regional offices, I write to express our strong opposition to the Public Expression of Religion Act of 2005 (H.R. 2679).

H.R. 2679 would deter citizens with legitimate grievances from defending their most basic civil rights in court by limiting longstanding remedies available under 42 U.S.C. 1988. Among other things, H.R. 2679 would bar judges from ordering state or local governments to reimburse the attorney's fees and monetary damages of plaintiffs whose Establishment Clause rights have been proven to be violated, and would make injunctive and declarative relief the only remedies available in such cases.

Access to the federal courts is fundamental to the ability of Americans to vindicate their constitutional rights. With legal fees often totaling as much as hundreds of thousands of dollars, few victims of religious discrimination can afford to bear the costs of a lawsuit when the government violates their constitutional rights. Even blatant instances of coerced prayer in a public school or other religious discrimination will seldom be challenged in court if a single citizen must face the legal resources of a city.

Proponents of H.R. 2679 argue that some municipalities currently settle out-of-court rather than risk paying attorney's fees and monetary damages for frivolous lawsuits. Whatever the merits of this assertion, there is no constitutional claim that may not occasionally lead to frivolous lawsuits. Moreover, at the end of the day, the courts have generally proved adept at filtering out frivolous claims at an early point in litigation, before substantial legal costs can be incurred. Balanced against these realities is the undeniable fact that this bill would deter Americans with legitimate Establishment Clause grievances from asserting their rights in court. Further, once claims under one clause of the First Amendment have been insulated from meaningful remedy, the entire Bill of Rights is at risk.

The ability to seek appropriate remedies, including damages and attorney's fees, is crucial if citizens are to be able to vindicate their constitutional rights in court. Please protect the longstanding ability of Americans to seek damages, and to recoup costs and fees, when faced with basic constitutional violations. For the aforementioned reasons, we strongly oppose H.R. 2679.

Thank you for considering our views on this important matter.

Respectfully,

RICHARD T. FOLTIN,
Legislative Director and Counsel.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, September 12, 2006.
HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the American Civil Liberties Union (ACLU), and its hundreds of thousands of members, activists, and fifty-three affiliates nationwide, we urge you to oppose H.R. 2679, the "Public Expression of Religion Act of 2005." This bill was voted out from the Judiciary Committee on September 2, 2006 and will soon be on the House floor. H.R. 2679 would limit damages to injunctive and declaratory relief and bar the award of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. This bill would bar damages and awards of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution H.R. 2679 would limit the longstanding remedies available in cases brought under the Establishment Clause under 42 U.S.C. 1988, which provides for attorneys' fees and costs in all successful cases involving constitutional and civil rights violations.

H.R. 2679 shuts the courthouse doors. If this bill were to become law, Congress would, for the first time, single out one area protected by the Bill of Rights and prevent its full enforcement. The only remedy available to plaintiffs bringing Establishment Clause lawsuits would be injunctive relief. This prohibition would apply even to cases involving illegal religious coercion of public school students or blatant discrimination against particular religions.

Congress has determined that attorneys' fee awards in civil rights and constitutional cases, including Establishment Clause cases, are necessary to help prevailing parties vindicate their civil rights, and to enable vigorous enforcement of these protections. The Senate Judiciary Committee has found these fees to be "an integral part of the remedies necessary to obtain . . . compliance." The Senate emphasized that "[i]f the cost of private enforcement actions becomes too great, there will be no private enforcement. If our civil rights laws are not to become mere hollow pronouncements which the average citizen cannot enforce, we must maintain the traditionally effective remedy of fee shifting in these cases."

Unfortunately, H.R. 2679 would turn the Establishment Clause into a hollow pronouncement. Indeed, the very purpose of this bill is to make it more difficult for citizens to challenge violations of the Establishment Clause. It would require plaintiffs who have successfully proven that the government has violated their constitutional rights to pay their legal fees—often totaling tens, if not hundreds, of thousands of dollars. Few citizens can afford to do so, but more importantly, citizens should not be required to do so where there is a finding that our government has engaged in unconstitutional behavior.

The elimination of attorneys' fees for Establishment Clause cases would deter attorneys from taking cases in which the government has violated the Constitution: thereby leaving injured parties without representation and insulating serious constitutional violations from judicial review. This effectively leaves religious minorities unable to obtain counsel in pursuit of their First Amendment rights under the Establishment Clause.

H.R. 2679 favors enforcement of the Free Exercise Clause over the Establishment Clause. Among the greatest religious protections granted to American citizens are the Establishment Clause and the Free Exercise Clause. The right to practice religion, or no religion at all, is among the most fundamental of the freedoms guaranteed by the Bill of Rights. Religious liberty can only truly flourish when a government can both equally protect the free exercise of religion as well as prohibit state-sponsored endorsement and funding of religion. H.R. 2679 creates an arbitrary congressional policy in favor of the enforcement of the Free Exercise Clause, while simultaneously impeding individuals wronged by the government under the Establishment Clause.

Through the denial of attorneys' fee awards under H.R. 2679, plaintiffs will be unable to afford the expense of litigation only when they are seeking to protect certain constitutional rights but not others. This bad congressional policy serves to create a dangerous double standard by favoring cases brought under the Free Exercise Clause, but severely restricting cases under the Establishment clause.

H.R. 2679 denies just compensation. Finally, despite proponents' assertions to the contrary, attorneys' fees are not awarded in Establishment Clause cases as a punitive measure. Rather, as in any case where the government violates its citizens' civil or constitutional rights, the award of attorneys' fees is reasonable compensation for the expenses of litigation awarded at the discretion of the court. After intensive fact-finding, Congress determined that these fees "are adequate to attract competent counsel, but . . . do not produce windfalls to attorneys." H.R. 2679 is contrary to good public policy—it reduces enforcement of constitutional rights; it has a chilling effect on those who have been harmed by the government; and it prevents attorneys from acting in the public's good. The award of fees in Establishment Clause cases is not a means for attorneys to receive unjust windfalls—it is designed to assist those whose government has failed them.

Proponents of this bill have been spreading the urban myth that religious symbols on gravestones at military cemeteries will be threatened without passage of H.R. 2679. The supposedly "threatened" religious markers on gravestones has become a red-herring—indeed it is an urban myth—that has been invoked as a reason for the denial of attorneys' fees in Establishment Clause cases. It should be noted—in light of the wildly inaccurate statements that have repeatedly been made—that religious symbols on soldiers' grave markers in military cemeteries (including Arlington National Cemetery) are entirely constitutional.

Religious symbols on personal gravestones are vastly different from government-sponsored religious symbols or sectarian religious symbols on government-owned property. Gravestones and the symbols placed upon them are the choice of individual service members and their families. The ACLU would in fact vigorously defend the first amendment rights of all veteran Americans and service members to display the religious symbol of their choosing on their gravestone.

If the Constitution is to be meaningful, every American should have equal access to the federal courts to vindicate his or her fundamental constitutional rights. The ability to recover attorneys' fees in successful cases is an essential component of the enforcement of these rights, as Congress has long recognized. The bill is a direct attack on the religious freedoms of individuals, as it effectively shuts the door for redress for all suits involving the Establishment Clause. We urge members of Congress to oppose H.R. 2679.

If you have any questions, please contact Terri Schroeder, Senior Lobbyist.

Sincerely,

CAROLINE FREDRICKSON,
Director.
TERRI ANN SCHROEDER,
Senior Lobbyist.

AMERICAN HUMANIST ASSOCIATION,
Washington, DC, September 11, 2006.

DEAR REPRESENTATIVE: The American Humanist Association strongly urges you to oppose the Public Expression of Religion Act (H.R. 2679), which would bar courts from awarding attorney's fees to prevailing parties bringing suit under the Establishment Clause of the First Amendment. We urge you to vote against this bill, which would severely discourage or outlaw litigation over government practices that violate the First Amendment.

If passed, the Public Expression of Religion Act would prevent concerned citizens from exercising their constitutionally protected rights in court. The bill purports to "eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees." However, these litigants are only awarded attorney's fees if their claims are found valid and thus unconstitutional; under current law, the "frivolous lawsuits" commonly cited in attempts to reduce attorney's fees are not funded by taxpayer dollars but rather are financed by the losing litigants. Further, though supporters have argued that groups such as the American Civil Liberties Union have reaped enormous compensation from such suits, the reality is that the awarding of attorney's fees is essential to maintaining a fair judicial system; these suits often involve a substantial amount of time and effort that is simply not feasible for most attorneys to undertake on a pro bono basis. The bill would actually create a far more chilling effect in its restriction of challenges to First Amendment freedoms.

If the Public Expression of Religion Act passes it will set a precedent for future restrictions on the ability to gain attorney's fees and costs for constitutional violations that are unpopular with any particular political majority at the moment. The current system does not reimburse attorney's fees for unsubstantiated cases, and it maintains the impartiality of our courts by allowing the judiciary to interpret constitutional concerns as laid out in the Constitution. Please do not allow the legislature to influence the judicial process for political gain.

Humanists are particularly concerned about this bill because it targets religious minorities and nontheists in their attempts to maintain the separation of church and state by severely reducing attorney's abilities to represent them in judicial actions. The threat of lawsuits under the Establishment Clause does not and never has had a "stifling effect" on religious practices; religion is an integral part of many Americans' lives, and we Humanists support the personal expression of religion. What we do not support, however, is governmentally sanctioned religion that infringes on our First Amendment rights. The current laws support a system of checks and balances to ensure that all Americans have the freedom to express themselves without coercion.

The AHA urges you to maintain every American's right to an impartial and accessible judicial system and vote no on the Public Expression of Religion Act.

Sincerely,

MEL LIPMAN,
AHA President.

PROTECT RELIGIOUS LIBERTY AND OPPOSE H.R. 2679

AMERICANS UNITED
FOR SEPARATION OF CHURCH AND STATE,
Washington, DC, September 12, 2006.

DEAR REPRESENTATIVE: Americans United for Separation of Church and State urges you to oppose H.R. 2679 or any other similar legislation seeking to limit awards of attorney's fees in Establishment Clause cases. Americans United represents more than 75,000 individual members throughout the fifty states and the District of Columbia, as well as cooperating clergy, houses of worship, and other religious bodies committed to preserving religious liberty.

Bills such as H.R. 2679 are extreme and unwise proposals that will do nothing more than deter Americans from seeking to enforce in the federal courts their fundamental constitutional rights to worship freely and to make decisions about religion for themselves and their families, without interference or coercion from the government. Such ill-conceived measures will also set a broader precedent for abolishing court-awarded attorney's fees in other civil-rights cases, thus undermining the system that Congress carefully wrought to ensure that those who suffer unconstitutional discrimination will be able to obtain legal representation to vindicate their civil rights.

H.R. 2679 would prohibit the federal courts from awarding reasonable attorney's fees and costs to parties who prevail in actions brought to enforce their rights under the Establishment Clause of the First Amendment to the U.S. Constitution, and it would limit the remedies available to Establishment Clause plaintiffs to injunctive and declaratory relief, thus barring federal courts from awarding either damages or other equitable relief to parties who prevail on Establishment Clause claims. If passed, the bill would thus, for the first time since the enactment of the Civil Rights Attorney's Fees Awards Act of 1976, eliminate an entire category of civil-rights claims from those for which federal courts can award attorney's fees and costs, and it would in many cases deprive plaintiffs of any effective remedy for substantial constitutional violations.

H.R. 2679 WOULD SUBSTANTIALLY IMPAIR THE ABILITY OF AMERICANS TO ENFORCE THEIR RELIGIOUS-FREEDOM RIGHTS UNDER THE ESTABLISHMENT CLAUSE

Congress recognized the importance of the remedy of fee shifting to the enforcement of civil-rights laws when it passed the 1976 Civil Rights Attorney's Fees Awards Act, 42 U.S.C. 1988:

> Enforcement of the laws depends on governmental action and, in some cases, on private action through the courts. If the cost of private enforcement actions becomes too great, there will be no private enforcement. If our civil rights laws are not to become mere hollow pronouncements which the average citizen cannot enforce, we must maintain the traditionally effective remedy of fee shifting in these cases.

S. Rep. No. 94–1011, at 6 (1976). Indeed, the enactment of the fee-shifting provision was not an expansion of civil-rights plaintiffs' rights but instead was merely a codification of preexisting practice that Congress viewed as especially important: Responding to an earlier Supreme Court ruling that courts could no longer award attorney's fees to a prevailing party unless specifically authorized to do so by federal statute (see Alyeska Pipeline Serv.v. Wilderness Soc'y, 421 U.S. 240 (1975)), Congress recognized that the fee-shifting provision "creates no startling new remedy—it only meets the technical requirements that the Supreme Court has laid down if the Federal courts are to continue the practice of awarding attorney's fees which had been going on for years." S. Rep. No. 94–1011, at 6. H.R. 2679 would thus eliminate an important remedy that has been recognized by statute for three decades and by court practice for far longer.

This turnabout would have a substantial effect on the ability of Americans who have suffered violations of their right to religious freedom to seek redress in the courts because they will be unable to afford counsel to represent them. Indeed, the Act would make it difficult for victims of Establishment Clause violations even to obtain representation from lawyers who might otherwise be willing to represent them pro bono because those lawyers would no longer be able to recoup their actual, out-of-pocket expenses—which can often total tens or even hundreds of thousands of dollars.

Although the bill's sponsors claim that the Act would "eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials," few, if any, Establishment Clause plaintiffs seek to challenge personal religious expression by governmental officials. Rather, most Establishment Clause plaintiffs simply seek to ensure that government does not coerce them or their children to participate in religious activities that conflict with their own sincerely held beliefs.

Many plaintiffs are like the parents in Dover, Pennsylvania, who courageously challenged a decision by their school board to require their ninth-grade students to listen in a biology class to a statement by school administrators disparaging the scientific theory of evolution and encouraging them to accept "intelligent design," a religious view of the origins of life. As one of these plaintiffs, Steven Stough, said, "I have joined this lawsuit because I believe that religious education is a personal matter whose instructional component is best reserved for home or at a church of one's choice. It is my responsibility for the direction of my daughter's religious instruction not the public high school."

But without the availability of attorney's fees, parents like Mr. Stough would not be able to afford the cost of hiring a lawyer: The court in the Dover case found that the plaintiffs were entitled to a reasonable fee award, of which more than $250,000 represented the plaintiffs' attorneys' actual, out-of-pocket expenses to bring the case. Had H.R. 2679 been the law of the land, the parents of Dover, Pennsylvania, might well never have been able to vindicate their right to direct the religious upbringing of their children without interference by the local school board, for they simply could not have afforded the expenses for the case, much less any attorney's fees, for litigation that required the full-time commitment of a half dozen lawyers for more than a year.

The problem is far more serious in most other cases. Although the Dover plaintiffs were represented pro bono by institutional civil-rights litigators (including Americans United) and a large law firm, many Establishment Clause plaintiffs rely on lawyers who work in small private practices. Indeed, the bulk of constitutional tort litigation is brought by local, small-firm lawyers. See Stewart J. Schwab, Explaining Constitutional Tort Litigation: The Influence of the Attorney Fees Statute and the Government as Defendant, 73 CORNELL L. REV. 719, 768–69 (1988). So while large law firms and institutional civil-rights litigators may continue to represent Establishment Clause plaintiffs even in the absence of a fee-shifting statute, the majority of Establishment Clause violations will go unredressed because the small-firm lawyers who typically litigate them will be unable to afford to take the cases.

Again, the issue is not one of lawyers' profits: Just as the most well-established civil rights organizations and largest law firms can ill afford to pay the litigation costs for major cases, so too must most small firms and solo practitioners decline to provide representation in more modest cases when they have no ability to cover the out-of-pocket expenses required even in cases where the law is clear and the civil-rights violation egregious.

Compounding the problem is the Act's limitation on the relief available to Establishment Clause plaintiffs. In most other classes of civil litigation, plaintiffs who win their cases receive money damages from the defendant and are able to use a portion of those damages to pay their lawyers. But in Estalishment Clause cases, like most civil-rights cases, prevailing parties are usually entitled only to injunctive relief, not damages, and thus receive no funds from the litigation to pay their lawyers. Not content to deny Establishment Clause plaintiffs the feeshifting protections that Congress has wisely provided, H.R. 2679 would eliminate the possibility of money damages even in the incredibly rare case where Establishment Clause plaintiffs might be able to show a compensable injury, thus denying them the protection of a damages remedy that is available for every other class of legally cognizable injury.

H.R. 2679 COULD PERVERSELY LEAD TO MORE ESTABLISHMENT CLAUSE LITIGATION FURTHER CLOGGING THE DOCKET OF THE FEDERAL COURTS

The fee-shifting provision in 42 US.C. 1988 levels the playing field between private citizens and the government in constitutional tort litigation by encouraging private lawyers to take meritorious cases and by increasing the potential costs of litigation to government defendants. It thus deters government from committing many egregious civil-rights violations just the way that damages remedies deter unlawful action in the ordinary run of tort and contract cases. While eliminating attorney's fees would surely reduce the number of Establishment Clause claims being brought, even in cases where the law is most clearly on the plaintiffs side, it would also ensure that those cases that are filed will be more costly and more time-consuming to litigate because the government defendants will have no incentive to settle or to mitigate the costs of litigation, but instead will view as "costless" a fight to defend even the most overt violations of individuals" rights to religious freedom, and so will clog the courts with cases that should be readily resolved.

Unlike private parties, government has virtually unlimited resources with which to litigate cases and can use those resources to drag out litigation. Indeed, government defendants in Establishment Clause cases may not have to spend even one penny of their own money on litigation if, as is becoming increasingly frequent, they are represented for free by a faith-based law firm committed to encouraging public officials to violate citizens' Establishment Clause rights. For example, the Thomas More Law Center provided free representation to the defendants in Kitzmiller v. Dover Area School District, leading the school board to conclude that, even though the school district's regular lawyer had warned that the district would lose the case, it should still fight a costless battle to force the school board members' preferred faith on students without regard to the students or their parents' religious beliefs. After the school district lost the case, as its lawyer warned it would, the court held that it was liable to the plaintiffs for their attorney's fees and costs. That award was essential not just because it made it possible for the Dover parents to bring the case, but because it provides a greater incentive to other school boards in the future to avoid the same wrongdoing that the Dover school board committed, or at least to settle early those cases they cannot win, rather than compounding the violations of parents and students' constitutional rights, and compounding costs to everyone, by fighting lost causes to the bitter end.

Just weeks after the Kitzmiller decision, for instance, several California parents filed an Establishment Clause challenge to their school district's decision to teach a course on intelligent design and asked a federal court to issue a temporary restraining order prohibiting the school district from offering the course. See Hurst v. Newman, No. 1:06–CY–00036 (C.D. Cal.). Recognizing that its actions were unlawful and that it would likely owe substantial attorney's fees and costs to the plaintiffs if it continued to fight, the school board gratefully accepted the plaintiffs' offer to waive their right to request attorney's fees in exchange for the school district canceling the unconstitutional class—a quick and amicable resolution of the case that would not have been possible if the availability of attorney's fees had not been a deterrent to the school board tying up the courts and dividing the community over its dogged but futile pursuit of a plainly unconstitutional policy.

And in Florida, the prospect of attorney's fees had a similar salutary effect: A school district was sued by parents who objected on Establishment Clause grounds to the district's decision to hold several high school graduations in a church, with students accepting their diplomas and having their commencement photos taken beneath a large cross. Although a federal district judge preliminarily found that the parents were likely to win their case on the merits, the school board initially planned to fight the case all the way through a full trial. But with the specter of a mounting bill for the parents' legal fees on the horizon, the school district ultimately thought better of that plan, promising to hold future graduations in secular locations in exchange for an agreement by the parents' attorneys to charge the district only half the fees that they had accrued up to that point. Again, but for the threat of a fee award, justice to the parents would have been delayed and judicial resources would have been squandered. Indeed, without the possibility of being liable for attorney's fees, governmental entities like the Florida and California school districts just described will have every incentive to engage in straightforwardly illegal conduct, infringing the religious freedom of the public—and most especially children, who are most likely to have their complaints about religious discrimination and coercion fall on deaf ears unless their families have recourse in the federal courts.

In Dover, the belief that fighting was costless led the school board to adopt "an imprudent and ultimately unconstitutional policy." Kitzmiller v. Dover Area Sch. Dist., 400 F. Supp. 2d 707, 765 (M.D. Pa. 2005). Indeed, the court characterized the board's decision as one of "breathtaking inanity" and decried the school board's decision to defend the policy in court, asserting that "[t]he students, parents, and teachers of the Dover Area School District deserved better than to be dragged into this legal maelstrom, with its resulting utter waste of monetary and personal resources." Id. Actually making it costless for the government to defend Establishment Clause violations will reproduce that sad state of affairs everywhere.

In passing the Civil Rights Attorney's Fees Awards Act, Congress recognized that rights are meaningless unless individual citizens are able to enforce them against the government:

> If private citizens are to be able to assert their civil rights, and if those who violate the Nation's fundamental laws are not to proceed with impunity, then citizens must have the opportunity to recover what it costs them to vindicate these rights in court.

S. Rep. No. 94-1011, at 2 (1975). Abolishing attorney's fees in Establishment Clause cases would not simply increase plaintiffs' cost to file these cases: it would render the Establishment Clause—a critical safeguard for religious freedom embodied in the First Amendment of the U.S. Constitution—a dead letter. As the federal courts have consistently acknowledged, the Establishment Clause works in tandem with the Free Exercise Clause to protect Americans' right to practice their religion as they choose. See, e.g., Venters v. City of Delphi, 123 F.3d 956, 969 (7th Cir. 1997) (Free Exercise and Establishment Clauses "embody 'correlative and coextensive ideas, representing only different facets of the single great and fundamental freedom [of religion]' ") (quoting Everson v. Bd. of Educ., 330 U.S. 1, 40 (1947) (Rutledge, J., dissenting)). So although the avowed purpose of H.R. 2679 or other similar legislation is to protect the religious expression of state and local officials, its effect would be to deeply undermine the religious liberty of all Americans.

If you have any questions regarding this legislation or would like further information on any other issues of importance to Americans United, please contact Aaron D.

Schuham, Legislative Director, at (202) 466–3234, extension 240.

Sincerely,

Rev. BARRY W. LYNN,
Executive Director.

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM,
Washington, DC, September 12, 2006.

DEAR REPRESENTATIVE: On behalf of the Union for Reform Judaism, whose more than 900 congregations across North America encompass 1.5 million Reform Jews, and the Central Conference of American Rabbis (CCAR), whose membership includes more than 1,800 Reform rabbis, I ask you to oppose H.R. 2679, the "Public Expression of Religion Act of 2005." I also urge you to oppose any other efforts that undermine the courts' ability to hear cases in which an individual's rights are at stake.

This dangerous legislation would prevent plaintiffs from being awarded legal fees and out-of-pocket expenses in cases involving First Amendment rights. It is nothing more than an attack on efforts to enforce Constitutionally-protected rights.

The effort to select only certain rights for the full protection of the law is a slippery slope at best; and, more to the point, may spell the start of a full scale assault on fundamental freedoms. Further, this legislation creates two tiers of justice, dividing those who can afford to have their Constitutional rights enforced from those who cannot. This is a shameful denigration of our commitment to the equality of all Americans.

Americans of all economic levels and ideological backgrounds deserve equal protections from our courts and justice system. I strongly urge you to reject the Public Expression of Religion Act.

Sincerely,

MARK J. PELAVIN,
Associate Director.

SEPTEMBER 13, 2006.

DEAR SENATOR REPRESENTATIVE: The Secular Coalition for America urges you to oppose H.R. 2679, the so-called Public Expression of Religion Act (PERA). Passage of this act would have a chilling effect on the rights of citizens seeking to protect their constitutional rights under the Establishment Clause. Without the right to seek attorney fees and costs in successful challenges of the improper intrusion of religion into government, elected and appointed officials will have no obstacles against imposing their religious beliefs on the general public.

If this bill passes, the only penalty for violations of the Establishment Clause will be the court's injunction to end that particular unconstitutional practice. Clever appointed and elected officials will simply modify their practices just enough to circumvent the court's ruling knowing that they will face no penalty for their actions and eventually the plaintiff will be unable to pursue additional cases through the court system.

The purpose of PERA is solely to deny Americans access to the courts to protect their constitutional rights. The current law allows plaintiffs and their lawyers to recover reasonable costs and attorneys fees only if their case is successful. With restitution available only in successful cases, the current law discourages frivolous lawsuits. However, without this reasonable restitution, the vast majority of Americans will not be able to afford the protections guaranteed to them by our Founders.

By severely limiting lawsuits through PERA, elected and appointed officials will be unfettered in their pursuits to incorporate religious symbols and expressions into governmental spaces and events. These official religious endorsements and use of religious symbols by the majority of the moment relegate members of minority religions and the non-religious to a second-class citizenship.

By allowing citizen access to the judiciary, minorities in our nation gained the protections afforded by the First Amendment. These protections have allowed members of minority religions (such as Jehovah's Witnesses) as well as nonreligious Americans to be free of government required religious exercises and endorsement of religious symbols. Individuals have been free to exercise their own decisions of conscience in public schools and governmental bodies.

Our nation has respected the separation of powers which our founders so wisely created to prevent anyone branch from gaining too much power. Congress must not encroach on the right of citizens to seek the judiciary's power to resolve constitutional issues. The limitations PERA would create for access to the judiciary are equivalent to poll taxes limiting access to the ballot box. With access to the courts, the rights of minorities guaranteed in the Bill of Rights would be meaningless; the Constitution could not be enforced; and a tyranny of the majority would ensue.

Passage of H.R. 2679 also creates a slippery slope that would set a dangerous precedent for future restrictions on the ability to gain attorney fees and costs for other constitutional arenas that are unpopular with the majority of the moment. Any time the judicial branch makes a decision unpopular with the majority in Congress, it could simply pass legislation effectively taking away citizen access to the courts. Passing this type of legislation make the freedoms guaranteed in our Constitution worthless.

Sincerely,

LORI LIPMAN BROWN, ESQ.,
Director.

THE INTERFAITH ALLIANCE,
Washington, DC, September 14, 2006.

DEAR REPRESENTATIVE: As the president of The Interfaith Alliance, I am writing to urge you to oppose H.R. 2679. "The Public Expression of Religion Act of 2005." The Interfaith Alliance is a nonpartisan, grassroots organization that represents more than 185,000 members. We are committed to promoting the positive and healing role of religion in public life. While we fully support the public expression of religion, we cannot support restrictions on the enforcement of the Bill of Rights which was designed to protect all Americans, regardless of their religious beliefs.

Americans of all faiths—Buddhists, Hindus, Sikhs, Muslims, Christians and Jews—and those who profess no faith—must have the right to practice their religion and raise challenges when they feel that there is a specific violation of the clause in the First Amendment which guarantees that "Congress shall make no law respecting an establishment of religion."

And when government has acted in an unconstitutional manner, citizens seeking their constitutional rights must not be required to pay the government's legal fees because that would make it difficult if not impossible for those individuals to successfully challenge the illegal behavior.

If passed, H.R. 2679 would eliminate damages and awards of attorneys' fees for individuals or groups in successful cases brought to ensure their constitutional rights under the Establishment Clause of the First Amendment to the U.S. Constitution. This would effectively prevent the full enforcement of the First Amendment's prohibition on the establishment of religion by federal, state, and local governments.

Religious freedom as guaranteed by the First Amendment includes both the Free Exercise Clause and the Establishment Clause. One without the other would render religious freedom a hollow phrase. H.R. 2679 would create a double standard with enforcement of Free Exercise cases being protected by guarantees of attorney fees but Establishment Clause cases being denied the same relief.

The Interfaith Alliance considers H.R. 2679 to be an attack on the religious freedoms guaranteed to every American by the Constitution. In the name of religious freedom, we urge you to oppose "The Public Expression of Religion Act of 2005." It is bad for the Constitution. It is bad for religion.

If there is anything that we at The Interfaith Alliance can do to assist you in this important matter, please do not hesitate to contact Preetmohan Singh, Deputy Director of Public Policy, at 202–639–6370.

Sincerely,

Rev. Dr. C. WELTON GADDY,
President, The Interfaith Alliance.

FRIENDS COMMITTEE ON
NATIONAL LEGISLATION,
Washington, DC, September 14, 2006.

MEMBERS, HOUSE OF REPRESENTATIVES,
Washington, DC

DEAR REPRESENTATIVE: The Friends Committee on National Legislation, a 63–year old Quaker lobby on Capitol Hill, urges you to oppose H.R. 2679, the "Public Expression of Religion Act." Though supporters of the bill cite certain types of cases that would be covered by the Act, the legislation itself extends to all claims under the establishment of religion clause. This legislation would effectively deny access to the courts for individuals wishing to protect their religious rights, unless they were personally wealthy enough to fund the litigation.

As members of a minority religion whose foremothers and forefathers came to this country to escape the religious intolerance of the English government, Quakers cherish the U.S. Constitution's protections of religion from the dictates of government. The Bill of Rights was written to protect individuals, not the government. In an ironic twist, H.R. 2679 and similar legislation would turn the "no establishment of religion" clause on its ear, protecting the government against individuals.

Our taxes would pay for the governments' lawyers, but even in a clear case of disregard for established religious freedoms, judges would be powerless to relieve an individual of the burden of paying for litigation to protect his or her constitutional rights.

Cases protesting government actions under the establishment clause rarely involve money. The object is almost always to get the school district, or the registrar's office, or some other local or state official, to carry out regulations and programs in a constitutionally sound manner, without giving preference to a particular religious view or affiliation, or to accommodate the religious beliefs of a minority. Providing for attorney fees in cases in which the plaintiff prevails is the only practical way to provide access to the court for those who are not wealthy.

We urge you to reject H.R. 2679 and similar legislation, and to support the religious freedoms guaranteed by the First Amendment.

Sincerely,

RUTH FLOWER,
Legislative Director.

JEWISH COUNCIL FOR PUBLIC AFFAIRS,
September 12, 2006.

DEAR REPRESENTATIVE: The Jewish Council for Public Affairs, JCPA, is the umbrella organization for the organized Jewish community. Our membership includes 13 national Jewish agencies and 125 Jewish Community Relations Councils. On behalf of the organized Jewish community, I urge you to oppose the "Public Expression of Religion Act of 2005", H.R. 2679. As Jews, members of a religious minority in the United States, we are particularly sensitive to the relationship between religion and state in this Nation.

The Public Expression of Religion Act, PERA, prevents judges from awarding attorney's fees in Establishment Clause cases. This restriction severely limits the ability of Americans to bring suit against the government or public officials when their religious liberties have been compromised. Lawsuits are very expensive. The passage of this bill would essentially prohibit all but the very wealthy from protecting their rights. Regardless of economic status, all Americans should have the ability to protect their liberties and challenge unconstitutional actions.

JCPA policy calls for a clear separation between religion and government. "In our increasingly pluralistic society, a clear division between religion and state remains the best way to preserve and promote the religious rights and liberties for all Americans, including the Jewish community." PERA compromises this separation and threatens to infringe on the rights of many Americans by making it prohibitively expensive and thus practically impossible, to challenge an official's or jurisdiction's actions.

On Thursday, September 6, the House Judiciary Committee completed its markup of this bill and reported it to the House floor.

I strongly urge you to oppose this legislation and protect the ability of millions of Americans to live in a society that respects religious freedom and liberty.

Sincerely,

HADAR SUSSKIND,
Washington Director.

NATIONAL COUNCIL OF JEWISH WOMEN,
September 12, 2006.

DEAR REPRESENTATIVE: On behalf of the 90,000 members, volunteers, and supporters of the National Council of Jewish Women, NCJW, I am writing in opposition to the "Public Expression of Religion Act," H.R. 2679. This bill would eliminate compensation of attorneys' fees for individuals who bring legal challenges under the Establishment Clause in cases in which they prevail. Effectively, it would prevent low-income Americans from defending their constitutional rights, reserving this protection only for those wealthy enough to afford litigation.

All Americans should have the same ability to defend their constitutionally protected rights, regardless of economic status. Organizations that donate legal services to help those who rights have been violated will be discouraged from this pro bono work if they cannot recoup a portion of their financial expenditures. Instead of protecting religious liberty, this bill seriously compromises it by limiting access to the courts.

For over a century, NCJW has been at the forefront of social change, raising its voice on important issues of public policy. Inspired by our Jewish values, NCJW has been, and continues to be, an advocate for religious liberty with a strong belief that the separation of religion and state are constitutional principles that must be protected and preserved in order to maintain our democratic society.

I urge you to oppose legislation that would limit an individual's ability to defend the liberties provided by the Constitution and the Bill of Rights. Please demonstrate commitment to those documents and the values they represent by voting against the "Public Expression of Religion Act".

Sincerely,

PHYLLIS SNYDER,
NCJW President.

Mr. SMITH of Texas. Mr. Speaker, I would like to yield 4 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I am grateful for the gentleman's leadership on this issue. I rise in strong support of the Public Expression of Religion Act; and I do so with particular gratitude to my Hoosier colleague, John Hostettler, who, during the course of his career in the United States House of Representatives, has stood for the freedom of religion as perhaps no other American.

And I say that with understandable parochial Hoosier pride, but I also say it as an objective observation, that the gentleman from Indiana has stood for a constitutional accommodationist view of respect for the expression of religion and its importance in American heritage. Mr. Speaker, I commend him for his outstanding work on this legislation.

In 1976, a statute was passed in this Congress called the Civil Rights Attorney's Fees Awards Act. Very simply and plainly, this statute was intended to protect the constitutional rights of citizens and level the legal playing field.

Under this Act, a citizen who felt that his or her constitutional rights had been violated could sue a government official or entity and receive attorney's fees if they win.

This was important legislation, and it has served a great public good. But it has also served to catalyze a form of litigation since the advent of decisions by the United States Supreme Court in the 1960s and 1970s that moved away from our historical view that the freedom of religion was not the freedom from religion, and it has become a tool, I say very respectfully, to their cause. It has become the tool of elements who would advance a radical secularist view of the public square in America, and who have used the opportunity to access the public Treasury in the form of attorney's fees to not only finance massive litigations against government entities to scrub our public square of any vestige of reference to God or reference to the religious heritage of the American people, but also it has been used to prevent that day in court from happening.

The availability of massive amounts of attorney's fees have caused many municipalities, even some in Indiana, to relent in their fight to preserve the public display of the Ten Commandments or references to God in the public square because of the local government's inability to access Federal funds to pay their attorney's fees.

So in a very real sense the unintended consequence of the 1976 law was to take a playing field that was imbalanced to one side and make it imbalanced to the other. And today, because of Congressman John Hostettler's leadership in the Public Expression of Religion Act, we are leveling the playing field once again. We are saying to every American who believes in their heart that "In God We Trust" should not appear in the well of this Congress as it does behind me, that every American who thinks there should be no reference to religion in the public square whatsoever, it says to every American whose view of the Constitution is that the Establishment Clause is somehow an antiseptic to remove any reference to our religious heritage in this country, it says: The courts are open to you, but the Treasury is not.

As we might say in Indiana, where I was born and raised and lived, that, to put it very plainly, I may fight to the death for your right to hold the views that you hold, but that doesn't mean that I have to pay for it.

And because of Congressman HOSTETTLER's leadership on the Public Expression of Religion Act, we say the courthouse doors are open to anyone who would challenge the public expression by local governors or government officials the acknowledgement of the deep and rich heritage over hundreds and hundreds of years of the American people, who we would say, in this instance, in these cases, the public treasury is not open. Raise your money, bring your challenges, and let the court work its will.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California.

Ms. WATERS. Mr. Speaker, I oppose this legislation because it prevents people from getting attorney's fees or economic damages even if a court agrees with them that the Federal Government has violated their constitutional right to religious freedom or not to be forced to recognize one religion over another. In other words, Congress is telling the courts that they do not know how to do their jobs.

Article III of the Constitution states that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

Why are we trying to do the Court's job by deciding that these Establishment Clause claims deserve only injunctive or declaratory relief?

This bill reaches right into the Civil Rights Act, for the first time in history, I might add, singles out people who have Establishment Clause claims and tells them that they cannot recover any economic damages. How can this be so, Mr. Speaker? How can this be so, when the 11th Circuit in Glassroth v. Moore, a case decided in

2003, stated that: For Establishment Clause claims based on noneconomic harm, the plaintiffs must identify a personal injury suffered by them as a consequence of the alleged constitutional error.

The court found injury in Glassroth because the claimants had altered their conduct and incurred expenses in order to minimize contact with a Ten Commandments monument erected in the rotunda of Alabama's State judicial building.

With this bill, this committee attempts to overturn Federal judicial opinions, and that is simply not our role. Congress established enforcement remedies under section 1983 more than 100 years ago.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a lot of rhetoric that is really beside the point on this bill. We all agree, I hope, that the United States Constitution governs. We all agree, I hope, that the Bill of Rights confers certain rights on Americans, whether citizens or not. We all agree that freedom of religion, freedom to exercise religion, and freedom from establishment of religion are among those rights. We all agree, I hope, that the courts are there to enforce those rights. And then the disagreement begins.

This bill would seek to put a thumb on the scale and say, and we heard this rhetoric: We don't like the ACLU. We don't like what they are doing, even if the courts say they are right in a given case. Because we don't like what they are doing, because their winning court decisions violates our concept of what the Establishment Clause means, we are going to put a thumb on the scale and say that people who win lawsuits, who establish to the court's satisfaction that the government has violated their rights under the first amendment, the Establishment Clause, they cannot get damages, they cannot get attorneys' fees. We are going to put a poll tax on the Establishment Clause. Only people with a lot of money had better sue to enforce their first amendment rights.

If you don't have a lot of money but the government is violating your rights under the Establishment Clause, you can't sue. Because even if your attorney tells you you have got a 99 percent chance of winning because these people know they are wrong, it may still cost you a couple hundred thousand dollars. And they paint the picture of these poor cities and towns and governments having to kowtow to an organization, but the fact is, who generally has more money for a lawsuit? The City of New York, the City of Galveston, the town of whatever, or an individual?

You are putting a means test on protecting your rights to freedom of religion. I don't think that is what this country ought to be about. Because, after all, someone has got to pay for that lawsuit. Someone has got to pay the attorneys' fees, and that is either going to be the plaintiff who alleges a violation of his rights, or it is going to be the government that allegedly violated his rights.

The law says, current law, that if you prove that the government violated your rights, the government should pay the cost of that lawsuit, not you.

This bill says that, for most things, that is still true; but for the Establishment Clause rights, it no longer true, and you have got to pay for the lawsuit that the government made you bring by willfully, or perhaps not willfully, violating your rights.

They say, well, look at the City of San Diego. It is costing them hundreds of thousands of dollars. Well, if they listened to their attorney who said, gee, what you are doing may very well violate the first amendment or does violate the first amendment, then maybe they wouldn't have had to pay those hundreds of thousands of dollars. With this bill, there will be no financial incentive to obey the Establishment Clause.

Second, this bill does not, as I said before, cover only the cases they are talking about; it covers all establishment cases. And let's think of an establishment case. Let's assume, and we know that throughout the history of this country different ethnic groups, different religious groups have different political weights at different times. Let's assume that in some town the Sunni Muslims became a majority, and let's assume that they decided in that town that everybody, Christians, Jews, Muslims, in school had to recite every day on pain of expulsion from class there is no God but Allah, and Mohammed is his prophet. Pretty clear violation of the Establishment Clause in the first amendment.

Now, somebody who is not a Muslim in that case, someone who is Jewish or Christian or something else, decides to sue and wins the lawsuit; and they say you can't do that. You can't get attorneys' fees. He has got to bear the cost of that. Why? Because of hostility on the part of the sponsors of this bill to the Establishment Clause of the first amendment. Because they think that only the majority religion is ever going to be in the position to dominate a local government or any government.

Maybe so. But the real reason we have the first amendment is that you can never be sure. It may be that in the future some group that isn't the majority now will be the majority in some local area; and if you make it difficult to enforce the Establishment Clause of the first amendment, you or your children could be the ones imposed upon.

Now, we heard about this horrible situation, about the challenge to this or challenge to that. But, as I said before, the real complaint is not with the attorneys' fees, the real complaint is with the first amendment. You think you ought to be able to do whatever it was and what the courts have said, no, you can't. Well, maybe you shouldn't or maybe we should amend the Constitution. Which I wouldn't suggest, but that would be the right way to do it. Or maybe we should get different judges or whatever.

But if the courts say you are violating the first amendment, you shouldn't continue to do it. You should be able to get damages if you continue to do it. And the plaintiff, vindicating his own constitutional rights, should be able to bring a lawsuit without having a lot of money.

Now, we heard also that, well, the various organizations say that even if you pass this bill, they will still sue. But that is not the question. The first amendment does not belong, the Constitution of the United States does not belong to the American Civil Liberties Union or to Americans United for Separation of Church and State or United Americans Against the Separation of Church and State.

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It is the individual right that you are violating here. It is an individual's right, or maybe a whole class of individuals, that you are violating when you violate the establishment clause of the first amendment, and any individual should have the right and the ability to go to court and if he wins, to get attorneys fees.

We have made a decision, we have made a decision in this country, and maybe you want to challenge that decision, but this bill doesn't do that. That decision is that when your constitutional rights are violated and you can prove it to the court, that the government violated your constitutional rights, then the government should pay for the cost of your vindicating the Constitution and vindicating your rights against the government that broke the law by violating your rights. That is a general principle.

Maybe you want to say no, we don't care that much about individual rights any more, first amendment, second amendment, whatever. From now on you want to sue the government because they violated your rights, you pay no matter what, even if you win. Okay, that is a different bill. I would oppose it, but that is a different bill. That is not this bill. This bill says we think all rights are important. If you think that the government violated your second amendment right to own a gun and you go to court and you prove it, the government pays for that lawsuit, and properly so.

But if you think the government violated your right to practice your religion by violating the establishment clause, and you prove it, the government doesn't pay. You have to pay for it because your right to own a gun is a heck of a lot more important than your freedom of religion, apparently. That doesn't make sense.

Mr. Speaker, if we believe in the individual rights enshrined in the Bill of Rights, if we believe in the first amendment and the freedom of religion in this country, and if we believe we shouldn't single out freedom of religion and say that freedom is less important, that freedom if you win, and forget the merits of these cases, if you lose, you don't get attorneys fees or damages.

We are talking about where you are right and the government is wrong. The government is violating your rights, and this bill says you shouldn't get damages or attorneys fees anyway because we don't like your point of view. That is wrong. It is demeaning to this Congress, and if we believe in freedom of religion and the Bill of Rights, we will defeat this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, we have just had a speaker arrive on the House floor, and I would like to yield 1½ minutes to the gentleman from Pennsylvania (Mr. PITTS) if the gentleman from New York doesn't object.

Mr. PITTS. Mr. Speaker, I want to thank the gentleman from Indiana (Mr. HOSTETTLER) for his efforts to raise awareness of this important issue.

Mr. Speaker, passing this bill would be a win for millions of Americans who cherish religious freedom in America. And it would be a win for those who understand our Constitution guarantees freedom of religion, not freedom from religion.

We all know in 1976 Congress passed a law allowing citizens to sue the government if they feel their constitutional rights have been violated. In recent years, groups like the ACLU have twisted this law to advance their agenda of eliminating any public expression of religion.

By using the threat of a lawsuit combined with uncertain jurisprudence on the issue, these groups have been able to bully local governments into removing any expression of religion whatsoever, and this affects public seals, Boy Scouts, veterans memorials, Ten Commandment displays, among other things.

Slowly but surely, groups like the ACLU are using the practice to remove any public acknowledgment of religion. This bill protects religious freedom by eliminating the unfair advantage groups like the ACLU enjoy. By denying these groups the ability to collect attorneys fees in establishment clause cases, this bill puts America's countless cities, towns and localities on a level-playing field. No longer would the taxpayers in these towns be forced to foot the bill to defend their constitutional right to freedom of religion. The bill addresses a real concern in a meaningful way. I urge all Members to support its passage.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, today under Federal law, attorneys fees can be demanded from the winning side in lawsuits against States or localities, or the Federal Government, brought under the Constitution's establishment clause.

Current litigation rules are hostile to religion because they allow some groups to force States and localities into removing any reference to religion in public places.

H.R. 2679 would prevent the legal extortion that currently forces State and local governments, and the Federal Government, to accede to demands for removal of religious text and imagery when such removal is not compelled by the Constitution.

Current laws allow plaintiffs to put the following choice to localities: either do what we want and remove religious words and imagery from your public square or risk a single adverse judgment from a single judge that requires you to pay tens or hundreds of thousands of dollars in legal fees in a case that you can't afford to litigate through the appeals process.

Mr. Speaker, local governments are being forced to accede to the demands of opponents, even when their actions are in fact constitutional.

The section of the U.S. code H.R. 2679 amends was never intended to apply to establishment clause claims. 42 U.S.C. 1988, which allows attorneys fees, was intended only to allow the award of attorneys fees civil rights laws enacted by Congress after 1866. We need to return to that original purpose and pass this legislation. I urge my colleagues to support it

Mr. HOYER. Mr. Speaker, this legislation—the so-called Public Expression of Religion Act—not only is brazenly hypocritical, but it also is politically cynical and would set a very dangerous precedent.

Quite simply, this bill would bar the award of attorney fees to the prevailing parties asserting their fundamental constitutional rights in cases brought under the establishment clause of the first amendment.

This is, indeed, a change of heart for a Republican party that has tried in vain for years to impose a "loser pays" rule on attorney fees in tort cases.

In fact, with this bill, the House Majority lays bare the outcome determinative agenda that guides the Republican party when it comes to issues that involve our legal system and judiciary.

That is, the majority seeks to enact legal procedural advantages for those with whom it agrees.

Make no mistake, if this bill became law, it would single out one area of Constitutional Protections under the Bill of Rights and prevent its full enforcement.

Without question, that would set a dangerous precedent.

The substance of the Constitution is meaningless unless all Americans have a fair and equal opportunity to go to court when their constitutional rights are curtailed by the state.

By barring the award of attorney fees to prevailing parties asserting their constitutional rights in cases brought under the Establishment Clause, H.R. 2679 will discourage Americans of limited means from defending their rights.

Taken to its logical conclusion, this bill would make the U.S. Constitution the tool for those who can afford to vindicate their rights in a court of law.

As such, it is a dangerous bill that runs counter to more than 200 years of American jurisprudence.

I urge my colleagues: vote against this bill.

Mr. CONYERS. Mr. Speaker, the very first amendment to the constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This protects a right—freedom of religion—that is fundamental in any democratic and free society. Since the bill of rights was approved in 1791, several additional measures have been taken to safeguard this right. For example, the Civil Rights Act of 1871, now known as Section 1983, and the Civil Rights Attorney's Fee Award Act of 1976, now know as Section 1988, were enacted to provide all citizens with the means to protect all constitutional rights. Today, the Majority would have this Congress take a step back from these critical protections.

I oppose the legislation before us because it is unprecedented, it treats religious minorities unfairly, and it will interfere with meritorious claims.

First, H.R. 2679 is unprecedented. For the first time in our history, Congress will be singling out one area of constitutional protections under the Bill of Rights and prevent its full enforcement. The Congressional Research Service reports, "[Section 1983] has not been substantially altered since 1871." Under this legislation citizens challenging Establishment Clause violations will no longer have the ability to recover attorneys' fees. Remedies will be limited to injunctive and declaratory relief.

On the heels of the Voting Rights Act reauthorization, I am troubled that we would take up legislation that would limit a person's ability to enforce his or her constitutional rights. The VRA reauthorization expanded a plaintiff's ability to obtain expert witness fees. This bill eliminates attorneys' fees and relegates those who seek to enforce their constitutional rights against state sanctioned religion to second class status.

Second, H.R. 2679 treats religious minorities unfairly.

Despite its name, this bill does not encourage the expression of religion. Rather, this bill leaves religious minorities without protection by promoting government sanctioned religion.

This Nation was founded on the principle of religious freedom, and the Establishment Clause forbids the government from forcing one religious viewpoint on all Americans. In 2005 in McCreary County, Kentucky v. ACLU, Sandra Day O'Connor explained, "Voluntary religious belief and expression may be threatened when government takes the mantle of religion upon itself." H.R. 2679 cripples the First Amendment and religious minorities will pay the price.

Third, H.R. 2679 will deter meritorious claims. It is a fact of life in our society that bringing complex civil actions against the government is expensive. Since this bill would deny attorney's fees to a prevailing plaintiff, numerous suits challenging Establishment Clause violations will not be brought.

The point of Section 1988 is to provide victims with limited means an opportunity to have their day in court.

Unfortunately, H.R. 2679 will prevent a victim from protecting his or her constitutional rights against a defendant with large resources, such as the government.

It is interesting that so many religious groups strongly oppose this measure. These groups include the Baptist Joint Committee, American Jewish Congress, and the Unitarian Universalist Association of Congregations. The Leadership Conference on Civil Rights, Lawyers' Committee, Alliance for Justice, Human Rights Campaign, and People for the American Way are also among the numerous organizations that also oppose this bill.

Please vote "no" on this legislation, which will cause great harm to the concept of freedom of religion in this country.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 2679, the so-called "Public Expression of Religion Act of 2005." The central purpose of this legislation is to bar damages and awards of attorneys' fees to prevailing parties asserting their fundamental constitutional rights in cases brought under the Establishment Clause of the First Amendment to the U.S. Constitution. H.R. 2679 would limit the longstanding remedies available in cases brought under the Establishment Clause under 42 U.S.C. 1988, which provides for attorneys' fees and costs in all successful cases involving constitutional and civil rights violations.

I oppose H.R. 2679 for three very important reasons. First, the bill limits access to justice and makes it virtually impossible for an injured party to obtain remedial relief from a serious deprivation of a fundamental, constitutionally protected right. Second, H.R. 2679 would jettison a legal and constitutional principle that has stood the nation in good stead for over two centuries: that an injured party is entitled to just compensation for the injury he or she has sustained caused by the intentional wrongdoing or negligent conduct of others. Third, H.R. 2679 discriminates against the Establishment Clause of the First Amendment in favor of the Free Exercise Clause. I will address each of the fatal deficiencies in turn.

1. H.R. 2679 limits access to justice for those seeking to vindicate Constitutional Rights.

If H.R. 2679 were to become law, Congress would, for the first time, single out one area protected by the Bill of Rights and prevent its full enforcement. The only remedy available to plaintiffs bringing Establishment Clause lawsuits would be injunctive relief. This prohibition would apply even to cases involving illegal religious coercion of public school students or blatant discrimination against particular religions.

Awards of attorneys' fees in civil rights and constitutional cases, including Establishment Clause cases, are necessary not merely to help prevailing parties vindicate their civil rights but also to provide an incentive for vigorous enforcement of these protections, which the Framers put in place to protect the Nation. Since widespread observance of the rights and protections set forth in the First Amendment is above a collective good, it is vitally important that there be an incentive for individuals to act as "private Attorneys General" to vindicate their individual rights and the public interest in a robust First Amendment. Our sister committee in the other body has found these fees "an integral part of the remedies necessary to obtain . . . compliance" and emphasized that "[i]f the cost of private enforcement actions becomes too great, there will be no private enforcement."

H.R. 2679 would turn the Establishment Clause into a hollow pronouncement. Indeed, the very purpose of this bill is to make it more difficult for citizens to challenge violations of the Establishment Clause. It would require plaintiffs who have successfully proven that the government has violated their constitutional rights to pay their legal fees—often totaling tens, if not hundreds, of thousands of dollars. Few citizens can afford to do so, but more importantly, citizens should not be required to do so where there is a finding that our government has engaged in unconstitutional behavior.

If our civil rights laws are not to become empty words written on parchment which the average citizen cannot enforce, we must maintain the traditionally effective remedy of fee shifting in these cases."

In sum, I oppose H.R. 2679 because I believe the elimination of attorneys' fees for Establishment Clause cases would deter attorneys from taking cases in which the Government has violated the Constitution; thereby leaving injured parties without representation and without a remedy. It will insulate serious constitutional violations from judicial review. This effectively leaves religious minorities subject to the unbridled whims of the majority, which is precisely the evil the First Amendment, including its Establishment Clause, was intended to combat.

2. H.R. 2679 Denies Just Compensation.

I am a former judge and, like many members of this Committee, an attorney. We know that attorneys' fees are not awarded in Establishment Clause cases as a punitive measure. Rather, as in any case where the Government violates its citizens' civil or constitutional rights, the award of attorneys' fees is reasonable compensation for the expenses of litigation awarded at the discretion of the court. In fact, after intensive fact-finding, Congress determined that the amount of attorneys fees awarded after review by the court "are adequate to attract competent counsel, but . . . do not produce windfalls to attorneys."

Thus, H.R. 2679 is contrary to good public policy because it reduces enforcement of constitutional rights; it has a chilling effect on those who have been harmed by the Government; it makes it exceedingly difficult for plaintiffs to avail themselves of the services of attorneys experienced and skilled in constitutional litigation, and it prevents attorneys from acting in the public's good.

3. H.R. 2679 Favors Enforcement of the Free Exercise Clause Over the Establishment Clause.

Finally, one cannot help but notice that H.R. 2679 creates an arbitrary congressional policy in favor of the enforcement of the Free Exercise Clause, while simultaneously impeding individuals injured by governmental conduct under the Establishment Clause.

Among the greatest religious protections granted to American citizens are the Establishment Clause and the Free Exercise Clause. The right to practice religion, or no religion at all, is among the most fundamental of the freedoms guaranteed by the Bill of Rights. Religious liberty can only truly flourish when a government protects the Free Exercise of religion while prohibiting government-sponsored endorsement, coercion and funding of religion.

Through the denial of attorneys' fee awards under H.R. 2679, plaintiffs will be able to afford the expense of litigation only when they are seeking to protect certain constitutional rights but not others. This bad congressional policy serves to create a dangerous double standard by favoring cases brought under the Free Exercise Clause, but severely restricting cases under the Establishment clause.

4. Conclusion

If the Constitution is to be meaningful, every American must have equal access to the federal courts to vindicate his or her fundamental constitutional rights. The ability to recover attorneys' fees in successful cases is an essential component of the enforcement of these rights, as Congress has long recognized. H.R. 2679 is a direct attack on the religious freedoms of individuals. Therefore, I cannot support it.

I am pleased to learn that I am supported in my opposition to this ill-conceived and unwarranted assault on the First Amendment's Establishment Clause by some of the most thoughtful and knowledgeable groups on this subject in America, including: African American Ministers in Action, American Jewish Committee, American Jewish Congress, American Civil Liberties Unions, Americans United for Separation of Church and State, Jewish Counsel for Public Affairs, People for the American Way, The Urban League, American-Arab Anti-Discrimination Committee, Asian Pacific American Legal Center, Mexican American Legal Defense and Education Fund, National Association for the Advancement of Colored People (NAACP), National Senior Citizens Law Center.

I urge my colleagues to uphold the First Amendment's Establishment Clause and join me in opposing this shameful piece of legislation.

Mr. KING of Iowa. Mr. Speaker, I urge support for H.R. 2679, the "Public Expression of Religion Act of 2005." This bill prevents American taxpayers from having to subsidize judicial activism, encouraged by liberal groups bringing establishment clause cases. Today, taxpayers are being forced to pay for the lawyers of the ACLU who demand the removal of religious text and imagery from the public square. These organizations attempt to make public policy through the courts, instead of Congress where such actions belong.

How many times will we stand silent as intolerant organizations such as the ACLU strong-arm the American people into removing cherished symbols of our Nation's heritage and faith? These actions are not compelled by the Constitution or supported by the will of the people. "To compel a man to subsidize with his taxes the propagation of ideas which he disbelieves and abhors is sinful and tyrannical." Thomas Jefferson said that, and contrary to the ACLU, I believe that what our founding fathers believed in and stood for is still relevant today.

American taxpayers currently have to pay for ACLU "victories." ACLU press releases, sadly I must say, tout quite a record. For example:

The County of Los Angeles was recently forced to remove a tiny cross from its official seal, symbolizing the founding of the city by missionaries. The removal of this cross is costing the county around $1 million, as it would entail changing the seal on some 90,000 uniforms, 6,000 buildings, and 12,000 county vehicles.

In San Diego, the ACLU forced the Boy Scouts out of Balboa Park because of the organization's religious beliefs, and taxpayers were required to pay $950,000 in legal fees and court costs to the ACLU.

In Barrow County, GA, the ACLU received $150,000 from taxpayers after a Federal judge ordered the county to remove a framed copy of the Ten Commandments from a hallway in the County Courthouse.

In Redlands, California, the city council was forced into changing its official seal but didn't have the funds to revise every symbol that contained the old seal. Now Redlands' residents see blue tape covering the tiny cross on city trucks, while some firefighters have taken drills to remove the cross from their badge.

These are just a few examples of the kinds of cases the American taxpayer is forced to subsidize. Americans should not be compelled to pay the lawyers who remove historic American symbols. The Public Expression of Religion Act would stop this action. I am glad to be a co-sponsor of this bill, and I urge support for its passage.

Ms. WOOLSEY. Mr. Speaker, today the Republicans bring to the floor a bill that would undermine yet another basic freedom. The so-called "Public Expression of Religion Act" is nothing more than an attack on religious liberty. It promotes government-sponsored religion by limiting challenges to such constitutional violations.

This bill is about the government stopping people from standing up for their civil rights. By restricting people's ability to stand up for their civil rights when governments promote a particular religion, this bill chips away at the constitutionally protected separation of church and state.

That's not all that's at issue here. Language in the bill leaves the door open to all sorts of state-sponsored violations of constitutional freedoms. It casts a dangerously wide net.

This bill also gives the green light to civil rights violations. Exempt from monetary damage payments, local, State and Federal Governments would not have to think twice before violating the separation of church and state. They could act with impunity.

Paying attorneys' fees is a normal, time-honored procedure. It allows citizens to stand up for their constitutional rights, knowing that if the court rules in their favor, they can recover the legal fees. This bill is an egregious ploy to undercut Americans' civil rights.

Barring attorney's fees would be unprecedented. This dangerous example would set our civil rights on a slippery slope to extinction.

Mr. UDALL of Colorado. Mr. Speaker, I think this bill is unnecessary and unwise, and I cannot vote for it.

Current law says that federal judges have discretion to require a state or local government to pay the attorneys' fees of individual citizens who win lawsuits challenging government actions that violate the Constitution.

This bill would take away part of that discretion, by barring judges from making such awards in cases involving the Constitution's prohibition of the establishment of religion.

Nothing in today's debate on the bill has convinced me that that so many judges have abused their discretion that Congress should limit it, or that the current law is broken and requires repair.

And I am very concerned that the effect of this bill would be to weaken Americans' constitutional rights, as the Baptist Joint Committee for Religious Liberty has warned in a recent letter that says "passage of H.R. 2679 would encourage elected officials to violate the Establishment Clause whenever they find it politically advantageous to do so. By limiting the remedies for. a successful plaintiff, this measure would remove the threat that exists to ensure compliance with the Establishment Clause."

I think the Joint Committee is right—and that what they say about the Establishment Clause is just as true about the rest of the Bill of Rights.

For example of where this might lead, consider the 2003 lawsuit against the school district in Ann Arbor; Michigan.

In that case, the plaintiffs complained that a former student's right to free speech was abridged when school officials denied the student an opportunity to give her opinion of homosexuality at a school forum on diversity. The judge ruled they were right, and ordered the school district to pay damages, attorneys' fees and costs to the Thomas More Law Center, an Ann Arbor-based law firm organized to argue on behalf of Christians in religious freedom cases.

I have no reason to think that was an abuse. I am glad that the law provides judges with the discretion to award attorneys' fees when people successfully defend their constitutional rights. This bill would limit that discretion unnecessarily, and so I cannot support it.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 2679, the "Public Expression of Religion Act." This legislation would eliminate awarding attorney's fees to individuals who win lawsuits under the Establishment Clause of the Constitution. While the proponents argue that the bill would protect public officials from lawsuits, what the bill will actually do is deny citizens from exercising their freedom of religion.

Without the ability to recoup legal fees, the costs to bring a lawsuit against a defendant would be too high for most people to afford. This body should not be enacting legislation to deny Americans their day in court.

H.R. 2679 is opposed by groups including the American Civil Liberties Union, the Leadership Conference on Civil Rights, and the American Jewish Committee.

I urge my colleagues to vote "no."

Mr. HOLT. Mr. Speaker, I oppose the so-called "Public Expression of Religion Act of 2006," H.R. 2679. This bill would send a chilling message to those who seek to uphold the Constitution and protect the religious liberty granted by the Constitution. Further, by denying aggrieved parties the existing remedies, this bill would embolden those who try to impose their religious beliefs on others to take additional risk and further violate the Constitution.

H.R. 2679 seeks to amend, for the first time, the Civil Rights Act of 1871, which is our Nation's oldest civil rights law. This bill would fundamentally alter the way individuals seek redress from violations of the Establishment Clause of the First Amendment. Worse, this bill is a solution in search of a problem.

What we are discussing goes to the very heart of one of the essential principles enshrined the Constitution and documents of the founding of America principles: the separation between church and state. Two of our Founding Fathers, James Madison and Thomas Jefferson, spent almost 10 years debating this central issue in the Virginia State Legislature. Yet, today, the Republican Majority has allowed it to be debated only for a single hour on the floor of the U.S. House of Representatives. Such an important change to the constitutional rights of Americans should receive thorough review by the House.

This legislation would bar parties who successfully assert their constitutional right to bring a case under the Establishment Clause from receiving attorney's fees. Under the Civil Rights Attorney's Fees Award Act of 1976, successful plaintiffs are awarded attorneys fees if their civil rights have denied by government officials. This remedy was intended to make the government think twice about acting in manner that would infringe upon constitutionally protected rights.

However, we are considering legislation that would strip a remedy for plaintiffs who assert that the government infringed upon their religious freedoms.

This legislation is opposed by the Interfaith Alliance, American Civil Liberties Union, Americans United for the Separation of Church and State, Association of Trial Lawyers of America, Leadership Conference on Civil Rights, National Council of Jewish Women, American Jewish Committee, Jewish Council for Public Affairs, Union for Reform Judaism, National Partnership for Women and Families, National Woman's Law Center, Secular Coalition for America, People for the American Way, Friends Committee on National Legislation and Baptist Joint Committee on Religious Liberty.

The Establishment Clause of the First Amendment protects all Americans from government endorsement of, or favoritism toward, specific religion, or any religion. Its protection extends only as far as it can be enforced, however. We limit the ability of citizens, churches, and other organizations to challenge the government at our own peril. The Establishment Clause was written not only to ensure that people could practice religion as they saw fit, but also to prevent government from meddling in organized religion. Those who seek to expand religious expression by allowing the government to participating in it do great harm to the religious and non-religious.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1038, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5631, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1037 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1037

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 5631) making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 days to revise and extend their remarks and insert tabular and extraneous material into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, on Monday the Rules Committee met and reported a rule for consideration of the conference report for H.R. 5631, the Department of Defense Appropriations Act for fiscal year 2007.

Mr. Speaker, when the Rules Committee met on Monday night, it reported a rule that waives all points of order against the conference report and against its consideration. Additionally, it provides that the conference report be considered as read.

Today, I rise to support the rule for H.R. 5631 and the underlying legislation. This piece of legislation is a hard-fought compromise between the House and the Senate. The required give and take in this case is a tremendous example of the dedication that Members of both bodies of Congress and both political parties have when it comes to supporting our troops in the field.

Mr. Speaker, many said we could not be at this point today. Many expected compromise could not be reached. I am pleased to say this has not been the case.

Furthermore, the underlying legislation also provides the continuing resolution for the government to remain in operation until November 17. This represents a great compromise and maintains the lower funding levels from either the House or Senate from the previous year or the fiscal year 2006 current rates. H.R. 5631, in short, represents good, bipartisan, bicameral work.

Mr. Speaker, the primary purpose of the underlying legislation is to secure and improve the defense of our country. To that end, the underlying legislation provides for several critical needs for our forces. First, its overall level of funding provides $377.6 billion plus $70 billion in the fiscal year 2007 bridge for operations in Iraq and Afghanistan.

Additionally, a full $17.1 billion is provided for the Army for the purpose of resetting and refurbishing the force. This is particularly critical at a time when the Army clearly requires and deserves additional funds to fulfill the many complex and dangerous missions it has been called upon to undertake.

Other critical expenditures in this legislation includes significant dollars for the Army's future combat systems, the Navy's shipbuilding program, and aircraft research and development and procurement by the Air Force.

Rather than focusing on the specific numbers, however, I want to address the fundamental reasons for the underlying legislation and the challenges that it attempts to address.

Mr. Speaker, today we are at war in both Iraq and Afghanistan, and are embarked upon the greatest military rebuilding effort in a generation. While our forces are stretched, they are doing a magnificent job. There is no doubt of their dedication, professionalism, and commitment to the missions we have asked them to fulfill. Frankly, we ask more of them than anyone should have to give; yet when we do, they always exceed our expectations.

Mr. Speaker, our combatant commanders and the administration have been very open during the multiple oversight hearings about the challenges they foresee in what they refer to as the long war. It is not a war that can be fought and won by force alone. It is one that requires military action, but also reconstruction, stabilization, and the fostering of democratic concepts and structures of government in areas and among peoples who have been subjected to dictators and totalitarian regimes for decades.

This task is neither simple nor easy. However, it is necessary for the security of our country. When the American people are asked to support our troops in the field, they always respond with the generosity and commitment required of them. Historically, however, Congress and the President have not always funded the military in peacetime at levels necessary to adequately protect us from future threats. I believe that many of the challenges we face today come from underfunding our military during the 1990s.

Mr. Speaker, today we may hear that the force is stressed. We may hear that we don't have enough troops. We may hear about excessive deployment rates. We may hear about increasing levels of stress on military personnel and their families. In large measure, I accept these assertions as true, but they are issues that have grown out of an historical reluctance to see the world for what it is, a very dangerous place.

At the end of the first Bush administration in 1992, we were left with a military that was much larger and could have sustained operations in the current environment for a much longer period of time. During the 1990s, many of the forces we wish we had today were RIF'ed, disassembled, retired and transferred in pursuit of the so-called "peace dividend."

If there is one thing we should learn from this experience, it is that the military is like life insurance: it is expensive, and no one wants to pay for it, but it is there for a specific purpose and to be used when the situation requires.

We have clearly seen what the misguided decision to reduce our forces from 15 divisions and then down to 10 divisions has meant for the Army. It has resulted in a force that is burdened, strained and stretched by our historically naive decisions.

Mr. Speaker, the road out of this situation is not easily traveled. It is one that will require the sustained commitment and support of the administration and both Houses and both parties in Congress. This bill is a step in that direction. It is a step toward achieving our objective in Afghanistan and Iraq. It is a step toward building a future for us that can meet America's changing security needs. This is an ongoing process.

However, Mr. Speaker, some today may try to make the underlying legislation out to be more comprehensive than any bill can possibly be. They will argue it should be the final answer, a cure for all problems. This is not, and, indeed, this can never be.

The defense of our country requires a constant vigilance born of necessity. And the funding, sizing and transformation of our military forces is by necessity an evolutionary process. One appropriations bill will not meet all of the challenges or solve all of the security needs of our country. However, this bill is a real substantive and incremental step in securing our future.

Mr. Speaker, the appropriators have forwarded us a bill that is substantial, sound, and needed.

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It is a robust vote of confidence in our servicemen and prioritizes the funding on ongoing operations. It is one that I believe we should support. And after all is said and done here today, I am convinced that this bill will indeed receive an overwhelming bipartisan vote of support in this House.

To that end, Mr. Speaker, I urge support for the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me time, and I yield myself such time as I may consume.

Mr. Speaker, the rule before us makes in order a conference report for the fiscal year 2007 defense appropriations bill. It will be the first conference agreement to pass both Chambers, and it would do so on time. That should be commended.

However, the majority leadership has yet to come to an agreement on much else. As a result, the conferees were forced to include a continuing resolution that will keep the Federal Government open for business through November 17.

Mr. Speaker, the conference agreement itself is a responsible effort to support our troops in the field. Thanks to the effort of Subcommittee Chairman YOUNG and Ranking Member MURTHA, we will continue to invest in modernizing our military. But, just as important, we will fund the training and equipment our troops need to complete their mission, wherever they are stationed.

No one disagrees that the war in Iraq has placed a significant strain on our Armed Forces. An article in yesterday's New York Times describes the situation starkly:

"Other than the 17 brigades in Iraq and Afghanistan, only two or three combat brigades in the entire army, perhaps 7,000 to 10,000 troops, are fully trained and sufficiently equipped to respond quickly to crises, said a senior army general."

[From the New York Times, Sept. 25, 2006]

UNIT MAKES DO AS ARMY STRIVES TO PLUG GAPS

(By David S. Cloud)

FORT STEWART, GA.—The pressures that the conflict in Iraq is putting on the Army are apparent amid the towering pine trees of southeast Georgia, where the Third Infantry Division is preparing for the likelihood that it will go back to Iraq for a third tour.

Col. Tom James, who commands the division's Second Brigade, acknowledged that his unit's equipment levels had fallen so low that it now had no tanks or other armored vehicles to use in training and that his soldiers were rated as largely untrained in attack and defense.

The rest of the division, which helped lead the invasion of Iraq in 2003 and conducted the first probes into Baghdad, is moving back to full strength after many months of being a shell of its former self.

But at a time when Pentagon officials are saying the Army is stretched so thin that it may be forced to go back on its pledge to limit National Guard deployment overseas, the division's situation is symptomatic of how the shortages are playing out on the ground.

The enormous strains on equipment and personnel, because of longer-than-expected deployments, have left active Army units with little combat power in reserve. The Second Brigade, for example, has only half of the roughly 3,500 soldiers it is supposed to have. The unit trains on computer simulators, meant to recreate the experience of firing a tank's main gun or driving in a convoy under attack.

"It's a good tool before you get the equipment you need," Colonel James said. But a few years ago, he said, having a combat brigade in a mechanized infantry division at such a low state of readiness would have been "unheard of."

Other than the 17 brigades in Iraq and Afghanistan, only two or three combat brigades in the entire Army—perhaps 7,000 to 10,000 troops—are fully trained and sufficiently equipped to respond quickly to crises, said a senior Army general.

Most other units of the active-duty Army, which is growing to 42 brigades, are resting or being refitted at their home bases. But even that cycle, which is supposed to take two years, is being compressed to a year or less because of the need to prepare units quickly to return to Iraq.

After coming from Iraq in 2003, the Third Infantry Division was sent back in 2005. Then, within weeks of returning home last January, it was told by the Army that one of its four brigades had to be ready to go back again, this time in only 11 months. The three other brigades would have to be ready by mid-2007, Army planners said.

Yet almost all of the division's equipment had been left in Iraq for their replacements, and thousands of its soldiers left the Army or were reassigned shortly after coming home, leaving the division largely hollow. Most senior officers were replaced in June.

In addition to preparing for Iraq, the Army assigned the division other missions it had to be ready to execute, including responding to hurricanes and other natural disasters and deploying to Korea if conflict broke out there.

Maj. Gen. Rick Lynch, who took command in June, says officials at Army headquarters ask him every month how ready his division is to handle a crisis in Korea. The answer, General Lynch says, is that he is getting there.

Since this summer, 1,000 soldiers a month have been arriving at Fort Stewart, 100 of them just out of basic training. As a result, the First and Third Brigades are now at or near their authorized troop strength, but many of the soldiers are raw.

The two brigades started receiving tanks and other equipment to begin training in the field only in the last month, leaving the division only partly able to respond immediately if called to Korea, General Lynch said.

"I'm confident two of the four brigade combat teams would say, 'O.K., let's go,'" General Lynch said in an interview. "The Second and Fourth Brigades would say, 'O.K., boss, but we've got no equipment. What are we going to use?' So we'd have to figure out where we're going to draw their equipment."

Meanwhile, the division is also preparing for deployment to Iraq on an abbreviated timeline.

The brief time at home does not sit well with some soldiers. Specialist George Patterson, who reenlisted after returning from Iraq in January, said last week that he was surprised to learn he could end up being home with his wife and daughter for only a year.

"I knew I would be going back," Specialist Patterson said. "Did I think I would leave and go back in the same year? No. It kind of stinks."

Instead of allowing more than a year to prepare to deploy, the First Brigade training schedule has been squeezed into only a few months, so the brigade can be ready to deploy as ordered by early December. Though the unit has not yet been formally designated for Iraq, most soldiers say there is little doubt they are headed there early next year.

Some combat-skills training not likely to be used in Iraq has been shortened substantially, said Col. John Charlton, the brigade commander. "It's about taking all the requirements and compressing them, which is a challenge," he said.

The timetable also leaves officers and their soldiers less time to form close relationships that can be vital, several officers said.

And soldiers have less time to learn their weapons systems. Many of the major weapons systems, like artillery and even tanks, are unlikely to be used frequently in a counterinsurgency fight like Iraq.

The division has only a few dozen fully armored Humvees for training because most of the vehicles are in use in Iraq. Nor does it have all the tanks and trucks it is supposed to have when at full strength.

"There is enough equipment, and I would almost say just enough equipment," said Lt. Col. Sean Morrissey, the division's logistics officer. "We're accustomed to, 'I need 100 trucks. Where's my hundred trucks?' Well, we're nowhere near that."

Last week, in training areas deep in the Fort Stewart woods, First Brigade soldiers were still learning to use other systems important in Iraq, like unmanned aerial vehicles, which are used for conducting surveillance.

Standing at a training airfield with three of the aircraft nearby, Sgt. Mark Melbourne, the senior noncommissioned officer for the brigade's unmanned aerial vehicles platoon, said only 6 of the brigade's 15 operators had qualified so far in operating the aircraft from a ground station.

All of them are supposed to be qualified by next month, but the training has been slowed by frequent rain, Sergeant Melbourne said.

This week, the First Brigade began a full-scale mission rehearsal for Iraq.

Normally, armored units preparing for Iraq are sent to Fort Irwin, Calif., for such training, but transporting a brigade's worth of equipment and soldiers there takes a month, which the schedule would not permit.

So the trainers and Arabic-speaking role players, who will simulate conditions the unit is likely to encounter in Iraq, were brought here to conduct the three-week exercise in a Georgia pine forest, rather than in the California desert.

Mr. Speaker, I was pleased that the conferees recognize this growing crisis in the military and took steps to mitigate it. Specifically, the conference agreement provides $20 billion in additional funds to ensure that the needs of the Army and the Marine Corps for fiscal year 2007 are fully funded.

This agreement also includes forward-thinking provisions. Ranking Member MURTHA included language in the House bill prohibiting permanent U.S. bases in Iraq. I was pleased to join many of my colleagues in supporting that language. I appreciate that conferees preserved and strengthened this policy in the final agreement. Quite simply, intentions matter. And clarity in the United States' intentions is needed more so in Iraq than anywhere else.

There are many other smart provisions included in this agreement. The bill includes a 2.2 percent pay increase for all members of the Armed Forces. It increases mental health and posttraumatic stress syndrome research, and it provides funds for the replacement of National Guard and Reserve equipment lost in Iraq and Afghanistan.

But, finally, Mr. Speaker, I appreciate this agreement for the simple fact that it is on time. Conferees worked together over several weeks to produce a very balanced conference agreement. It should be a model for the work Congress still has to do.

With only a few days remaining in this fiscal year, not a single appropriations bill has been signed into law. This is not new. In the last 5 years, only six of the 68 appropriations bills were finished on time. Some may try to shift blame to the other Chamber, but the majority has no one to blame but itself.

Again, I turn to another article in yesterday's New York Times, which summarizes the situation quite clearly:

"While Republicans prefer to blame Democrats for the backlog, intramural fights and sharp differences between House and Senate Republicans have been chief impediments to major legislation."

[From the International Herald Tribune, Sept. 25, 2006]

CONGRESS WINDS DOWN, WITH MUCH BUSINESS UNFINISHED

(By Carl Hulse)

WASHINGTON.—A Congress derided as do-nothing has a week to do something, and the prospects are cloudy.

Procrastination, power struggles and partisanship have left Congress with substantial work to finish before taking a break at the end of the week for the midterm elections. The fast-approaching recess and the Republican focus on national security legislation make it inevitable that much of the remainder will fall by the wayside.

At best, it appears that only two of the 11 required spending bills will pass, and not one has been approved so far, forcing a stopgap measure to keep the federal government open. No budget was enacted. A popular package of business and education tax credits is teetering. A lobbying overhaul, once a top priority in view of corruption scandals, is dead. The drive for broad immigration changes has derailed.

An offshore oil drilling bill, painted as an answer to high gas prices, is stalled. Plans to cut the estate tax and raise the minimum wage have foundered, and an important nuclear pact with India sought by the White House is not on track to clear Congress. New problems surfaced over the weekend for the annual military authorization bill.

And numerous other initiatives await a planned lame-duck session in mid-November or a future Congress.

"It is disappointing where we are, and I think Republicans need to be upfront about this," said Representative Jack Kingston, Republican of Georgia and a member of the House leadership. "We have not accomplished what we need to accomplish."

Given the practical and political realities, Republicans have chosen to concentrate on legislation emphasizing their security credentials, like the bill governing interrogations and trials of terrorism detainees, a National Security Agency surveillance program and spending on the Pentagon and the Department of Homeland Security.

"With obstruction from the Democrats at an all-time high, we have focused on four security issues in an effort to enact some solid, substantive accomplishments," said Eric Ueland, chief of staff to Senator Bill Frist of Tennessee, the majority leader, who is stepping down at the end of this session.

While Republicans prefer to blame Democrats for the backlog, intramural fights and sharp differences between House and Senate Republicans have been chief impediments to major legislation. The fissures over terrorism detainees and how far to go in changing immigration law are merely the latest and most public examples of serious policy differences among Republicans.

Circumstances have changed in Washington from the days when Republicans were famous for party discipline. President George W. Bush, weakened by his sliding popularity, has been unable to hold sway over Congress.

The Republican leadership in the House and the Senate is in transition and lacks the muscle of the former House majority leader, Tom DeLay. Republican lawmakers, many facing their most serious electoral opposition in years, are fending for themselves.

"We have no central core of political authority driving things in Washington," said James Thurber, director of the Center for Congressional and Presidential Studies at American University. "Individuals and expressions of individual will by committees, and also by strong people like John McCain, have dominated, and the result is internal fighting."

Democrats have made no secret of their intention to try to brand this Congress as worse than lackluster.

"When we say this is the most do-nothing Congress in the history of our country, this isn't just flippant," said Senator Harry Reid of Nevada, the Democratic leader. "This is true." Besides denouncing the legislative output, Democrats are mounting an effort to chastise Republicans as failing to conduct sufficient oversight of the Iraq war.

Republican leaders dispute the notion that this has been an unproductive session, pointing to legislation on bankruptcy, class action, highway spending, energy policy and pensions, as well as to two Supreme Court confirmations. And they say they already plan to be back Nov. 13 to finish whatever remains at the end of the week.

Democrats have been happy throughout the year to stand almost united in both the House and the Senate against many of the Republican initiatives, forcing the majority to find enough votes to pass legislation from its own membership. That has often forced major concessions from the leadership. In other cases, Republicans in the House and the Senate have simply been unable to find common ground.

"In the 26 years I have been here," said Representative Barney Frank, Democrat of Massachusetts, "I don't think I have ever seen so much tension between the House and the Senate, and it is all among Republicans."

The immigration measure was a notable example as House Republicans refused to entertain the bipartisan Senate bill that took a comprehensive approach to the flood of illegal immigrants. A push for a formal budget plan collapsed because of differences over spending between House and Senate Republicans.

A House-Senate Republican feud over the handling of a pension measure, which ultimately passed, left a collection of tax breaks in limbo despite nearly unanimous support in Congress. Those tax benefits included a deduction for college tuition costs and a research and development tax credit for businesses. The leadership has been reluctant to bring the benefits to a vote independently because they could be used to help advance more contentious legislation, like the cut in the estate tax sought by Republicans.

A new struggle between rank-and-file Republicans and the leadership threatens to engulf the must-pass spending measure for domestic security. Lawmakers were insisting that a provision allowing Americans to bring back cheaper prescription drugs from Canada be added to the bill even though House leaders and the pharmaceutical industry oppose the Plan.

Mr. Speaker, the 109th Congress has had fewer voting days than almost any other Congress in history. We have lost precious weeks on politics as we debated bills that would never become law; and, as a result, Congress will leave Washington this week with many of the American people's priorities unfinished. There will be no lobbying reform, no comprehensive immigration reform. Congress will have ignored the millions of seniors stuck in the prescription drug benefit doughnut hole.

As I said last year when I also managed a prior continuing resolution, this

Congress needs new and better priorities. Until then, delays will continue and deadlines will be missed and we will end up here every year with last-minute solutions to keep the Federal Government open for business.

In closing, Mr. Speaker, the conference report made in order under this rule affirms our support for the men and women of the United States military. I commend the conferees for their work, especially Subcommittee Chairman YOUNG and Ranking Member MURTHA. They made great progress in a short time by working together. I would challenge the rest of my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, at this time, I am pleased to yield 3 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, I rise today in strong support of the rule as well as the underlying legislation.

We are a Nation at war against the forces of terror who would like to threaten the freedom and the liberty that we all hold so dear and are constitutionally required to defend.

Now, I know that the Democratic minority leader in this House recently stated that national security should not be an issue in the upcoming election. She actually said that. She said that national security should not be an issue in the upcoming election. But the fact of the matter is that the American people are very interested in knowing who stands up for the defense of our Nation and who buries their heads in the sand when it comes to defending our freedom. They are interested in what we are doing here because our first and foremost responsibility is to provide for the national defense. That is in the preamble of our Constitution.

This bill is an important indication of our national will because it allocates needed resources to ensure that our troops on the front lines have the equipment and training that they need to defeat our enemies. It helps us to prepare for emerging threats with support for ballistic missile defense. It provides needed funding for the weapons systems of the future, like future combat systems, that will allow our forces to remain the most powerful fighting force on the planet. And it also provides needed funding to study ways to help our troops become more mobile and enhance their capability in the future.

Mr. Speaker, a lot has been said recently about earmarks and much of it in a derogatory fashion. But not all earmarks are bad, and let me tell you about one that I am proud to have secured that is in this bill being done at Selfridge Air National Guard Base in my district.

Mr. Speaker, as we seek alternatives for everyday energy needs, we also need alternatives for our military. This bill is providing $4 million for the second phase of a project to turn waste into fuel and electricity.

NextEnergy, which is an alternative fuel research cooperative in the great State of Michigan, has been working with the U.S. Army TARDEC on this very important project. And the technology that they are developing will take waste produced by units such as mess hall and other types of waste and turn it into liquid fuel. This fuel would then run a generator that could produce high-quality electric energy that every unit needs.

One, of course, can only imagine how much it costs to transport fuel in the battlefield. You can think about taking a unit of fuel and transiting it up to a mountaintop in Afghanistan, for example.

This project not only enhances the capability and mobility of our troops, it will also provide additional security for our troops as well. So I am proud to have brought forth this earmark, and I have no problem coming to the floor and defending it. And I think all Members should come to the floor and defend their earmarks.

Mr. Speaker, this is a reasonable rule to manage an outstanding bill. It has the right priorities and makes a further commitment to maintaining our military as the best trained, the best equipped, the best supported, and the most lethal fighting force on the planet.

I urge my colleagues to support the rule and the underlying bill as well.

Ms. MATSUI. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, this rule will allow the House to pass the Department of Defense appropriation bill for the year; and, in addition, it will allow the Congress to move forward with a $70 billion partial payment on the cost of funding the war in Iraq and Afghanistan.

I would much prefer that we would be paying for the entire year, rather than continuing to see this war financed on the installment plan. We are now reaching almost $500 billion that has been expended on this endeavor, and I think it would be helpful to the American people if they could see the full cost each year, rather than having it dribbed and drabbed out month by month in order to hide the full impact of the cost. This rule also allows the House to consider the continuing resolution for the remainder of the budget.

We will, when the House leaves this week, have passed only two appropriation bills, the defense bill and the homeland security bill. That means the entire domestic portion of the budget plus the bills to finance foreign operations and State Department operations will be delayed until after the election, well into the fiscal year.

Now, the majority leader in the Senate, Senator FRIST, I note yesterday objected to the "obstructive tactics" of the Democratic minority on appropriation bills. I want to point out no one in this House is going to be able to point to a single instance in which the minority party has delayed consideration of any appropriation bill. In fact, we can point to at least 16 occasions on which the minority accelerated or helped to move forward the appropriation bills. That does not mean we always voted for them. We voted for some and against others. But I made the point at the beginning of the year that we were going to cooperate fully procedurally because at the end of the year I wanted people to understand that if these bills were not passed that the responsibility would lie with the majority party. And it has.

Now the responsibility does not lie with the majority appropriators. The problem is that this House started out the year with the majority party leadership allowing the strong right wing of their caucus to dictate the content of the budget resolution, and that budget resolution was incredibly unrealistic.

Now, as a result, we find the Senate counterparts of our friends on the majority side of the aisle who are reluctant to go on record endorsing many of the actions that were required by that budget resolution in the appropriations process. And so they prefer to push it past the election so that there will be no accountability for most of the actions taken by Congress on the domestic portion of the budget.

There will be no final accountability with respect to the number of research grants that are cut from NIH below the base 3 years ago. There will be no accountability for the fact that No Child Left Behind education funds are short-sheeted by over $1 billion. There will be no accountability for thousands of other decisions made in the domestic budget, because all of those final decisions have been postponed until after the election when you can then bring bills up for a vote without having any political consequence. I think that is unfortunate, and I would simply say that this demonstrates what happens when the priority of the majority party is simply to deliver king-size tax cuts to persons making over a million bucks a year.

The minority party throughout has tried to show that we could meet our responsibilities in education, in health care, in science, in agriculture, and in other areas by having a very modest cutback in the size of tax cuts that are aimed at those folks who are in the top 1 percent of earners in this country, in fact, even better than the top 1 percent, those who make $1 million or more a year. And I would venture to say that I think if you asked most of those people they would say "We don't need a tax cut quite that large as long as you are taking care of the middle-class folks. Instead, use that money to meet these responsibilities."

Unfortunately, the Congress has chosen not to do that. So, once again, we have to finance the entire domestic portion of the budget on a continuing resolution, hiding until after the election all the multiple decisions that I thought we were so eager to make when we ran for election 2 years ago.

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Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me take a moment to make a couple of points in response to my good friend from Wisconsin's observations. First, on the bridge fund for appropriations for ongoing operations in Afghanistan and Iraq, I just want to note for the record, it is considerably higher than it has been in the past, $70 billion, I believe, as opposed to $50 billion. That is a significant increase.

Also, that bridge fund allows us to frankly adapt to changing conditions on the battlefield. The reality is battlefields do not move in budgetary cycles, or wars do not.

And, finally, it keeps us from building in a lot of expense of operations in Afghanistan and Iraq into the permanent base. We think it has been a good procedure to move forward with in this conflict. In terms of the cuts my friend mentioned, let me just say again for the record, if we check each year, we actually spend more money than we do the year before, and on more things.

We have many, many choices to make, many, many tough decisions to make. The most important priority for government is always the defense of its citizens and the operation of its military. I would actually argue, I would probably agree with my friend, we should have been spending more there, we should have spent more there during the 1990s.

In every other area of government, the reality is, including education, you mention No Child Left Behind, our expenditures are considerably higher than they were just a few years ago, and they continue to grow every year.

So while we would all like to do more, the reality is we have increased the expenditures considerably. Some would argue too much.

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise in strong support of the rule and the underlying conference report for the fiscal year 2007 Department of Defense Appropriations Act.

I would like to commend Chairmen Lewis and Young as well as the staff of the Defense Subcommittee for their tireless efforts in support of our soldiers, sailors, airmen and marines who are bravely defending us at home and abroad.

Mr. Speaker, this legislation covers an extensive range of priorities that are vitally important to our armed services, and we must pass it before adjourning later this week. As we fight for our way of life, our enemies are actively and aggressively adjusting their tactics while waging their terrorist war of religious intolerance against the free nations of this world.

This legislation provides the necessary supplemental funding to give our deployed soldiers the resources they need to continue taking the fight to the terrorists. It contains funding for force protection, including improvised explosive device jammers to shield our soldiers from roadside bombs, as well as increased funding to replace and repair battle-worn equipment.

Mr. Speaker, our House and Senate colleagues did a good job securing funding for many important programs which are our military's top priorities. Chief among these, Mr. Speaker, is the F-22 Raptor. I am particularly encouraged by the work the Appropriations Committee has done to fund the F-22 program this year, as this aircraft is vital to our Nation's defense.

The conference agreement includes authority for multiyear procurement of 60 F-22 aircraft, beginning with 20 fully funded in this fiscal year and continuing with two subsequent lots of 20 aircraft each in fiscal years 2008 and 2009.

This will go a long way towards providing stability for the program and ensuring that America maintains air dominance for the foreseeable future. Further, Mr. Speaker, as we fight the global war on terror, the United States must without question continue to modernize and strengthen our ability to support our men and women in harm's way.

Maintaining our Nation's airlift capabilities is critical to this mission, and I would like to applaud conferees for their recognition of this in funding nine C-130Js, two KC-130Js, and the C-5 modernization program.

The conferees also responsibly recognize the importance of developing lifesaving innovations to benefit our warfighters. Accordingly, $1 million was included in the conference report for the research and the development of protein hydrogel, which is manufactured in my district, by definition, Mr. Speaker, an earmark and one that I proudly sponsored.

Protein hydrogel has the potential to quickly seal battlefield wounds to prevent excessive bleeding and death. We are absolutely doing the right thing providing for that research.

Mr. Speaker, I would like to again thank my colleagues, thank Mr. COLE, thank them for their hard work, and I urge support for this rule and the conference report.

Ms. MATSUI. Mr. Speaker, I yield 3½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from California.

Mr. Speaker, I have every intention of voting for the underlying appropriation bill, which will fund the Department of Defense for fiscal year 2007, presumably, and I believe critical to our national defense. Yet it has been languishing for 9 months. In the last breath before the election, we bring the bill to the floor.

However, I have noticed as well, I am sure many Members have, that the Republican leadership has chosen to insert the must-pass continuing resolution in this important legislation, rather than allow a free-standing vote on that issue.

Let no one be mistaken. The Republican leadership, by tucking the CR in the defense appropriation bill, does so because in my opinion it is embarrassed by its own incompetence and ineffectiveness. Just look at the facts. This do-less-than-the-do-nothing Republican Congress is projected to be in session just 93 days in 2006. That is 17 fewer days in session than the do-nothing Congress of 1948, which was famously derided by President Truman.

Yet despite the light work schedule, the Republican majority has failed to enact a budget for fiscal 2007. It has failed to act on even one appropriation bill as we are 5 days from the end of the fiscal year.

No conference reports. That is why we are having this continuing resolution. Furthermore, the Republican-controlled Congress has failed to enact the recommendations of the bipartisan 9/11 Commission.

Failed to enact a long overdue increase in the Federal minimum wage. Failed to enact real immigration reform, and protect our borders, protect our country. Failed to address the fact that 46 million Americans are uninsured today, and failed to enact legislation that moves toward energy independence.

The record, frankly and sadly for the American people and for our country, is that this Republican Congress on fiscal issues is simply abysmal. We go deeper and deeper and deeper into debt.

In 6 years, this Republican Congress and the Bush administration have turned a projected 10-year budget surplus of $5.6 trillion into a 10-year deficit of almost $4 trillion. Republicans' failed fiscal policies have created record budget deficits and forced this Congress to increase the debt limit four times in 5 years.

In the last 4 years of the Clinton administration, we never once raised the debt limit. In fact, in the entire 8 years, the debt limit was only raised twice, in the first 4 years as we were coming out of the fiscally irresponsible first Bush administration.

Mr. Speaker, this continuing resolution, tucked as it is in this defense appropriation bill, is an admission of failure by the Republican Congress. As our friend from Georgia, Congressman KINGSTON, a Republican leader, said yesterday: "It is disappointing where we are. And I think Republicans need to be up front about this. We have not accomplished what we need to accomplish."

Mr. Speaker, I could not agree with Congressman KINGSTON more on that particular issue. The CR tucked in a defense bill, a CR, an admission of failure, a CR in a bill that is critical to our national defense and to our country. How sad. What a stark admission of failure.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I actually came here to debate the defense budget, but I am happy to respond to a number of points that my good friend from Maryland made.

Let me first say I appreciate his recognition for the outstanding work the Republican Congress did in the final 4 years of the Clinton administration balancing the budget and dragging our friends across the aisle kicking and screaming to that laudable thing.

Mr. HOYER. Will my friend yield on that point?

Mr. COLE of Oklahoma. Mr. Speaker, I did not interrupt my friend. I would like to finish my remarks if I may.

Not only did I appreciate the recognition that the budget was balanced with a Republican Congress, I also would ask my good friend simply to recall the situation this administration inherited, a recession that began literally within weeks after the President took office, followed by the shock of 9/11, which sent this economy, we think, into a tailspin.

We had 3 consecutive years of reduced revenue by the Federal Government, the first time since the 1930s that that would happen, and frankly something that I would not blame on any party. I simply think it was an incredibly unfortunate confluence of events with a growth era that had run its course, and was coming down, hit by a dastardly attack that I know we all agree was a great tragedy in American history.

Given that, I think the policies that the President pursued and this Congress supported of cutting taxes, reviving the economy, beginning to create jobs and now increasing the amount of revenue available to us were indeed the right course. And indeed the budget deficit has gotten progressively smaller as those policies have kicked in and been allowed to work.

The challenge in front of us now is coming again to the spending restraint that we found in the bipartisan fashion during the 1990s. I would just point out to my good friend that I very seldom see my colleagues on the other side of the aisle come here and tell us we need to spend less money. They usually propose more money on almost every piece of legislation than we propose.

Ergo, I suspect that means taxes need to go up, because they not only want to cover the current deficit, they want to spend beyond the current spending levels or higher than current spending levels. So on that we are simply going to have a debate and disagree.

I am happy about this legislation. As my good friend from California mentioned, we had wonderful bipartisanship in the conference. We have a product that we can both be proud of. I think both parties and all Members are doing the appropriate thing for the men and women that are serving us in uniform. I look forward to continuing the discussion.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. COLE of Oklahoma. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, as you know, I have been here for many years, 26 to be exact. The gentleman mentions 9/11, a cataclysmic event in the history of our country. He is right to mention that. Obviously it cost us money.

But I have served here for 26 years, as the gentleman knows, 18 of these have been with Republican Presidents, 8 with a Democratic President. I tell my friend, in every one of the 18 years with a Republican President we ran deficits above $100 billion.

During the Clinton administration, as you know, we ran 4 years of surplus and 4 years of decreasing deficits, the only President in our life time who had a surplus, i.e., $62.5 billion surplus; the only President in our lifetime who did that during his tenure.

Further, I say to my friend, in 1993, with Democrats in control of the Congress of the United States, and with not one Republican vote, we passed an economic program which raised revenues, which you mention frequently. I do not mean you personally, but your party mentions frequently, but you never mention the fact that in that same bill, we cut $254 billion in spending.

Furthermore, in terms of spending, you say restraint of spending. Democrats do not control spending at all. We do not have control in the House; we do not have control in the Senate. Yet the Republicans have spent, as you well know, at twice the rate of spending under the Clinton administration. I thank you for yielding.

Mr. COLE of Oklahoma. Mr. Speaker, reclaiming my time.

Well, again I want to thank my friend, in a very back-handed, but I think very obvious fashion thanking that Republican Congress which was actually in control of the purse strings. And I will leave it to the American people to decide who they want as the next President of the United States.

But you have made a very eloquent case, in my opinion, for the continuance of a Republican majority in Congress, because that is when spending control was actually achieved. I thank my friend.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentlewoman from California for yielding me the time.

Mr. Speaker, we have a right and an obligation to defend America, as one of my colleagues from the other side of the aisle pointed out. It is in the preamble to the Constitution of the United States.

We also have an obligation to tell the truth to the American people. The Bible says: "You shall know the truth. And the truth shall set you free."

The truth is that about $70 billion in this spending will go for bridge funding to support the ongoing operations in Iraq and Afghanistan.

☐ 1615

The truth is there should have never been a war against Iraq. The truth is Iraq did not have weapons of mass destruction. The truth is Iraq had nothing to do with 9/11. The truth is Iraq did not have any relationship to al Qaeda and 9/11. The truth is Iraq had nothing to do with the anthrax attack on this country. The truth is Iraq did not have the intention or the capability of attacking the United States. The truth is Iraq did not try to get uranium from Najaf for the purpose of making nuclear weapons. The truth is Iraq did not try to secure aluminum tubes for the reprocessing of uranium. The truth is we never should have gone to war in Iraq, and the truth is we should bring our troops home from Iraq.

Of the numerous reasons to vote against this bill, the continued funding for the war in Iraq is most noteworthy. If the U.S. were to withdraw as soon as possible out of Iraq, we would save $1.5 billion each week in Iraq, $6 billion a month and $72 billion annually, and then maybe we would not have to borrow money from China, Japan and Korea to fight a war.

It is increasingly clear that this administration's occupation and reconstruction of Iraq has failed. For every $1 spent on war costs, we are taking away $1 from programs that are needed in this country for housing, for education, for health care, for the elderly. After 3½ years, Iraq is less safe, not more.

Mr. Speaker, this administration's policies have turned Iraq into a breeding ground for terrorists and created the greatest recruiting tool ever for al Qaeda. Even the national intelligence estimate suggests the invasion of Iraq has evolved into our largest terrorist threat. The more money we spend in Iraq, the more of a problem we will have with terrorism.

What should we do? We should get out of Iraq. We should support our troops by bringing them home, bring them home so that we can give them the appropriate honor for their service.

Congress has the power to end the war, and that power is in this moment. Cut off the funds for the war, and the war is over. The money in the pipeline can be used to bring our troops home.

The greatest tragedy is that we have lost close to 2,700 American soldiers and tens of thousands more have been injured. Up to 200,000 innocent Iraqis have died as a result of the invasion. Every day, 120 more Iraqis die at the hands of execution-style death squads, kidnappings, murders, IEDs and sectarian violence.

The war in Iraq has been a great and tragic mistake. It has cost us in blood and treasure. It has damaged our once unchallenged representation in the world. It has squandered the goodwill rained upon this Nation after 9/11.

We should vote against this rule, vote against the bill. This is a vote on Iraq.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Again, I came here largely to talk about the defense bill, but I want to discuss some of the points my good friend from Ohio made. While I respect him, I respectfully disagree.

Frankly, the administration, this government, never claimed we went to Iraq because of 9/11. We claim we went there because they repeatedly violated U.N. resolutions and they were pursuing activities, as indeed they were, to get themselves out of sanctions, and they expelled weapons inspectors from their country. Every intelligence agency in the world believed they were pursuing weapons of mass destruction; and, indeed, the reality is we probably simply caught them early in the process, rather than later in the process.

I think my friend's comments are based on the unstated but very real premise that this war is somehow better off if Saddam Hussein was still in Baghdad. That is simply an assertion or an opinion that I reject. I have been to Iraq six times, as many of my colleagues frankly on both sides of the issues have been numerous times, and I simply remind my friends what Saddam Hussein and Baghdad meant: two regional wars that more than 1 million people died in; twice close to nuclear weapons, once in 1981, once in 1991; 270-odd mass graves in Iraq.

I have been to Iraq. Nobody in Iraq wants Saddam Hussein back. Nobody in Iraq, at least of any significant numbers, would tell you that they lived in a good era, and everybody in the region I think would tell you that the region is better off without him.

That does not mean that we have an easy situation that is confronting us. Indeed, it is very difficult and I would acknowledge that up front, but I think it calls for perseverance. I think an immediate withdrawal would be a disaster for the region and, frankly, would endanger people, thousands of whom have placed their faith and their confidence in the United States of America.

I am extraordinarily proud, as I know each and every Member of this body is, of the men and women that wear the uniform of the United States and do the tough job that we ask them to do. I think in the long view of history people will look back on this and say they did a very important job very well for this country and, like their fathers and grandfathers before them, for the region in which they were deployed, because where they go, democracy has followed.

Democracy certainly was not going to break out on its own in Iraq, nor was Saddam Hussein going to wither away on the vine in Iraq, in my opinion.

So I respect the decision that the President and the administration made, that this Congress on a bipartisan basis supported, dozens of my friends on the other side of the aisle voting in favor of giving the President the right to use force; half, I believe, of our friends in other body on the other side of the aisle voting for the President to have the option to use force and go into Iraq.

That is something we ought to remember as we have this debate. We did not go to war on a partisan vote. We went to war on a bipartisan decision.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 4½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, it is growing very tiresome to hear Republicans rewriting history and blaming all the ills of our society on the 1990s and the Clinton administration.

The gentleman from Oklahoma said the Army was too small, that in the 1990s it was reduced from 15 divisions to 10. Maybe so, but, you know, we have had 6 years of the Bush administration and 6 years of the Republican Congress to fix that if that is the problem. I have not seen any proposals to change that. I have not seen any proposals from that side of the aisle or from the administration to increase the Army to 11 or 12 or 15 divisions.

The real problem is that we are wasting the Army. The real problem is that Secretary Rumsfeld thought we could fight a war on the cheap. He sent the troops into Iraq with not enough troops, dismissed General Shinseki when he told him we need twice as many troops as you may think; otherwise, we will have a long-term war on our hands, and he was right. We sent the troops in without the proper body armor and without the proper equipment, and Americans died because of that.

The other real problem is that we are wasting our funds. $300 billion so far, not just funds, 2,700 lives in a foolish, counterproductive war in Iraq, a war started by the Bush administration under false pretences, after misrepresenting facts and intelligence to this Congress.

We were told that we had to go war to prevent the imminent development of weapons of mass destruction, nuclear weapons, the mushroom cloud by Iraq. That was not true.

We were told about the connection of Iraq to al Qaeda. That was not true.

If the President had told us the truth, that Saddam Hussein at that point in history, not 12 years earlier, at that point in history presented no real threat to us, there was no likelihood of weapons of mass destruction, there was no connection to al Qaeda but we should invade Iraq in order to make the Mideast democratic, would this Congress have voted for war? Would the American people have supported starting a war? I do not think so.

I am not going to get into a debate whether the intelligence was wrong or misrepresented. That is a question the American people can decide eventually on whether the Bush administration was a fool or an ape, because that is the question. Either they had it wrong or they misled us. I think it is the latter, but, either way, the fact is, as the gentleman from Ohio said, this war has not made us safer. It is to the contrary.

The national intelligence estimate says the war in Iraq has hurt our efforts in the real war, the war on terrorism. It is a cheap recruiting device of Islamic Jihadists all over the world; and, not only that, this war, the downfall of Saddam Hussein has done one other thing, it has liberated Iran to be the real menace, a far worse menace than Saddam Hussein ever could have been, a real menace to us and to liberty in this world.

The fact is, the foolishness, the stupidity of Iraq aside, we are fighting a real serious war, a very serious war on a much larger scale against the Islamic terrorists. That is the war we must fight and win, but the Bush administration, the Republican Congress does not take that war seriously. We get a lot of rhetoric about the war on terrorism, but they will not up put up the money, they will not put up the effort because they do not take it seriously.

The biggest threat that we are faced with is not Iraq. The biggest threat we are faced with is that al Qaeda or some other Jihadist group gets nuclear weapons. The knowledge is all over the place. The barrier to nuclear weapons is where do you get the nuclear material, where do you get the fissionable material. I tell you where. You get it in the former Soviet Union where there is enough material to build 40.000 nuclear bombs lying around, not properly guarded.

We have a program to get it out of there to protect ourselves from the Osama bin Laden nuclear bomb. We will get it out of there over 30 years. We removed more nuclear material from the former Soviet Union in the 5 years before 9/11 than in the 5 years since. For 15 or $20 billion, we could get it all out and would not have to worry about nuclear explosions in American cities as we must because of the stupidity of the Bush administration in not getting our stuff out of there.

Twelve million shipping containers a year come into this country. They are not inspected. We had a party-line vote on this floor against the Democratic proposal to insist on electronic screening of every container to make sure it does not have an atomic bomb or a radiological weapon in it, but they say we cannot do it; we will have a study of it. This is 1942. In 1942, we built aircraft carriers. We did not have studies of weather to build aircraft carriers.

And all the chemical and nuclear plants are unprotected which, if attacked or sabotaged, could kill hundreds of thousands of Americans. They do not want to spend the money because they do not take the war on terrorism seriously enough. We do.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

I want to differ with my good friend from New York on something. I actually never mentioned President Clinton. You did. I talked about the 1990s, and I think there were mistakes in terms of size in our force by a Democratic President and a Republican Congress. I say this as somebody who was very pleased to serve in my first term on the Armed Services Committee where Members on both sides generally found themselves out of step with the majority on this body on the floor and the administration and wanted to do more. So I do not think this was a partisan mistake. I think this is a bipartisan error in judgment and a mistake about the way the world is, and I think my remarks reflected that.

In terms of talking about whether or not the President told us the truth, I think the record is very clear that he did tell us the best intelligence estimates that we had. And I suspect that most members of the Intelligence Committee, if you look at the committee and go back and look at how they voted on a bipartisan basis, you will find there was considerable bipartisan consensus that that was indeed the case.

Fair enough to say that there is now evidence that the judgment was wrong. I think that is legitimate to bring up and discuss. What concerns me is, quite often, because we now disagree with the judgment, we have to attack the motives of the people who made the judgment at that time. I disagree with that. I think the motives were good motives. We can argue about whether or not the decision was correct, but I do not think the President of the United States deliberately misled this body, nor did this body deliberately mislead the American people in the war. That is my opinion and my view of it.

In terms of not caring about the war on terror, I would submit that is simply not the case. We can disagree about tactics, we can disagree about methods, but the fact that this country has not, thank goodness, and I always knock on wood when I say it, suffered another attack since 9/11, something that nobody on 9/12 would have predicted, is not an accident. It has happened because millions of Americans, thousands of people in uniform, our intelligence system, our border people and, frankly, people in this body have made tough and good decisions to try and keep this country safe.

Now, could it be safer? I will quote the President. We are safer, but we are not safe. I think that is the record, but the reality is we are considerably safer today they than we were on 9/10, the day before, when we had no earthly idea the danger that we were facing and had not taken the preparations in my opinion that we should have taken to deal with it.

□ 1630

I don't judge people harshly for that. People make mistakes, and it is easy to have 20-20 hindsight and be a Monday morning quarterback. But I do give credit when the record shows that somebody has succeeded, and I would tell you, in my opinion, this President, this administration, and, frankly, this Congress has by and large done the right things to keep the country safe over the last several years.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman for her leadership, for her yielding, and for her fairness in this overall process. And I also want to thank the distinguished ranking member of the Defense Subcommittee, Mr. MURTHA, and the ranking member of the full committee, Mr. OBEY, all of whom have been champions for a significant provision of this bill that would ensure that we are not establishing permanent military bases in Iraq.

The American people do not want an open-ended occupation in Iraq. Congress must be on record supporting this. My colleague, Mr. ALLEN, and myself offered a similar provision to the war supplemental in March, but it was stripped in the conference committee for the supplemental. So I am pleased this conference committee for this bill retained this important first step in taking the targets off the backs of our troops in Iraq by showing the world that we have no designs to stay in Iraq permanently.

However, the language will apply only to funds for this fiscal year of 2007, which this conference committee is responsible for, and we need to make the policy of the United States permanently not to have permanent military bases in Iraq. So while I support this provision, I cannot support this bill.

Yes, this war was authorized by this body. And, in fact, several of us, many of us supported a resolution that would have provided for the United Nations to continue with the inspections process. I offered the resolution, so did Mr. SPRATT. Had that happened, and had this body allowed for the process to move forward, 2.700 of our young men and women would not have died, nor would 15.000 to 20,000 have been seriously injured.

This war was unnecessary. Many knew that then, and of course now the National Intelligence Estimates are saying exactly what many of us tried to say during that horrible, horrible period. There were no weapons of mass destruction in Iraq. We knew that; you knew that. There was no connection between Saddam Hussein and Osama bin Laden and al Qaeda. We knew that; you knew that. Iraq was not a hotbed for terrorism when this march to war began. You knew that; we knew that.

And so this war has been deceitful all the way from its beginning. It has been wrong and it has been immoral. It is a perfect example of the failed policies of this administration's priorities when it comes to protecting our Nation. Again, we have spent over $300 billion on an unnecessary war in Iraq that our own intelligence services say is increasing the risk of terrorism, yet we don't have any money to secure our ports or to implement the 9/11 Commission recommendations.

So why should the American taxpayers fund a failed occupation? Why should we pay for increasing the risk of terrorism and funding a hotbed for terrorists in Iraq?

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

I simply want to respond to a number of the points my good friend made. First, let me for the record go back and remind people of all the statements that we could line up here of one American leader after another, of both political parties, who told us that Saddam Hussein had active weapons of mass destruction and was actively pursuing those programs.

It was this Congress, under President Clinton, that passed legislation that made it the object of American policy in 1998 to remove him from power because we thought he was a very dangerous person. So I do not think you can say everybody knew that that wasn't the case. Quite the opposite, in my opinion, is true. Most people saw him as a danger.

In my opinion, they were correct. They may not have had an exact count of what he had available, but I think given his record of having used chemical weapons against his own people, of having launched the wars, of having tried twice and come close twice, according to our people, in acquiring numeral weapons, they were right, particularly in light of 9/11, to be very skeptical and very concerned.

Second, I will ask our colleagues to take somewhat of the long view here. If this were 1954–55, we could all get here and say, gosh, wasn't Korea a terrible thing; it is a dictatorship, 50,000 American lives, what a waste. The reality is, if you look at Korea today, the sacrifices, the decisions made by a Democratic President, Truman, I think worked very well. There is a democracy there. It is secure. Thank goodness we made the tough decisions in that part of the world. I think Iraq will look the same way down road.

Finally, I want to deal with my friend's concern about the war in Iraq has made us less safe or has stimulated terrorism. I have not had an opportunity to read, obviously, the classified document, which I understand today is now going to become available to all of us, so I want to preface my remarks by noting that I want to read what they actually said. But I do want to offer this observation. To say that somehow that Iraq has fostered Islamic terrorism and that Afghanistan somehow wouldn't have is just counterintuitive to me. If Iraq did it, and we were in Afghanistan alone, which nobody seems to debate, we would still have that same force running through the Islamic world, that same stimulus. It is a reaction, I think, to us legitimately defending ourselves in the case of Afghanistan. It would occur just as surely as it has in Iraq.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. COLE of Oklahoma. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank my friend, and I would just like to point out, is it not true, however, that we were told by the intelligence community that even if Iraq did have weapons of mass destruction, that they would most likely use them only if we attacked?

Mr. COLE of Oklahoma. Reclaiming my time, I appreciate my friend's observation, and I would be happy to deal with it, but I think that comment can be handled on your side and I look forward to the discussion.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I think the discussion my good friend has just enunciated is the basis of the frustration of so many of us here in the United States Congress. In fact, we have done a horrible job of oversight and explaining to the American people that we, frankly, this government, this White House, frankly made a horrific mistake. We are not more safe because of the conflict in Iraq, and a lieutenant general of the United States Army, retired, who had been in Vietnam, said we have the exact same mess that we had in Vietnam.

In fact, Iran is the one that is ecstatic, because we actually fought their war for them in terms of the actions of Saddam Hussein against Iran. We have boosted Iran's status in the region. That is, of course, of no interest to the United States. We have created an atmosphere that threatens Israel even more. The longer it goes on, it benefits al Qaeda and the insurgents.

As we speak before this House on the defense appropriations, we remain committed to our U.S. soldiers. We thank them for their service. But in tribute to them, the 2,700 that are dead as we speak, and dying, the 18,000 that have been injured severely, this is not worth staying the course.

And my words are an anecdote that is taken from this lieutenant general: "It is like a person jumping off the Empire State Building, getting down to the 50th floor, waving at those in the window and saying, I am staying the course, and then plopping to the ground having committed suicide."

We are committing suicide in Iraq. We are not safer than we were. This Congress has failed. I support the troops and the appropriations dealing with their issues, but to support and give tribute to those who have died, we need to bring our troops home and bring them home now, claiming victory, transitioning leadership into Iraq and into their surrounding allies and stopping the divide.

We have depleted NATO. We have depleted our military resources. And we realize when we left Vietnam, our standing in the world was higher than it had ever been. When we leave Iraq, we will have a higher standing. We will be able to fight the war on terror.

I am so sad that my colleague keeps saying the same old thing over and over again, staying the course and committing suicide.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I have no further requests for time, and I will proceed to closing.

Mr. Speaker, we had a very spirited debate here today, and those in the Chamber here understand that many important things are happening in this world and in this country. We are dealing here also with this conference report, and this conference report made under this rule is a fair and responsible agreement. It does state clearly our support to the troops and our military.

As Congress considers the remaining appropriation bills later this year, I would urge my colleagues to follow this example, Democrats and Republicans working together to craft a responsible bill providing for the national defense. This agreement and this working together is all the evidence we need that national security is not a political issue, it is an American issue.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, today, in closing, I again want to draw the attention of the Members to the strength of the underlying legislation, H.R. 5631. We have had a vigorous and good debate on the rule and the underlying legislation today, which I believe will help convince the House to support this vital appropriations measure.

Much of our discussion today, frankly, is not centered on the legislation or the rule; it is focused on the conflict in Iraq. I, for one, simply want to state for the record that I think the world is better off without Saddam Hussein, and I think most of the positions that my friends on the other side of the aisle take sort of ignore the question, is the world better or worse off without him. I think it is better, and it took American action to do that.

I think it is better that there is a democracy in Baghdad; that people have gone in much higher percentages in their population to the polls on three occasions, under difficult situations, than frankly our citizens will go to the polls this November.

I think it is better that that government is actually pluralistic, that represents all the different elements in the country. And I think long term there is more hope in Iraq, and it is a better model for the future in the Middle East than Iran, which simply is neither democratic nor peaceful in terms of its neighbors.

Mr. Speaker, the underlying legislation takes critical and incremental steps in funding not only the warfighters' needs of today but the future needs of our warfighters as well. Today, our Nation's soldiers, sailors, airmen, and marines require and rely on the passage of this legislation. And despite the vigorous debate we have had today over Iraq, I have no doubt that that legislation and this funding measure will receive strong bipartisan support in this House. I am very confident that this House will not let them down.

Mr. Speaker, I am sure it is no surprise that I intend to vote for the rule and the underlying legislation, and I would urge my colleagues to do the same.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CHILD INTERSTATE ABORTION NOTIFICATION ACT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 1039, I call up the Senate bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 1039, the amendment in the nature of a substitute printed in House Report 109–679 is adopted and the Senate bill, as amended, is considered read.

The text of the Senate bill, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Interstate Abortion Notification Act".

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

"Sec
"2431. Transportation of minors in circumvention of certain laws relating to abortion.
"2432. Transportation of minors in circumvention of certain laws relating to abortion.

"§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

"(a) OFFENSE.—

"(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

"(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed or induced on the minor, in a State or a foreign nation other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

"(b) EXCEPTIONS.—

"(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

"(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant—

"(1) reasonably believed, based on information the defendant obtained directly from a parent of the minor, that before the minor obtained the abortion, the parental consent or notification took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides; or

"(2) was presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence waived any parental notification required by the laws of that State, or otherwise authorized that the minor be allowed to procure an abortion.

"(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed an act of incest with the minor subject to subsection (a).

"(e) DEFINITIONS.—For the purposes of this section—

"(1) the term 'abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

"(2) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court; and

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision;

"(4) the term 'parent' means—

"(A) a parent or guardian;

"(B) a legal custodian; or

"(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required; and

"(5) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States, and any Indian tribe or reservation.

"§ 2432. Transportation of minors in circumvention of certain laws relating to abortion

"Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both. For the purposes of this section, the terms 'State', 'minor', and 'abortion' have, respectively, the definitions given those terms in section 2435.".

SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.

Title 18, United States Code, is amended by inserting after chapter 117A the following:

"CHAPTER 117B—CHILD INTERSTATE ABORTION NOTIFICATION

"Sec
"2435. Child interstate abortion notification

"§ 2435. Child interstate abortion notification

"(a) OFFENSE.—

"(1) GENERALLY.—A physician who knowingly performs or induces an abortion on a minor in violation of the requirements of this section shall be fined under this title or imprisoned not more than one year, or both.

"(2) PARENTAL NOTIFICATION.—A physician who performs or induces an abortion on a minor who is a resident of a State other than the State in which the abortion is performed must provide, or cause his or her agent to provide, at least 24 hours actual notice to a parent of the minor before performing the abortion. If actual notice to such parent is not possible after a reasonable effort has been made, 24 hours constructive notice must be given to a parent.

"(b) EXCEPTIONS.—The notification requirement of subsection (a)(2) does not apply if—

"(1) the abortion is performed or induced in a State that has, in force, a law requiring parental involvement in a minor's abortion decision and the physician complies with the requirements of that law;

"(2) the physician is presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence has waived any parental notification required by the laws of that State, or has otherwise authorized that the minor be allowed to procure an abortion;

"(3) the minor declares in a signed written statement that she is the victim of sexual abuse, neglect, or physical abuse by a parent, and, before an abortion is performed on the minor, the physician notifies the authorities specified to receive reports of child abuse or neglect by the law of the State in which the minor resides of the known or suspected abuse or neglect;

"(4) the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, or because in the reasonable medical judgment of the minor's attending physician, the delay in performing an abortion occasioned by fulfilling the prior notification requirement of subsection (a)(2) would cause a substantial and irreversible impairment of a major bodily function of the minor arising from continued pregnancy, not including psychological or emotional conditions, but an exception under this paragraph does not apply unless the attending physician or an agent of such physician, within 24 hours after completion of the abortion, notifies a parent in writing that an abortion was performed on the minor and of the circumstances that warranted invocation of this paragraph; or

"(5) the minor is physically accompanied by a person who presents the physician or his agent with documentation showing with a reasonable degree of certainty that he or she is in fact the parent of that minor.

"(c) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed an act of incest with the minor subject to subsection (a).

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

"(2) the term 'actual notice' means the giving of written notice directly, in person, by the physician or any agent of the physician;

"(3) the term 'constructive notice' means notice that is given by certified mail, return receipt requested, restricted delivery to the last known address of the person being notified, with delivery deemed to have occurred 48 hours following noon on the next day subsequent to mailing on which regular mail delivery takes place, days on which mail is not delivered excluded;

"(4) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court;

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(5) the term 'minor' means an individual who is not older than 18 years and who is not emancipated under State law;

"(6) the term 'parent' means—

"(A) a parent or guardian;

"(B) a legal custodian; or

"(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides;

as determined by State law;

"(7) the term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which such doctor practices medicine, or any other person legally empowered under State law to perform an abortion; and

"(8) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States, and any Indian tribe or reservation.".

SEC. 4. CLERICAL AMENDMENT.

The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new items:

"117A. Transportation of minors in circumvention of certain laws relating to abortion 2431
"117B. Child interstate abortion notification .... 2435".

SEC. 5. SEVERABILITY AND EFFECTIVE DATE.

(a) The provisions of this Act shall be severable. If any provision of this Act, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of the Act not so adjudicated.

(b) This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill, S. 403, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 403, the Child Custody Protection Act. As amended by the rule, the legislation before us contains provisions substantially similar to H.R. 748, the Child Interstate Abortion Notification Act, which overwhelmingly passed the House in April of 2005 by a vote of 270–157.

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Laws that require parental notification of a minor's abortion are overwhelmingly supported by the American people. A 2005 poll by Pew Research Center found that large majorities believe that girls under 18 should receive parental consent before an abortion. According to the poll, half of self-described liberal Democrats favor requiring young women to get the consent of at least one parent before getting an abortion, and nearly three-quarters of moderate or conservative Democrats favor requiring parental consent.

Across the country, parental consent is required before performing routine medical services, such as providing aspirin, before permitting children to go on field trips or participate in contact sports, or before a minor can get a tattoo or body piercing. Yet people other than parents can secretly take children across State lines for abortion without their parents' knowledge.

The legislation we consider on the floor today addresses this absurd dichotomy by establishing clear rules to protect the health and physical safety of young girls, while safeguarding fundamental parental rights.

The Child Interstate Abortion Notification Act, or CIANA, for short, contains two central provisions. The first makes it a Federal crime to transport a minor across State lines to obtain an abortion in another State or foreign country in order to avoid a State law requiring parental involvement in a minor's abortion decision. Twenty-six States currently have such parental involvement laws. This provision will prevent abusive boyfriends and older men who may have committed rape from pressuring young girls into receiving secret out-of-State abortions to keep the abuser's sexual crimes hidden from authorities.

It is crucial to emphasize that the first section of CIANA does not apply to the minors themselves, nor to their parents, nor does it apply in life-threatening emergencies that may require an immediate abortion.

The second section of CIANA contains a parental notification rule that applies in cases in which a minor is a resident of one State and presents herself for an abortion in another State that does not have a parental involvement law. In these circumstances, CIANA makes it a Federal crime for the abortion provider to fail to give one of the minor's parents or legal guardian 24 hours' notice of the minor's abortion decision before the abortion is performed. This section protects fundamental parental rights by giving parents a chance to help their young daughters in difficult circumstances. This includes giving a health care provider the daughter's medical history to ensure that she receives safe medical care.

The second section of CIANA would not apply if an applicable parental law in the State where the abortion is being performed is complied with. In addition, Section 2 would not apply if the physician is presented with documentation that a court in the minor's home State has authorized an abortion.

Further exceptions to this section include if the minor states that she has been the victim of abuse by a parent and the abortion provider informs the State authorities of such abuse, or if a life-threatening or other medical emergency requires that the abortion be performed immediately.

As previously noted, the amendment in the nature of a substitute to S. 403 is substantially similar to H.R. 748 but also includes clarifying provisions adopted in the other body and other technical changes which further improve the legislation.

The amendment would prevent a parent who has committed incest from being able to obtain money damages under the bill's provisions, and it makes it a Federal crime for someone who has committed incest to transport a minor across a State line to obtain an abortion.

In addition, the substitute contains an exception to the notification requirement if a parent is physically present when the minor obtains the abortion. The amendment also makes clear that the parental notification need not be provided by the abortion provider personally but by an agent of the abortion provider.

The amendment also contains a technical change to the definition of abortion that excludes treatment for potentially dangerous pregnancies and creates a new medical emergency exception to ensure that the legislation will withstand any constitutional challenge.

Finally, it makes clear that the bill's provisions apply when State lines are crossed to enter any foreign nation or Tribal lands.

Mr. Speaker, I urge my colleagues to support this crucial legislation to protect the health and safety of America's minor daughters.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, which we have already considered in this Congress, poses a real threat to the lives and health of young women. It would require a minor who is pregnant, possibly as a result of parental abuse, incest, to carry the parental notification laws of her home State on her back to another State and hold doctors, grandparents, clergy and anyone else who tries to help her a criminal. The sponsors, not satisfied with extending State laws into other States, now want to enforce those State laws in other countries.

Not since the enactment of the Fugitive Slave Act in 1850 have we used the power of the Federal Government to enforce the laws of one State on the territory of another.

This latest crazy quilt of restrictions obviously has but one purpose, to impede the practice of medicine, to ensure that young women will have as few options as possible, to make criminals of relatives and adults, or minors, for that manner, who try to help them, and to teach those States, such as mine, that do not believe that these laws promote adolescent health, that Congress knows best and our citizens and our States do not.

Often, that adult assisting the minor is a grandparent, a sibling or member of the clergy. In some cases, the young woman may not be able to go to her parents because the parents are a danger to her.

We all agree that, ideally, a young woman faced with a choice of having abortion should go to her parents. But in some cases she may not be able to. That is what happened to Spring Adams, a 13-year-old from Idaho. She was shot to death by her father after he found out that she planned to terminate a pregnancy, a pregnancy caused by his own act of incest. But, under this bill, anyone who helped her cross the State line to get an abortion without telling her father so she could get shot would be guilty of a crime.

This bill also uses a narrow definition of medical emergency that seems to have been lifted from one of Attorney General Gonzalez's infamous torture memos. The prohibition "does not apply if the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself or because in the reasonable medical judgment of the minor's attending physician the delay in performing the abortion occasioned by fulfilling the prior requirement would cause a substantial and irreversible impairment of a major bodily function of the minor arising from continued pregnancy, not including psychological or emotional condition," so long as the physician notifies the parent within 24 hours.

The bill now also excludes ectopic pregnancies and the removal of a dead fetus, for which I suppose civilized people should be grateful.

It is progress, although it still falls far short of the protection for a woman's health required by the Constitution, which the courts have ruled requires an explicit exception to protect the life or health of the woman, not just those few conditions a few extremists find acceptable.

No mental health exception? That is the only justification for helping a young woman who has been raped by her father. There is certainly no physical risk, yet this bill would require a doctor to seek that father's permission.

There are many things far short of death or a substantial and irreversible impairment of a major bodily function that can endanger a young woman. She deserves prompt and professional medical care; and no matter how much some people don't like it, the Constitution protects her right to receive that care.

In a perfect world, loving, supportive and understanding families would join together to face these challenges. That is what happens in the majority of cases, with or without a law.

But we do not live in a perfect world. Some parents are violent. Some parents are rapists. Some young people can turn only to their clergy or to a grandparent or a sibling or some other trusted adult. And this bill would turn those people into criminals.

If a 16-year-old girl was accompanied across a State line by her 16-year-old boyfriend for an abortion, this would make the boyfriend a criminal. If a rabbi or priest or minister helped her across the State line, knowing that her father or mother were violent and therefore they couldn't dare ask for parental notification, this would turn them into a criminal. The same thing with a grandfather or a brother or a sister. We should not be turning people who are helping people in distress into criminals. That is wrong.

This bill, although slightly modified, is as wrong and as dangerous today as it was when this House considered this last time.

There is another thing, too. We believe in 50 different States in this country. We believe in State sovereignty within the Federal limits. We call the States laboratories of democracy.

Many States, I think more than half, have chosen to have parental consent notification laws. Other States have chosen not to. We ought to respect the States that have chosen not to, as well as those that have chosen to do so. And to say that because someone comes from a State with a parental notification law, if she goes to a State without a parental notification law, someone who helps her to go there is committing a crime, I think that is unconstitutional and is a violation of the right to interstate commerce, to interstate travel.

But it also, as I said before, is an attempt to say to New York, which does not require parental notification and consent, that the law of some other State which does must prevail in your State as long as the person comes from that State. She can't escape it. She carries it with her on her back.

We have never tried to enforce the laws of one State in another like that since the Fugitive Slave Act of the 1850s. It is not a good precedent. This bill deserves to be rejected.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the author of the bill, the gentlewoman from Florida (Ms. Ros-Lehtinen).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank our distinguished chairman of the Judiciary Committee for his leadership throughout the years that this bill has been before us.

I rise in support of S. 403, the Child Custody Protection Act, a bill that has indeed passed the House in 1998, in 1999 and in 2002, making it a Federal offense to transport a minor across State lines in order to circumvent that State's abortion parental notification laws.

The legislation before us today, Mr. Speaker, is a commonsense one. It protects minors from exploitation from the abortion industry, it promotes strong family ties, and it helps foster respect for State laws.

A minor who is forbidden to drink alcohol, to stay out past a certain hour or to get her ears pierced without parental consent is certainly not prepared to make a life-altering, hazardous and potentially fatal decision such as an abortion without the consultation or consent of at least one parent.

Language included in this legislation will also require that an abortion provider notify a parent when a minor is transported to a State where no parental notification laws exist. This provision is a central component to my legislation, the Child Interstate Abortion

Notification Act, CIANA, which passed in the House with a vote of 270 in favor and 157 against.

I am truly pleased and honored that my colleagues in the House and Mr. SENSENBRENNER have given this important bill further consideration, and I urge them once again to join me in supporting legislation that speaks to the well-being of all of our daughters.

This legislation will put an end to the abortion clinics and family planning organizations that are really exploiting young, vulnerable girls by luring them to recklessly disobey State laws.

About 80 percent of the public favors parental notification laws. Over 50 percent of our States have enacted such laws. Yet sometimes these laws can be evaded by interstate transportation of minors, openly encouraging them to do so in advertising by abortion providers.

Parental consent and parental notification laws may vary from State to State, but they have all been made with the same purpose in mind, Mr. Speaker, to protect frightened and confused adolescent girls from harm.

I urge my colleagues to once again support this vital piece of legislation, uphold the safety laws designed by individual States and protect the parents' rights to be involved in decisions involving their minor daughters.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentleman from New York for yielding and for his steadfast support on behalf of women's health and a woman's right to choose.

I rise today to defend once again a woman's right to choose what is best for her own body. Prohibiting interstate travel for an abortion and punishing those who participated in that travel fails to protect the health and safety of women and their children.

This bill subjects taxi drivers and bus drivers and other transportation professionals to jail time, mind you, jail time, although they had no knowledge of the activity. Are we in good conscience going to legislate penalties against innocent people who do not have knowledge or control over the actions of their customers? Are we encouraging cabbies and bus drivers to start asking every person, every woman that gets into a cab or on a bus, if they are pregnant or are they going to have an abortion, because they want to limit their liability?

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Furthermore, Mr. Speaker, how could anyone support this bill knowing that some of these minors, knowing this, that some of these minors may have decided to have an abortion because they have been raped by a family member or a guardian? This is simply bad public policy. It will turn back the clock not only on choice but on privacy for young women.

The best way to reduce the number of abortions is to prevent unintended pregnancies, and the best way to do that is through access to contraception and comprehensive sex education. So if my colleagues really wanted to reduce abortions, they would support H.R. 2553, the Responsible Education About Life Act, or REAL Act, which would allow full and comprehensive sex education for our young people. Unfortunately, many of my colleagues would rather put cabbies and drivers in jail than take real steps to reduce the number of unwanted pregnancies in this Nation.

This bill is nothing short of a public misinformation campaign from the conservative religious right to hinder the safety and the health of women and girls throughout the country. This bill is intentionally dangerous, it is vague, it is harmful to women, it is harmful to women's health and the decisions that she must make about her body.

I urge a "no" vote on this bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I appreciate the gentleman's work on this bill and many bills throughout the years. I rise today in support of the Child Custody Protection Act because it returns the fundamental right of parenting back where it belongs: to parents.

Eight in 10 Americans favor parental notification laws. Forty-four States have recognized the important role of parents in a minor child's decision to have an abortion by enacting parental involvement statutes. Even so, many of these laws are being circumvented by individuals who simply transport girls across State lines to another State without parental notification laws. And, too often, these individuals are grown men who have sexually preyed on underaged girls and use abortions to cover up their crimes.

The U.S. Supreme Court has recognized that a parent's right to control the care of their children is among the most the fundamental of all liberty interests. The Supreme Court has consistently recognized that parents have a legal right to be involved in their minor daughter's decision to seek medical care, including abortion.

The Supreme Court has also observed that, and I quote, "the medical, emotional, and psychological consequences of an abortion are serious and can be lasting. It seems unlikely that the minor will obtain adequate counsel and support from the attending physician at an abortion clinic where the abortions for pregnant minors frequently take place."

The Supreme Court has also stated that, and I quote, "minors often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them."

Mr. Speaker, no one has a child's best interest at heart more than their parents. Minors have to have parental permission to be given an aspirin by the school nurse. Twenty-six States have laws requiring parental consent before minors can get body piercings or tattoos. Parents must be able to play a role when their minor daughter is contemplating such an important decision as what to do with an unplanned pregnancy.

Please join me in supporting the Child Custody Protection Act.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank the gentleman for yielding and for his great leadership on this bill.

Mr. Speaker, young girls desperately need the modest protections against exploitation contained in the Child Interstate Abortion Notification Act, and they need these protections now, without any further delay.

It is inhumane and unjust that abortion mills in New Jersey and some other States aggressively advertise and market secret abortions for pregnant minors living in States that have enacted and enforce parental involvement statutes. The Yellow Pages in Pennsylvania, for example, are filled with ads for children to procure secret abortions in my home State. That is unconscionable.

The fact that older men, including statutory rapists, can secretly transport and perhaps pressure or coerce teenagers to go to abortion mills for an abortion even as late as 6 months is wrong.

Who protects the teenagers from abuse? The abortionist? The male who wants the baby dead to evade responsibility?

Policies that enable abortion clinics to circumvent State parental involvement laws recklessly and irreversibly endanger the health, safety, and well-being of young girls.

Mr. Speaker, not only are babies being slaughtered at abortion clinics, and let's not kid ourselves, the soothing rhetoric of the abortion industry has anesthetized many people to the inherent violence against children of every abortion. Chemical poison and dismemberment is violence against children. But minor girls as well have become physically wounded and emotionally wounded by the abortion. They become the walking wounded.

Ask yourselves, when health or emotional complications occur, do we really think a young girl and her shocked and broken parents return to the abortion mill? I think not.

Finally, I want to commend Chairman SENSENBRENNER and his staff for the exemplary work they have done on this bill, especially the highly persuasive, heavily footnoted majority commentary in the report accompanying the bill. I wish more Members had the time or made the time to read it. It makes a cogent case for this bill, and I urge support for this important bill.

Mr. SENSENBRENNER. I yield 1 minute to the gentlewoman from Ohio (Mrs. SCHMIDT).

Mrs. SCHMIDT. Mr. Speaker, I strongly rise in support of the Child Custody Protection Act.

Every State has laws that require minors to get parental consent before they are allowed to do simple things like getting an aspirin or going on field trips. In many States, parents must give permission before their children can get tattoos and body piercings. There are reasons for placing these restrictions on minors' freedom, because minors often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them. One of the main roles of parents is to protect children from their own inexperience, lack of perspective, and judgment.

Twenty-six States have considered this issue and determined that it is not appropriate for minors to have abortions without any parental involvement. Yet the considered judgment of those State legislatures and parents in general are easily circumvented by the simple act of driving across a State line.

It is time to restore the rights of parents and States. As a wife and a mother, I agree. We in Congress have a duty. I ask for your support.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have two questions about this bill that are completely aside from the merits. One is, why are we doing this bill? We passed the bill earlier. We passed essentially this bill earlier this session, the Senate passed a bill, and now we are passing a bill that isn't the same as the Senate bill. Why? So that no law, so nothing becomes law this year.

So I would like to ask the chairman, the distinguished chairman, why we are not passing the same bill the Senate passed? Because, otherwise, there is no possibility, as I see it, of getting an agreement before we leave.

I will yield.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

The Senate bill has loopholes wide enough to drive a 18-wheeler through. If we are doing something, we might as well do something that means a bit rather than simply passing a piece of paper.

Mr. NADLER. Then why are we passing a bill again that we already passed earlier this year if the Senate bill is not the same and is not satisfactory?

Mr. SENSENBRENNER. If the gentleman will further yield, this is in the hopes that the Senate will look at this modified bill in prayerful reflection and send it on to the President.

Mr. NADLER. Reclaiming my time. In other words, we pass the bill, the Senate passed a different bill which the distinguished chairman thinks has many loopholes, and may have. I haven't read it, and so we are coming back.

Here we are, the last week before we adjourn, we haven't passed any of the appropriations bills into law, not one, and we are spending time on this bill when we have already passed it. And if the Senate has not passed it and they want to, they should negotiate with the Senate, they should have a conference committee. Instead, we are passing it again.

And I have to assume that the real reason we are doing it is just for political reasons, to rev up the troops of the antiabortion people for the election, and there is no real intent to pass a bill.

I have another question. This bill says in the key line: Whoever knowingly transports a minor across a State line with the intent that such minor obtains an abortion, blah, blah shall be fined or imprisoned.

My question, sir, and I will yield to you, is what does "transport" mean?

Mr. SENSENBRENNER. If the gentleman will yield, it means the same thing as the transportation of someone across the State line in violation of the Mann Act.

Mr. NADLER. Well, then reclaiming my time, I think that this bill is simply not very well drafted in that case, because in the Mann Act certain things are obvious.

Let's assume that you have a young woman and a young man, her boyfriend, who jointly go across State lines to get her an abortion. She is driving. She is transporting him, not the other way around. Should someone be guilty or not guilty depending on who is driving and who is not driving? That doesn't seem to make sense.

Mr. Speaker, the arguments against this bill are manifold.

Number one, the arguments against parental notification and consent are where you have a violent parent or where you have a parent that the child cannot confide in, you shouldn't require that. Ninety percent of the time there is no problem, it is fine. Sometimes there is, and you risk the life or the health of the child to require that she tell the parent that she is pregnant.

Number two, in such a situation, the child may confide, hopefully, there is someone she can confide in, her brother, her sister, her best friend, her clergyman, her teacher, and we would make them criminals if they help her.

The gentleman from New Jersey talked about the abortionist conspiring to take her across State lines. It is not the abortionist. It is a friend or a colleague or a clergyman or a grandparent. You shouldn't make criminals of them. Nor should we seek to enforce the law of one State in another State.

Mr. SMITH of New Jersey. Would the gentleman yield?

Mr. NADLER. And. Finally, and after this statement I will yield, this law also says that if someone is asked to perform, if a doctor is asked to perform an abortion on a young woman, on a minor from another State, he must notify the parents in that State whether or not that State requires parental notification. So we are expanding, we are now putting the Federal Government and saying to a State when only two States are involved, neither which have a parental notification law, you must because we say so. There is no justification for that.

I yield to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank the gentleman for yielding.

Let me make it very clear. What I just said was that if you go to the Yellow Pages and look at some of the ads and in newspapers and in other media, the abortionists actively try to solicit young girls 13, 14, 15, 16, to go across State lines. And you know as well as I do adult males, including predatory males, read those ads and act. All they have to do is go to New Jersey or some State other than Pennsylvania, where there is no parental involvement law, and thereby circumvent the parental notification, parental consent in that particular State.

Mr. NADLER. Reclaiming my time. I can understand that particular concern if this bill made it a crime to transport a minor across State lines for the purpose of getting an abortion, et cetera, et cetera, for money. If that person transporting that young girl were being paid to do it, then I think that there might be something we would want to do about that. But we are not talking about that. Well, we may be talking about that, but the bill is certainly not limited to that.

The bill applies to the situation where the person, quote, unquote, transporting her may be her boyfriend, her brother or sister, her grandmother, her uncle, her aunt, her best friend or clergyman or a teacher. Anyone who is doing it with the best motives to help her, with whom some of us here may disagree that that is the best motive, but it is not a predatory motive.

So if you want to write a bill against a predatory person, write a bill against the predatory person. Write a bill against someone who does it for a commercial reason, for pay, but not against all these other people.

I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have been waiting for a while to yield a minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. I want to thank the chairman for his leadership on this issue and his perseverence in allowing this bill to come to the floor.

Imagine a nation that has to rush to embrace abortion so much that a parent isn't notified that an individual that that family doesn't know is transporting their child, their minor teenager across State lines. It is the idea that the parents don't know who may be transporting their children and the parents don't know that their child is having an abortion that we debate today. This measure brings parental rights back into reasonable norms.

There are many groups out there working to influence our children. As the gentleman from New Jersey talked about, there is one Web site right now from the Coalition for Positive Sexuality, a charade that informs teens about abortions by stating, "usually you can get around telling your parents by going to a clinic in a State without these restrictions or explaining your situation to a judge. But this takes time. So call us right away."

In my own State of Arizona, there is currently a parental consent law that requires permission of at least one parent. So even if you do have a violent parent, you can still go to one of your other parents. But it means nothing. Because you can go to our neighboring States, California and New Mexico, and have an abortion. In many cases, our teenagers are being driven by people their parents don't even know.

This is reasonable to protect the rights of our children. Let's pass the bill.

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Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time and commend him for his leadership in this area. I rise in strong support of this amendment.

Despite widespread support for parental involvement laws and clear public policy considerations justifying them, substantial evidence exists that such laws are regularly evaded by individuals who transport minors to abortion providers in States that do not have parental notification and consent laws.

Confused and frightened young girls are routinely assisted by adults in obtaining abortions and are encouraged to avoid parental involvement by crossing State lines. Often these girls are guided by those who do not share the love and affection that most parents have for their children. Personal accounts indicate that sexual predators recognize the advantage they have over their victims and use this influence to encourage abortions in order to eliminate critical evidence of their criminal conduct and in turn allowing the abuse to continue undetected.

Although not an interstate abortion, in my district in Cincinnati there is an ongoing court case involving parental rights. A teenage girl, 13 at the time of the abortion, was given parental consent by a man posing as her stepbrother. This man, her abuser, was later convicted on seven charges of sexual battery.

Most recently, a judge ordered Planned Parenthood to turn over medical records in determining whether there was a pattern and practice within the clinic of violating parental consent laws.

Public policy is clear that parents should be involved in decisions that their daughters make regarding abortions. CIANA will assist in enforcing existing parental involvement laws that meet the relevant constitutional criteria and will provide for parental involvement when minors cross State lines to have abortions.

I urge my colleagues to support CIANA. There is no question that parents are the ones that should be involved in this type of critical decision. It shouldn't be the abuser or the rapist. I thank the chairman for pushing this legislation.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, first, this bill does nothing to prevent unwanted pregnancies and does nothing to stop a minor from crossing State lines to get an abortion on her own. Rather, it creates criminal penalties for those trusted confidants whom the woman turns to when she find herself in a difficult situation.

In an ideal world, young women should turn to their parents for advice, guidance, and comfort. But in the real world, this is not always the case. And in some scenarios, parental involvement is not even in the best interest of the girl.

This bill would impose criminal penalties on anyone who assists a young woman to cross a State line in order to obtain an abortion, whether it is a grandparent, an aunt, older sibling, or trusted friend. In addition, because of the way the law is written, it would even impose criminal penalties on a cab driver who drops off a young woman at an abortion clinic if that clinic happens to be across the State line.

Further, there are unrealistic and unworkable mandates involving the notice provisions in the bill which also potentially violate principles of confidentiality. And so this bill threatens to increase the risk of harm to young women in difficult family situations by delaying access to appropriate medical care, and that is why the bill is opposed by the American Academy of Pediatrics, the Society for Adolescent Medicine, the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, and the American Public Health Association.

Mr. Speaker, finally, the bill raises numerous constitutional questions. The Supreme Court has made clear that any valid abortion law must have an adequate medical emergency exception. The Court has also ruled that access to medical care in emergencies must also be maintained. The provisions contained in the bill have limited access in situations, and so the bill is clearly inconsistent with established constitutional law.

Mr. Speaker, this bill sets a dangerous precedent. It does not prevent unwanted pregnancies or abortions. Rather, it encourages young girls to make difficult decisions on their own without help, increasing the potential harm to their physical and emotional well-being. That is why it is not supported by medical organizations with expertise in this field. Furthermore, it raises serious constitutional questions. I urge my colleagues to oppose the bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, just in reference to comments that were made several times by people on the other side of the aisle that this would cover a cab driver or bus driver, I would hope that they would look at the language of the bill. It says whoever knowingly transports a minor across State line with the intent that the minor obtain an abortion, and thereby in fact abridges the right of a parent. So that is not just someone who gives them transportation, someone who intentionally brings them across a State line with the intent that they obtain an abortion.

Mr. Speaker, since merely identical legislation passed the House in April 2005 by a vote of 270–157, there have been several developments that make it clearer of the need to pass this bill. First, a Pew Research Center poll found that large majorities in all religious groups and about two-thirds of nonchurchgoers believe girls under 18 should receive parental consent before an abortion.

According to the Pew Research Center poll, as has been the case for more than a decade, most of the public favors requiring women under age 18 to obtain the consent of at least one parent before being allowed to get an abortion. Nearly three-quarters of Americans support such a requirement, while just 22 are opposed.

The point I make on this is that this bill is not out of the mainstream. This bill is right in the mainstream. This bill is to allow the enforcement of State laws that are constitutional with respect to parental notification. To evade parental notification laws by means of taking a young girl across a State line is what this bill is aimed at. Nothing more, nothing less than that. It is appropriate. It is consistent with the vast majority of people in the United States. It is consistent with the 33 States in the Union that have enacted such legislation.

What it does is it requires intent on the part of the actor, that is, they must intentionally act to evade the law in order to assist in procuring an abortion for a young person in a State where notification is required. Nothing more, nothing less.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, our colleagues that are listening to this debate will probably claim its defining moment as redundancy. It is redundant because this is a bill that has been debated and discussed, and now it is an amendment to S. 403 which creates a lack of opportunity for any legislative initiative to get to the President's desk.

Far be it for any of us who happen to be parents and have young women as daughters in our family to try to allow legislation to drive a barrier between a child and her parents. Nor can we morally allow the creation of chilling factors that prevent a youth from seeking help when they desperately need it. There lies the angst and the confusion and the misrepresentation of this debate.

This is not a helpful legislative initiative. This is, in fact, a divisive initiative because we find that more than 61 percent of parents in States without mandatory parental consent or at least 61 percent with notice laws have knowledge of their daughter's pregnancy. The normal relationship of child and parent proceeds along a very helpful manner as long as we do not provide unnecessary intrusion beyond what has been accepted by the individual States.

The State of Texas has provided that kind of barrier. Twenty-three States have, but another 23 have not committed to dividing parent from child.

The greatest downside of this particular legislation is that it doesn't come to this floor with clean hands. If it did, it would have allowed us to have amendments, and this was a closed rule.

I offered just a year ago or so an amendment with Mr. NADLER that expanded the exceptions to the prohibitions in this act of being able to assist a young lady in her time of trouble, to give exemptions to clergy, godparents, aunts, uncles, and first cousins, family members and clergy that would be giving comfort to this particular individual who may be a victim of incest or rape and afraid and confused about the utilization or the act of going to their parents. Although I said that 61 percent do have that relationship, there may be others that don't.

And so that would have been a responsible approach so that clergy would not become felons, as well as godparents and aunts or uncles, close family members. This country is used to and welcomes an extended family, families of different configurations. And so this legislation attempts to ignore that.

And, sadly, what it does is it makes a political point just days away from elections, but it doesn't help our young people who may be suffering with the decision that they have to make. It may be because of incest or rape, or maybe they have been brutalized or they may be frightened, and the comfort this particular relative can give them is the kind of nurturing advice that will help them make a right decision.

Maybe we want to subject our young people who may be subjected to decisions by parents who are forcing an abortion. It happens on either side, and it happened in the case of a 19-year-old girl from Maine because she was impregnated by an incarcerated person. So this is not a question of getting an abortion or not getting an abortion. This is a question of imploding family relations, and also altering the health system of America.

It is a health issue. It is a health issue if the individual is injured, a health issue if it is jeopardizing the life of the young lady. And the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, and the American Public Health Association, all oppose mandatory involvement laws because of the dangers they pose to young women and the need for confidential access to physicians.

So we are being redundant because this is around and around and around. This is over and over again. But there is no sincerity in passing this legislation because instead of taking S. 403, we have offered an alternative. That alternative will have to go back to the Senate. There is some tongue-in-cheek comment about we hope the Senate will consider our bill. Well, they are four days before the end of the session before we go off for our work in the district. Then, of course, there is a lame duck because this majority, Republican majority, has not finished its work, as usual. I don't think this is a reality that is going to happen.

My prayer is that we will come together for the young people and for those impacted by this great tragedy and allow families to make decisions as they should. Vote down this bill. It serves no purpose, and it hurts the young people of America and divides families.

Mr. Speaker, I oppose the legislation before the House, S. 403, the Child Custody Protection Act. The provisions contained within this proposal are very inflexible and unreasonably punitive.

Given the usual slant of my good colleagues on the other side of the aisle to favor uniformity in legislation, this bill is inconsistent with that purpose. Overall, S. 403 would force physicians to learn and enforce 49 other States' laws with respect to parental-involvement requirements. On its face, one of the policies that this bill seeks to enforce, the mandate that every parent will receive notice and can get involved when their daughter faces a crisis pregnancy, is a good one. However, one of its harmful effects is that it is unnecessarily punitive. In the absence of laws mandating parental involvement, young women come to their parents before or while they consider abortion. A study found that 61 percent of parents in States without mandatory parental consent or notice laws had knowledge of their daughter's pregnancy.

Major health associations such as the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, and the American Public Health Association strongly oppose mandatory parental-involvement laws because of the dangers they pose to young women and the need for confidential access to physicians. This legislation poses such a risk by increasing the risk of harm to adolescents by obstructing their access to healthcare that could save their lives.

In addition, well-respected organizations such as Planned Parenthood, Pro Choice America, and People for the American Way have expressed their opposition to this bill, which effectively isolates young women in need of help, and forces to seek alternative illegal and unsafe venues for terminating their pregnancy. After all, if you cannot trust your parents or your doctor to help you, what are your alternatives?

According to an article by Lawrence B. Finer and Stanley K. Henshaw, only 13 percent of U.S. counties have abortion providers. Therefore, the fact that many young women seek abortions outside of their home state is not solely attributable to an avoidance of home state law.

The last time we saw this bill, I offered an amendment with Mr. NADLER of New York that expanded the exceptions to the prohibitions of this act to include "conduct by clergy, godparents, aunts, uncles, or first cousins." This amendment was a very simple but necessary dampening of the excessive punitive nature of this legislation. This amendment is also demonstrative of the negative consequences this bill would directly and inadvertently cause. A young woman should not lose her right to seek counsel and guidance from a member of the clergy, her godparent, or the family member if she so desires.

The mandatory parental-involvement laws already create a draconian framework under which a young woman loses many of her civil rights. My state, Texas, is one of 23 states (AL, AZ, AR, GA, IN, KS, KY, LA, MA, MI, MN, MS, MO, NE, ND, PA, RI, SD, TN, UT, TX, VA, WY) that follow old provisions of the "Child Custody Protection Act" which make it a Federal crime for an adult to accompany a minor across State lines for abortion services if a woman comes from a State with a strict parental-involvement mandate. There are 10 States (CO, DE, IA, ME, MD, NC, OR, SC, WI, WV) that are "non-compliant," or require some parental notice but other adults may be notified, may give consent, or the requirement may be waived by a health care provider in lieu of the parental consent. Finally, there are 17 States (AK, CA, CT, DC, FL, ID, IL, MT, NV, NH, NJ, NM, NY, OK, OR, VT, WA) that have no law restricting a woman's access to abortion in this case.

Given the disparity in State law requirements for the parental-notification requirement, not giving a young woman the right to seek assistance in deciding from a member of the clergy, a godparent, or family member could increase the health risks that she faces.

Young women as a population group are more likely to seek abortion later in their pregnancy. The Centers for Disease Control (CDC) have shown that adolescents obtain 30 percent of all abortions after the first trimester, and younger women are more likely to obtain an abortion at 21 weeks or more gestation. The provisions of S. 403 will exacerbate this dangerous trend.

Mr. Speaker, this bill will add an unnecessary layer of legality, travel time, and mandatory delay to the already difficult job that physicians have in providing quality care to their patients. My colleagues on the other side of the aisle have consistently advocated for protection of health care providers by way of fort reform. This legislation flies in the face of that initiative and is totally inconsistent with it.

We cannot let legislation drive a barrier between a child and her parents, nor can we morally allow the creation of chilling factors that prevents a youth from seeking help when it is desperately needed. I ask my colleagues to reject this bill.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, as I said before, some States have chosen to enact parental consent and notification laws, others haven't. There is a case against parental notification laws and consent laws because basically there are a certain number of parents, certain families where you can't ask the young girl to confide in her parents because they may subject her to violence. Or she feels she can't.

But you do want a young woman to confide in somebody, not to be alone in this time of great strain for her. You want her to be able to confide in a brother or sister or clergyman or priest or rabbi or uncle or aunt or grandparent or a teacher. And those people want to be able to help her.

Now, as I said before, there may be room for legislation to say that you shouldn't take people across State lines for the purpose of getting an abortion for commercial purposes.

□ 1730

But to make a criminal out of anybody who is trying to help a young girl, as they see helping her, as she sees helping her because she cannot confide in her parents, and especially if that helper may be the grandparent or the brother or the sister or a clergyman is simply wrong.

So this legislation is far too broad. It will place young women who need help in a situation where they cannot get help. It doesn't serve any useful purpose, and it should be defeated.

I urge my colleagues to vote against this bill, again.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this bill is fairly simple and straightforward. It says that if a minor woman who is a resident of a State that requires some type of parental involvement is taken to another State that does not have a parental involvement law, it is a crime to do that. And it is as simple as that.

Now the only reason why a woman would be taken from a State with a parental involvement law to one that doesn't is to prevent the parents from knowing that the woman is having an abortion. Now we are talking about minors here, girls under the age of 18. A parent is responsible for providing for the health, safety, and welfare of minor children that are either their own children or that they have been named as guardians of by a competent court; and to avoid the parents' responsibility of providing medical care by hiding the fact that the woman is going across a State line to have an abortion is wrong.

Now I think a lot of people don't like parental involvement laws. The polling shows exactly the opposite. In my opening remarks, I pointed out that half the people who call themselves liberal Democrats believe that the parents ought to be involved in this decision; and three-quarters of those who call themselves moderate or conservative Democrats feel the same way.

I think that this House ought to empower parents to at least know about these decisions, particularly if their minor daughters are taken across a State line; and the way to deal with that issue is to pass the bill.

I urge an "aye" vote.

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong opposition to the Child Custody Protection Act, which purports to "give parents a chance to help their daughters during their most vulnerable times" and would require doctors to give 24 hours' notice to a minor's parent before allowing her to have an abortion.

I would like to remind my colleagues that what we are talking about are young girls who are in trouble, young girls who are unmarried, young girls who invariably, according to the statistics, have been impregnated by older men exploiting them. While it should be common for parents to be responsible, to be nurturing and not to be punitive, unfortunately that is not always the case or quite as simple.

In a perfect world, teenagers would be able to tell their parents that they are pregnant, but many are unable to due to fear of rejection at home, threats of physical and emotional abuse, and in the most troubling of situations, because it was a family member, such as a stepfather, that put them in that position in the first place.

These teenage girls should have a right to seek help from a trusted adult, such as a grandmother or a member of the clergy.

This bill will create a complicated patchwork of State and Federal law that will apply differently depending on the minor's state of residence and the state where the abortion is performed.

It will be nearly impossible for teenagers and physicians alike to understand.

This measure would make it a Federal crime for a caring adult other than a parent to accompany a young woman across State lines for an abortion. In addition, the Child Custody Protection Act, goes even further by mandating that doctors be fully aware and knowledgeable of the mandatory parental involvement laws in each of the 50 States, under the threat of fines and prison sentences.

The Child Custody Protection Act would make it a Federal crime for a doctor to perform an abortion on a minor who is a resident of another State unless the doctor notifies the minor's parent, in person, a minimum of 24 hours before the procedure, unless she is accompanied by a parent.

It is also disturbing that this measure, not unlike the partial-birth abortion ban law, does not include an exception for emergency circumstances where a minor's health would be threatened by this delay. It is no wonder that the constitutionality of this law is being challenged in Federal courts as we speak.

The intent of this measure is not to ensure that caring parents have access to their teenage daughters who are contemplating having an abortion. The true intent is to make it so difficult for doctors to comply with this law that they simply give up.

Instead of debating a bill that may not meet constitutional muster, we should be considering the Prevention First Act which would help to reduce the number of unintended teenage pregnancies by providing annual funding to both public and private entities to establish or expand teenage pregnancy prevention programs.

This measure would also require these entities to incorporate teenage pregnancy prevention programs that have been proven to delay sexual activity or reduce teenage pregnancy, through programs such as comprehensive sexual education.

Why are we not doing more to help the 820,000 teen girls who get pregnant each year?

I urge all my colleagues to vote against the Child Custody Protection Act, a regressive measure, which will have no impact on reducing the number of unintended teenage pregnancies and will do more harm than good.

Mr. PAUL. Mr. Speaker, in the name of a truly laudable cause (preventing abortion and protecting parental rights), today the Congress could potentially move our Nation one step closer to a national police state by further expanding the list of Federal crimes and usurping power from the States to adequately address the issue of parental rights and family law. Of course, it is much easier to ride the current wave of criminally federalizing all human malfeasance in the name of saving the world from some evil than to uphold a Constitutional oath which prescribes a procedural structure by which the nation is protected from what is perhaps the worst evil, totalitarianism carried out by a centralized government. Who, after all, wants to be amongst those Members of Congress who are portrayed as trampling parental rights or supporting the transportation of minor females across state lines for ignoble purposes.

As an obstetrician of almost 40 years, I have personally delivered more than 4,000 children. During such time, I have not performed a single abortion. On the contrary, I have spoken and written extensively and publicly condemning this "medical" procedure. At the same time, I have remained committed to upholding the constitutional procedural protections which leave the police power decentralized and in control of the States. In the name of protecting parental rights, this bill usurps States' rights by creating yet another Federal crime.

Our Federal Government is, constitutionally, a government of limited powers, Article one, Section eight, enumerates the legislative area for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the Federal Government lacks any authority or consent of the governed and only the State governments, their designees, or the people in their private market actions enjoy such rights to governance. The tenth amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our Nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

Nevertheless, rather than abide by our constitutional limits, Congress today will likely pass S. 403. S. 403 amends title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions. Should parents be involved in decisions regarding the health of their children? Absolutely. Should the law respect parents' rights to not have their children taken across State lines for contemptible purposes? Absolutely. Can a State pass an enforceable statute to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions? Absolutely. But when asked if there exists constitutional authority for the Federal criminalizing of just such an action the answer is absolutely not.

This federalizing may have the effect of nationalizing a law with criminal penalties which may be less than those desired by some States. To the extent the Federal and State laws could co-exist, the necessity for a Federal law is undermined and an important bill of rights protection is virtually obliterated. Concurrent jurisdiction crimes erode the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no "person be subject for the same offense to be twice put in jeopardy of life or limb . . ." In other words, no person shall be tried twice for the same offense. However, in United States v. Lanza, the high court in 1922 sustained a ruling that being tried by both the Federal Government and a State government for the same offense did not offend the doctrine of double jeopardy. One danger of unconstitutionally expanding the Federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for Federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

We have been reminded by both Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese that more Federal crimes, while they make politicians feel good, are neither constitutionally sound nor prudent. Rehnquist has stated that "The trend to federalize crimes that traditionally have been handled in State courts . . . threatens to change entirely the nature of our Federal system." Meese stated that Congress' tendency in recent decades to make Federal crimes out of offenses that have historically been State matters has dangerous implications both for the fair administration of justice and for the principle that States are something more than mere administrative districts of a nation governed mainly from Washington.

The argument which springs from the criticism of a federalized criminal code and a Federal police force is that States may be less effective than a centralized Federal Government in dealing with those who leave one State jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of State sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow States to exact judgments from those who violate their State laws. The Constitution even allows the Federal Government to legislatively preserve the procedural mechanisms which allow States to enforce their substantive laws without the Federal Government imposing its substantive edicts on the States. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one State to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon States in working with one another rather than relying on a national; unified police force. At the same time, there is a greater cost to State autonomy and individual liberty from centralization of police power.

It is important to be reminded of the benefits of federalism as well as the costs. There are sound reasons to maintain a system of smaller, independent jurisdictions. An inadequate Federal law, or an "adequate" Federal law improperly interpreted by the Supreme Court, preempts States' rights to adequately address public health concerns. Roe v. Wade should serve as a sad reminder of the danger of making matters worse in all States by federalizing an issue.

It is my erstwhile hope that parents will become more involved in vigilantly monitoring the activities of their own children rather than shifting parental responsibility further upon the Federal Government. There was a time when a popular bumper sticker read" It's ten o'clock; do you know where your children are?" I suppose we have devolved to the point where it reads" It's ten o'clock; does the Federal Government know where your children are." Further socializing and burden shifting of the responsibilities of parenthood upon the Federal Government is simply not creating the proper incentive for parents to be more involved.

For each of these reasons, among others, I must oppose the further and unconstitutional centralization of police powers in the national government and, accordingly, S. 403.

Mr. GRAVES. Mr. Speaker, I rise in strong support of this rule and the underlying bill, S. 403—the Child Custody Protection Act.

For too long, individuals have exploited State borders to disrupt and undercut important parental involvement laws that have been enacted to protect minors.

A teenage girl needs a parent's consent to get an aspirin at school. The decision to kill an unborn child is life-altering, and often results in unintended psychological and physical problems. So, I find it unconscionable that an individual would deliberately transport a minor across State lines for an abortion without a parent's consent. This type of exploitation has rendered State laws toothless, and in light of this situation, there is a strong demand for Congressional action.

In my home State of Missouri, we have a parental consent law that requires the involvement of a parent when a minor is seeking an abortion. Across the State line from my district is Kansas.

In Kansas, there is a parental notification law but not a consent law. This means that if the parent of a minor in Missouri denies permission for that minor to have an abortion in Missouri, that same minor—usually with the aid of a co-conspirator—can go to Kansas, notify that parent of the intention to have an abortion, and go forward against the will of the parent. In Illinois, it was reported that the mother of a 14-year-old from Missouri was denied the opportunity to even speak with her daughter as she waited for an abortion in an Illinois clinic just over the State line.

Congress must act to prevent the evasion of parental involvement laws. In Missouri, you can bring a civil action against any individual that assists a minor in evading the State parental consent law, but that is not enough, Mr. Speaker. Only a tough, Federal criminal statute will deter individuals from transporting teenagers across state lines in order to willfully violate the parental involvement laws of the teenager's home State.

Mr. Speaker, I was pleased to support H.R. 748, the Child Interstate Abortion Notification Act when it was considered by the House in April of last year. This rule gives us the opportunity to restore an important provision that was not included in S. 403, specifically the provision that places responsibility on the abortion provider to give a parent or guardian 24 hours' notice of a minor's abortion decision.

I urge my colleagues to pass this resolution and the Child Custody Protection Act. It is time for Congress to take action against all those who assist minors in circumventing a parent's right of involvement in the most serious decision a minor can make.

Mr. DINGELL. Mr. Speaker, the bill before us is a tangled web of legal intricacies which I found to be a muddled attempt to impose specific laws of individual States. After a careful reading of the bill, I am forced to rise in opposition to the legislation.

H.R. 748 is a two-part bill. The first part makes it a crime for anybody other than a parent to accompany a minor across State lines for an abortion if the minor's State of residence has parental notification laws. We have seen this language, known as the Child Custody Protection Act, in past Congresses, and I have hesitantly voted in favor of it. I say hesitantly because I have always been concerned that:

(1) The bill violates the Constitutional principles of federalism;

(2) There are no exceptions for another responsible adult family member to accompany the minor; and

(3) The language is so broad that it would allow a cab or bus driver to be prosecuted.

You are probably wondering, Mr. Speaker, why I voted for the bill even with these concerns. Well, as a parent, I feel strongly that parents should be involved in major decisions concerning the health and well-being of their children. The most knowledgeable resource regarding the minor's medical history is often their parent. Moreover, as is the case with any medical procedure, it is important that someone in the household be aware of the situation should there be side effects. Thus, I voted to move the process forward with the hope that my concerns would be addressed before the final legislation was sent to the President for signature. This did not happen because the Senate has never acted on the legislation.

The second part of the bill is new and would hold a doctor criminally liable for performing an abortion on a minor from another State. This, Mr. Speaker, is where the web gets really tangled. You see, in some cases, the minor would have to comply with the laws of two States, and in all cases, the doctor would have to get consent from the parent in person and a mandatory 24-hour waiting period would be instituted.

Probably the most striking scenario would be a minor who traveled between States with no parental consent law. In this case, the doctor would have to obtain consent in person from the parent, the mandatory 24-hour waiting period would be instituted, and in this specific case there would be no judicial bypass option.

This creates quite a burden on doctors, who would be required to have a near-encyclopedic knowledge of the parental involvement laws in each of the 50 States, their specific requirements and their judicial procedures.

Some States have strict parental consent laws, some have parental consent laws with reasonable bypass mechanisms, and some States have no consent laws at all. If this bill passes, we are saying to some States, "Your law is good." To others we are saying, "Your law is okay, but it is not quite good enough." And to still other States we are saying, "Your law, or lack thereof, is wholly inadequate." This is no way to legislate in our federalist system.

While reading over the bill, Mr. Speaker, I tried to think of what precedent there is for this kind of law. It took a while, but the only law I could come up with was the Fugitive Slave Act. Going back to laws like this, Mr. Speaker, is not something this Congress should even consider.

Mr. Speaker, I often wonder why we don't focus more of our effort on preventing unwanted pregnancies. Reducing the number of abortions performed in this country is certainly a goal we can all agree on and strive for. As such, I would ask that all of my colleagues come to the table to discuss the ways we can further this mutual goal.

Mr. Speaker, I urge my colleagues to vote "yes" on the Scott and Jackson-Lee amendments and "no" on the underlying bill.

Mr. CROWLEY. Mr. Speaker, I feel like I am in a time wrap today. We already voted on and debated basically the same bill last year. We must be close to an election if this Republican Congress is bringing up an anti-choice piece of legislation that they have already passed.

While these types of bills may make good politics for some, they make bad policy for all.

We should all be in agreement on the need to lower the numbers of unintended pregnancies and abortions in the U.S.

While this bill purports to put the interests of minors and their parents first, as well as reduce the number of abortions—the facts over the last few years of the Bush Administration have demonstrated that the numbers of abortions increased from the numbers during the previous 8 years of policymaking under President Bill Clinton.

In fact, studies show the abortion rate, which hit a 24-year low when President Bush took office, and has risen throughout President Bush's first term of so-called anti-abortion policymaking.

Instead of focusing on this fact, addressing why hundreds of millions of taxpayer dollars have been spent on abstinence only programs with little result, and pushing programs to expand contraception, this majority wants to criminalize aunts and cousins. It just doesn't make any sense.

Fortunately, there are laudable programs that work with young people to help ensure that they get accurate and relevant information on how to protect themselves from pregnancy.

We should work to find common ground on real solutions to the problems of unintended pregnancies and abortions.

I urge my colleagues to join me in voting against this mean-spirited legislation.

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this bill.

True to form, in the pre-election rush, the majority is pushing through legislation that does nothing to protect the health and safety of our children but instead harms them. We already voted on this legislation in April. Why are we voting on the bill today? It's simple, the Child Interstate Notification Act is a sweet treat for the anti-choice right, the exact group the Majority is courting these next 6 weeks.

This bill harms families by encouraging relatives to seek civil action against each other. It tells young women that if they cannot confide in their parents, they are simply out of luck and must face this difficult situation alone. And, it prevents minors from counting on the adults they trust: their counselors, their older siblings, their friends and their clergy.

Mr. Speaker, in a perfect world, children would openly communicate with their parents. In a perfect world, we would not be faced with unintended pregnancies. But these are tumultuous times, and the world is far from perfect. That does give us license to pass imperfect laws.

The bill before us provides no exception for the health of the mother, as required by the Supreme Court. And, it violates States rights by forcing the laws of one State onto another.

Mr. Speaker, this is a bad bill. I urge you to oppose this bill and put the safety and well-being of America's young women before the political agenda of the anti-choice majority.

I urge a "no" vote.

Mr. NUSSLE. Mr. Speaker, I rise today in support of the Child Custody Protection Act (S. 403). This important legislation protects our children by imposing stiff penalties on adults who evade State parental consent laws to transport a minor across State lines for the sole purpose of having an abortion.

I believe we must protect our children from being exploited or coerced into having an abortion and reaffirm the rights of parents to be involved in the important decisions of their lives. We currently require parental consent forms for field trips, sports and other activities. It's only common-sense that these important laws are not circumvented for the purpose of performing an abortion.

With over 50 percent of States having parental consent laws on the books, I believe it is imperative the Child Custody Protection Act become law to protect those who may not be able to protect themselves from harm as well as to ensure that these important state laws are respected.

Mr. SHAYS. Mr. Speaker, I rise in opposition to S. 403, the Child Custody Protection Act.

I support encouraging—not requiring—parental notification for minors seeking contraceptive services. This legislation proposes a variety of new mandates on women, families, and doctors.

For example, the bill forces doctors to learn and enforce 49 other states' laws, under the threat of fines and prison sentences. In many cases, it forces young women to comply with two states' parental-involvement mandates. It also requires a doctor to notify a young woman's parents in person, in another state, before abortion services can be provided.

Finally, in some cases, even if a parent travels with his or her daughter to obtain abortion care, the doctor must still give "notice" to the parent and wait 24 hours before providing the care. In such cases, this requirement acts as a built-in mandatory delay—which makes it more difficult logistically, more expensive, and more burdensome all around for the family. It may even endanger the young woman's health.

Not only does S. 403 include these negative provisions, it also could be found unconstitutional for three reasons. First, it contains no health exception.

Second, in some cases, it offers young women no judicial bypass. Judicial bypass is required by the Supreme Court and allows another responsible adult to consent instead of a parent.

Finally, it forces states to enforce other states' laws by forcing individuals to carry their home state laws with them when they travel.

Every parent hopes that a child confronting a crisis will seek the advice and counsel of those who care for her most and know her best. In fact, even in the absence of laws mandating parental involvement, many young women do turn to their parents when they are considering an abortion. One study found that 61 percent of parents in states without mandatory parental consent or notice laws knew of their daughter's pregnancy.

In a perfect world, all children would have open, clear communication with their parents. Unfortunately, this is not the case in every family. I believe this legislation would dissuade young women from turning to other trusted adults, such as an aunt or older sibling, in a time of need.

While this bill might be well intentioned, it is a deeply flawed attempt to curb young women's access to private, confidential health services under the guise of protecting parental rights.

I would like to see abortion remain safe and legal, yet rare. Whatever one's views on abortion, I believe we all can recognize the importance of preventing unintended pregnancies. When women are unable to control the number and timing of births, they will increasingly rely on abortion. Making criminals of advisors, however, is simply not the way to accomplish this goal.

I urge my colleagues to oppose this legislation.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of the Child Interstate Abortion Notification Act (CIANA).

As a cosponsor of the Child Interstate Abortion Notification Act (CIANA) and having voted for its passage in the House on April 27, 2005, I remain committed to this important piece of legislation and hope to see it passed into law promptly. The Child Interstate Notification Act prohibits circumventing state parental involvement laws by transporting a minor across state lines to obtain an abortion and places additional responsibilities on the abortionist.

Not surprisingly, parental involvement laws are overwhelmingly supported by a significant majority of the American people. Parents desire to know Parent's rights and state's rights are being violated. Children are secretly being transported across state lines without the consent of their parents for abortions. Abortion clinics in states where there is no parental involvement law advertise their services in states which have parental laws in place. "No Parental Consent Required" one advertisement read.

Children should be protected. Transporting a minor across state lines in order to obtain an abortion without parental notification or consent is more than troublesome. Pregnancy isn't something to be taken lightly and teenagers should not be isolated in their decision making. Instead, their parents should be involved in their decision on whether to have an abortion. My home state of Kansas is one of the 22 states that require parental consent with 2 of those states requiring both parents to consent.

Parental notification laws are critical to protect the life and health of minors. Parents deserve to be informed about their daughter's abortion decision as they are the ones who would be responsible for paying any medical bills due to complications from an abortion. Parents must give their consent in order for their minor to obtain certain medical procedures including ear piercing and to receive aspirin at school yet they can acquire an abortion—a major medical procedure that could be fatal or result in complications without the consent of a parent? That is a dangerous exception that should be eliminated in all states.

The Child Interstate Abortion Notification Act is good legislation that will protect minors and inform parents. Today, I hope to see CIANA pass the House for the second time this Congress and be sent to the Senate without further ado. I ask my colleagues in the Senate to not hold up this bill and to pass the language as it is written.

I will vote in favor of the Child Interstate Abortion Notification Act today and encourage my colleagues to join me. I also encourage my colleagues in the Senate to promptly pass this piece of legislation so minors are better protected and parents are informed.

Mr. HOLT. Mr. Speaker, I rise today in strong opposition to the Child Custody Protection Act. The text of the bill that we are considering is quite similar to the Child Interstate Abortion Notification Act, which the House considered in April of last year and I opposed. It is yet again another attempt by Congress to try to interfere in the personal health decisions of young women.

The question of whether or not to have an abortion is one of the most difficult decisions any woman can face. Some issues cannot be legislated and I believe that this is one of them. Reproductive health care is a personal matter that should be left to individuals, their doctors, and their families without interference from the government.

This bill will force mature young adults who have sought help from individuals other than their parents—including grandparents, aunts, uncles, older siblings and clergy members—to act alone in a time when loving support is needed. I believe that adolescents should be encouraged to seek their parents' advice and counsel when facing a difficult decision. However, the government cannot mandate healthy family communication where it does not already exist. We need to encourage our youth to seek the counsel of individuals that they do trust and that will advocate for their best interests and not encourage them to go through this difficult process and draining procedure alone.

Not only does this bill discourage our youth from seeking adult counsel, this bill will also put the health of young women in jeopardy. A provision of this bill seeks to delay the abortion process by demanding that doctors go through a detailed and complex scheme to notify a parent. Doctors who do not comply and conduct an abortion before this notification will face fines and federal criminal penalties.

I would guess that my colleagues on both sides of this issue agree that having an abortion should be the last option for an adolescent. But it is a reality that young women are going to continue to have to make life-altering decisions regarding their bodies regardless of restrictions the federal government places on them. Taking away the support of responsible adults in whom teens trust is not the way to stop abortions.

I have consistently opposed legislation of this type because I want to make sure that we protect young women who are facing unintended pregnancies by providing them with assistance from adults they trust. I certainly prefer an open dialogue between parents and teens, so that a hushed, last-minute decision is not necessary. Unfortunately, parental consent is not always a viable option and teens will still make decisions that are difficult for any woman regardless of age. By passing this legislation, we will force trusted adults to turn their backs on their nieces, sisters and granddaughters and we will also be turning our back to the young women of this Nation.

Instead of debating a measure that will impose federal punishments on family members and doctors who assist young women who are making difficult choices and considering another measure that attempts to fix a symptom, we should be having a constructive dialogue that gets at the root of this issue.

This bill is an injustice to young women across this Nation who need all the support that they can get. I urge my colleagues to vote against this legislation because it will severely harm young women at one of the most important times in their lives.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in opposition to S. 403.

S. 403 makes it a Federal crime for anyone other than a young woman's parent to take her across State lines for an abortion unless the parental notification and involvement requirements of her home State have been met. In States without a current parental notification law, the Federal law applies. This legislation also requires a physician to notify, in person, the parents from another State about a medical procedure the doctor will be performing.

I will continue to work to do more to reduce abortion, but this is the wrong approach. Criminalizing health care providers and clergy while further victimizing young women who are already facing major challenges will not reduce abortions, will not reduce teen pregnancy, and will certainly not help to protect young women in this country. It is unfortunate that this legislation does not contain a judicial bypass process for young women who cannot, through no fault of their own, discuss this issue with their parents, as in cases of abuse or incest. This bill even criminalizes a victim's support network, the grandparents, aunts and uncles, adult siblings, religious counselors, and other trusted adults whom a young woman might turn to for help in this time of crisis. It also requires doctors to know the notification laws in all 50 States or face criminal penalties. S. 403 undermines Minnesota's authority, forcing all States to comply with and enforce other States' laws.

This legislation is opposed by a wide variety of individuals and organizations including physicians, public health experts, women's organizations, religious groups, and think tanks. Simply put, S. 403 imposes significant barriers to young women's emotional and physical health. The reality is that marginalizing and isolating these vulnerable young women will not protect them in their time of need, but rather force them to seek risky and unsafe ways to terminate their pregnancy. Instead, we must do more to support families and to work to reduce unwanted pregnancies through comprehensive education, adoption assistance, and family planning.

Mr. Speaker, S. 403 is a dangerous bill, harmful to those young women most in need of help. I urge my colleagues to join me in opposing this legislation, which poses a serious threat to young women's access to safe reproductive health choices.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ADERHOLT). All time for debate has expired.

Pursuant to House Resolution 1039, the previous question is ordered on the Senate bill, as amended.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of Senate 403 will be followed by 5-minute votes on passage of H.R. 2679, motion to suspend the rules and adopt House Resolution 723, and motion to suspend the rules and adopt House Resolution 992.

The vote was taken by electronic device, and there were—yeas 264, nays 153, not voting 15, as follows:

[Roll No. 479]

YEAS—264

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—153

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Clay
Cleaver
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Emanuel
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Gilchrest
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick (MI)
Kind
Kirk
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Brown (OH)
Castle
Davis (FL)
Evans
Ford
Green (WI)
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Nussle
Pombo
Strickland

□ 1800

Messrs. BUTTERFIELD, NEAL of Massachusetts, PASCRELL, Ms. LINDA T. SÁNCHEZ of California, Mrs. JOHNSON of Connecticut, and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

The SPEAKER pro tempore (Mr. KUHL of New York). The pending business is the vote on passage of H.R. 2679, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 244, nays 173, not voting 15, as follows:

[Roll No. 480]

YEAS—244

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston

Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—173

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gilchrest
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Brown (OH)
Castle
Davis (FL)
Evans
Ford
Green (WI)
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Nussle
Pombo
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1810

Mr. MOLLOHAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GREEN of Wisconsin. Mr. Speaker, I was absent from Washington on Tuesday, September 26, 2006. As a result, I was not recorded for rollcall votes Nos. 479 and 480. Had I been present, I would have voted "aye" on rollcall Nos. 479 and 480.

CALLING ON THE PRESIDENT TO TAKE IMMEDIATE STEPS TO HELP IMPROVE THE SECURITY SITUATION IN DARFUR, SUDAN

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 723, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 723, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 7, not voting 13, as follows:

[Roll No. 481]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering

Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—7

Buyer
Duncan
Jones (NC)
McKinney
Paul
Rohrabacher
Taylor (MS)

NOT VOTING—13

Brown (OH)
Castle
Davis (FL)
Evans
Ford
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Pombo
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1820

Mr. TAYLOR of Mississippi and Mr. JONES of North Carolina changed their vote from "yea" to "nay."

Mr. RADANOVICH changed his vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO REDUCE TIME FOR ELECTRONIC VOTING DURING FURTHER PROCEEDINGS TODAY

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that during further proceedings today in the House, the Chair be authorized to reduce to 2 minutes the minimum time for electronic voting on any question that otherwise could be subjected to 5-minute voting under clause 8 or 9 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

URGING THE PRESIDENT TO APPOINT A PRESIDENTIAL SPECIAL ENVOY FOR SUDAN

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 992, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 992, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 3, not voting 15, as follows:

[Roll No. 482]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

McKinney
Paul
Slaughter

NOT VOTING—15

Brown (OH)
Castle
Davis (FL)
Evans
Ford
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Neal (MA)
Ney
Pombo
Strickland
Sullivan

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes left in this vote.

☐ 1830

Mr. GEORGE MILLER of California changed his vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "A resolution supporting the appointment of a Presidential Special Envoy for Sudan".

A motion to reconsider was laid on the table.

Stated for:

Ms. SLAUGHTER. Mr. Speaker, during rollcall vote No. 482 on H. Res. 992, I mistakenly recorded my vote as "nay" when I should have voted "yea."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 817

Mr. POE. Mr. Speaker, I ask unanimous consent to remove my name from H.R. 817.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Ms. HOOLEY. Mr. Speaker, earlier today I was unavoidably detained and as a result missed rollcall 478, a privileged motion offered by the minority leader.

Had I been present, I would have voted "aye" on the motion.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include tabular and extraneous material on the conference report to accompany H.R. 5631.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 5631, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 1037, I call up the conference report to accompany the bill (H.R. 5631) making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1037, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 25, 2006, at page 19272.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the conference report on H.R. 5631 which makes appropriations for the Department of Defense for fiscal year 2007. The agreement provides $377.6 billion for the United States military. In addition, $70 billion is provided in the so-called bridge fund for the operations of the war against terror. Finally, $200 million is included in emergency funding to help the Department of the Interior and the Forest Service combat wildfires.

Mr. Speaker, this conference report also carries a continuing resolution which will fund other activities of the government through November 17. It is a totally clean CR, and it merely establishes the date.

The House passed the defense bill on June 20 by a vote of 407–19. The other body completed its action on its version of the bill on September 7. By September 21, only 2 weeks after the Senate approval, we resolved conference and present a good conference report.

There was some difficulty about the total number, the top line, the 302(b) allocation, and I want to compliment the chairman of the full committee, Chairman LEWIS, for having stuck to his guns. We were able to get that top number up to the House number and this bill reflects very closely the bill as passed by the House.

I will say that a statement has been prepared in writing of the highlights of this legislation. I would advise the Members that there were no new earmarks, no new Member projects added in conference, and that in the bridge fund there are no Member projects whatsoever. It is a good conference report. It was agreed to unanimously by the conferees of both parties in both the House and the Senate.

Mr. Speaker, it is a good bill.

Mr. Speaker, I rise in strong support of the conference report on H.R. 5631, making appropriations for the Department of Defense for fiscal year 2007. This agreement provides $377.6 billion for the United States military. In addition, $70 billion is provided in the so-called "Bridge Fund". Finally, $200 million is included in emergency funding to help the Department of the Interior and the Forest Service combat wildfires.

This conference report also carries a continuing resolution, which will fund other activities of the government through November 17th.

The House passed the Defense appropriations bill on June 20th by a vote of 407 to 19. However, the Senate did not complete action on its version until September 7th. We reached a conference agreement on Thursday, September 21st, only two weeks after final approval by the Senate, despite having to resolve some major funding differences.

The centerpiece of this legislation is the funding for the Global War on Terror contained in title IX. This includes $17.1 billion to fully cover the fiscal year 2007 reset needs of the United States Army, and $5.8 billion to do the same for the Marine Corps.

The reset funding in this conference agreement will enable deploying units to have all the equipment they require to face the enemy in Iraq and Afghanistan. In addition, returning units can be reset and trained in order to be at full readiness for any future deployment. We owe it to our troops to ensure they have all the equipment they need to perform their missions. This funding keeps that commitment.

In addition, the conference agreement provides operating expenses for the services to conduct the Global War on Terror for the first half of fiscal year 2007. Finally, we provide funding for 10 additional C–17 aircraft in the Bridge Fund, for a total of 22 in this conference report.

Within the base bill, the conference agreement maintains the two littoral combat ships provided for the Navy in the House bill but eliminated by the Senate, as well one T-AKE ammunition ship. We have reluctantly agreed to the proposal of the Administration and the Senate to incrementally fund the two lead ships of the DDG–1000 destroyer series, formerly DD(X). However, we expect them to stay within the total funding envelop for both ships, which is currently projected at $6,582,200,000. In the future, I do not believe Congress should entertain any funding above this level.

The conference agreement also includes $2.7 billion to fully fund the procurement of 20 F–22A fighter aircraft, and $687 million for advance procurement of 20 aircraft in fiscal year 2008.

The Senate bill had eliminated procurement funding for the Joint Strike Fighter program. However, in the conference agreement we were able to restore full funding for 2 production aircraft and advance procurement for 12 additional aircraft in fiscal year 2008. Including research and development costs, the conference agreement contains $4.3 billion for the Joint Strike Fighter program, making it the largest single program in the Department of Defense.

We also responded to the emerging threat posed by North Korea and Iran by providing $9.4 billion for ballistic missile defense, an increase of $1.6 billion over fiscal year 2006. This includes funds to begin the establishment in Europe of a third ground-based interceptor site.

Mr. Speaker, there are a number of other important programs addressed in this conference report. Let me just conclude by stating that this bill provides essential funding for the war fighter in Iraq, Afghanistan, and around the world as we wage the Global War on Terror. Every member of the conference committee signed the conference report. It deserves the strong support of the House. I urge its adoption.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2007 (H.R. 5631)
(Amounts in thousands)

	FY 2008 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
TITLE I						
MILITARY PERSONNEL						
Military Personnel, Army	24,028,651	25,423,998	25,259,649	25,392,568	25,911,349	+1,882,698
Military Personnel, Navy	19,048,651	19,135,950	19,049,454	19,050,950	19,049,454	+803
Military Personnel, Marine Corps	7,712,511	7,983,895	7,932,749	7,895,775	7,932,749	+220,238
Military Personnel, Air Force	19,805,780	20,220,539	19,676,481	20,006,359	20,285,871	+480,091
Reserve Personnel, Army	2,834,301	3,058,050	3,034,500	2,956,640	3,043,170	+208,869
Reserve Personnel, Navy	1,480,096	1,569,128	1,485,548	1,551,838	1,551,838	+71,742
Reserve Personnel, Marine Corps	467,736	507,778	498,556	492,356	498,688	+30,950
Reserve Personnel, Air Force	1,214,323	1,282,110	1,246,320	1,253,060	1,259,620	+45,297
National Guard Personnel, Army	4,418,846	4,784,471	4,693,595	4,788,971	4,751,971	+333,125
National Guard Personnel, Air Force	2,006,658	2,122,197	2,038,097	2,091,722	2,067,752	+61,094
Total, title I, Military Personnel	83,017,553	86,088,114	84,914,949	85,480,239	86,352,460	+3,334,907
TITLE II						
OPERATION AND MAINTENANCE						
Operation and Maintenance, Army	22,031,807	23,091,606	22,292,965	22,199,406	22,397,581	+365,774
Operation and Maintenance, Navy	28,363,907	30,129,671	29,853,676	29,570,771	29,751,721	+1,387,814
Operation and Maintenance, Marine Corps	3,109,882	3,405,821	3,351,121	3,266,721	3,338,296	+228,414
Operation and Maintenance, Air Force	28,182,761	29,658,288	29,089,688	28,542,408	28,774,928	+592,167
Operation and Maintenance, Defense-Wide	18,199,977	19,989,270	19,883,790	19,832,789	19,948,799	+1,748,822
Operation and Maintenance, Army Reserve	1,751,322	2,083,312	2,064,512	1,942,388	1,957,888	+206,566
Operation and Maintenance, Navy Reserve	1,165,237	1,236,628	1,223,628	1,223,628	1,223,628	+58,391
Operation and Maintenance, Marine Corps Reserve	190,702	202,332	202,732	199,232	199,032	+8,330
Operation and Maintenance, Air Force Reserve	2,424,432	2,663,951	2,659,951	2,564,451	2,563,751	+139,319
Operation and Maintenance, Army National Guard	4,053,617	4,450,783	4,436,839	4,267,683	4,323,783	+270,166
Operation and Maintenance, Air National Guard	4,476,301	5,080,695	5,035,310	4,833,270	4,831,185	+354,884
Overseas Contingency Operations Transfer Account	---	10,000	---	---	---	
United States Court of Appeals for the Armed Forces	11,124	11,721	11,721	11,721	11,721	+597
Overseas Humanitarian, Disaster, and Civic Aid	60,931	63,204	63,204	63,204	63,204	+2,273
Former Soviet Union Threat Reduction Account	411,394	372,128	372,128	372,128	372,128	-39,266
Total, title II, Operation and maintenance	114,433,394	122,449,410	120,541,265	118,889,800	119,757,645	+5,324,251
TITLE III						
PROCUREMENT						
Aircraft Procurement, Army	2,626,748	3,566,483	3,529,983	3,354,729	3,502,483	+875,735
Missile Procurement, Army	1,196,830	1,350,898	1,350,898	1,266,967	1,278,967	+82,137
Procurement of Weapons and Tracked Combat Vehicles, Army	1,377,698	2,301,943	2,047,804	2,092,297	1,906,368	+528,670
Procurement of Ammunition, Army	1,715,693	1,903,125	1,710,475	1,948,469	1,719,879	+4,186
Other Procurement, Army	4,548,090	7,718,602	7,005,338	7,724,878	7,004,914	+2,456,824
Aircraft Procurement, Navy	9,677,001	10,868,771	10,590,934	10,135,249	10,393,316	+716,315
Weapons Procurement, Navy	2,633,380	2,555,020	2,533,920	2,558,020	2,573,820	-59,560
Procurement of Ammunition, Navy and Marine Corps	843,323	759,943	775,893	799,943	767,314	-76,009
Shipbuilding and Conversion, Navy	8,936,959	10,578,553	10,491,653	10,393,475	10,579,125	+1,642,166
Other Procurement, Navy	5,389,849	4,967,916	5,022,005	4,731,831	4,927,676	-462,173
Procurement, Marine Corps	1,384,965	1,273,513	1,191,113	1,151,318	894,571	-490,394
Aircraft Procurement, Air Force	12,609,842	11,479,810	11,852,467	11,096,406	11,643,356	-966,486
Missile Procurement, Air Force	5,122,728	4,204,145	3,746,636	3,975,407	3,914,703	-1,208,025
Procurement of Ammunition, Air Force	1,006,718	1,072,749	1,079,249	1,046,802	1,054,302	+47,584
Other Procurement, Air Force	13,920,106	15,408,086	15,423,536	15,510,286	15,493,486	+1,573,380
Procurement, Defense-Wide	2,548,227	2,861,461	2,890,531	2,783,071	2,903,292	+355,065
National Guard and Reserve Equipment	178,200	---	500,000	340,000	290,000	+111,800
Defense Production Act Purchases	57,666	18,484	39,384	68,884	63,184	+5,518
Total, title III, Procurement	75,774,023	82,919,502	81,781,819	80,958,052	80,910,756	+5,136,733

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FY 2007 (H.R. 5631)
(Amounts in thousands)

	FY 2006 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
TITLE IV						
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Army	11,060,666	10,855,559	11,834,862	11,245,040	11,054,958	-5,708
Research, Development, Test and Evaluation, Navy	18,803,203	16,912,223	17,654,518	17,048,238	18,673,894	-129,309
Research, Development, Test and Evaluation, Air Force	21,779,654	24,396,787	24,457,082	23,974,081	24,518,276	+2,738,622
Research, Development, Test and Evaluation, Defense-Wide	19,600,607	20,809,939	21,208,264	20,543,393	21,291,056	+1,690,449
Operational Test and Evaluation, Defense	166,774	181,520	181,520	187,520	185,420	+18,646
Total, title IV, Research, Development, Test and Evaluation	71,410,904	73,156,008	75,336,246	72,998,272	75,721,604	+4,310,700
TITLE V						
REVOLVING AND MANAGEMENT FUNDS						
Defense Working Capital Funds	1,143,391	1,345,998	1,345,998	1,345,998	1,345,998	+202,607
National Defense Sealift Fund: Ready Reserve Force	1,078,165	1,071,932	1,071,932	616,932	1,071,932	-6,233
Pentagon Reservation Maintenance Revolving Fund	---	18,500	18,500	18,500	18,500	+18,500
Total, title V, Revolving and Management Funds	2,221,556	2,436,430	2,436,430	1,981,430	2,436,430	+214,874
TITLE VI						
OTHER DEPARTMENT OF DEFENSE PROGRAMS						
Chemical Agents & Munitions Destruction, Army:						
Operation and maintenance	1,204,349	1,046,290	1,046,290	1,046,290	1,046,290	-158,059
Procurement	115,362	---	---	---	---	-115,362
Research, development, test and evaluation	67,108	231,014	231,014	231,014	231,014	+163,906
Total, Chemical Agents 1/	1,386,819	1,277,304	1,277,304	1,277,304	1,277,304	-109,515
Drug Interdiction and Counter-Drug Activities, Defense	908,474	926,890	936,990	978,212	977,632	+69,158
Office of the Inspector General	207,590	216,297	216,297	216,297	216,297	+8,707
Total, title VI, Other Department of Defense Programs	2,502,883	2,420,491	2,430,591	2,471,813	2,471,233	-31,650
TITLE VII						
RELATED AGENCIES						
Central Intelligence Agency Retirement and Disability System Fund	244,600	256,400	256,400	256,400	256,400	+11,800
Intelligence Community Management Account	418,121	634,811	597,111	597,011	621,611	+203,490
Transfer to Department of Justice	(38,610)	---	(39,000)	---	(39,000)	(+390)
Total, title VII, Related agencies	662,721	891,211	853,511	853,411	878,011	+215,290
TITLE VIII						
GENERAL PROVISIONS						
Additional transfer authority (Sec. 8005)	(3,712,500)	(5,000,000)	(4,750,000)	(4,500,000)	(4,500,000)	(+787,500)
Indian Financing Act incentives (Sec. 8018)	7,920	---	8,000	8,000	8,000	+80
FFRDCs (Sec. 8023)	-45,540	---	-25,000	-53,200	-53,200	-7,660
Overseas Mil Fac Invest Recovery (Sec. 8029)	1,000	1,000	1,000	1,000	1,000	---
Army Historical Foundation	2,970	---	---	---	---	-2,970
Rescissions (Sec. 8040)	-405,723	---	-823,122	-985,327	-870,143	-464,420
Shipbuilding & Conv. Funds, Navy	17,820	---	---	---	---	-17,820
Travel Cards (Sec. 8065)	45,000	51,000	51,000	51,000	51,000	+6,000
Special needs students (Sec. 8098)	5,445	---	---	5,500	5,500	+55
Fisher House (Sec. 8075)	2,178	---	2,500	---	2,500	+322
Other Contract Growth (Sec. 8077)	-262,350	---	-71,100	-92,000	-158,100	+104,250
Contracted Advisory and Assistance Services (Sec.8078)	-99,000	---	-22,000	-71,000	-71,000	+28,000
Working Capital Funds Cash Balance	-247,500	---	---	---	---	+247,500
Ctr for Mil Recruiting Assessment & Vet Emp(Sec. 8085)	5,049	---	5,400	---	5,400	+351
Various grants (Sec. 8088)	33,017	---	13,000	---	11,100	-21,917
Travel costs (Sec. 8097)	-91,080	---	-45,000	-85,000	-85,000	+6,080
Procurement Offsets	-357,390	---	---	---	---	+357,390
Army Venture Capital Funds	15,000	---	---	---	---	-15,000
Revised Economic Assumptions (Sec.8106)	-763,587	---	-949,000	-1,272,300	-1,034,425	-270,838
Foreign Currency Fluctuation	---	---	-100,000	---	---	---
Drug Interdiction and Counter-Drug Activities (emergency)	---	---	---	700,000	---	---
Total, Title VIII, General Provisions	-2,136,771	52,000	-1,954,322	-1,793,327	-2,187,368	-50,597

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2007 (H.R. 5631)
(Amounts in thousands)

	FY 2006 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
TITLE IX -- ADDITIONAL APPROPRIATIONS						
Military Personnel						
Military Personnel, Army (contingency operations)	4,713,245	---	4,348,710	5,054,502	4,346,710	-366,535
Military Personnel, Navy (contingency operations)	144,000	---	229,096	114,500	143,296	-704
Military Personnel, Marine Corps (contingency operations)	455,000	---	495,456	142,320	145,576	-309,424
Military Personnel, Air Force (contingency operations)	508,000	---	659,788	129,000	351,788	-156,212
Reserve Personnel, Army (contingency operations)	138,755	---	---	90,910	87,756	-50,999
Reserve Personnel, Navy (contingency operations)	10,000	---	10,000	---	---	-10,000
Reserve Personnel, Marine Corps (contingency operations)	---	---	---	15,420	15,420	+15,420
National Guard Personnel, Army (contingency operations)	234,400	---	251,000	214,100	295,959	+61,559
National Guard Personnel, Air Force (contingency operations)	3,200	---	---	---	---	-3,200
Total, Military Personnel	6,206,600	---	5,992,050	5,760,752	5,386,505	-820,095
Operation and Maintenance						
Operation & Maintenance, Army (contingency operations)	21,348,886	---	24,280,000	24,037,232	28,364,102	+7,015,216
Operation & Maintenance, Navy (contingency operations)	1,810,500	---	1,954,145	1,284,172	1,615,288	-195,212
(Transfer out) (contingency operations)	---	---	---	(-90,000)	(-90,000)	(-90,000)
Operation & Maintenance, Marine Corps (contingency operations)	1,833,126	---	1,761,500	1,809,466	2,689,006	+855,880
Operation & Maintenance, Air Force (contingency operations)	2,483,900	---	2,987,108	1,940,553	2,688,189	+204,289
Operation & Maintenance, Defense-Wide (contingency operations)	805,000	---	2,186,673	2,383,189	2,774,963	+1,969,963
(Transfer out) (contingency operations)	---	---	---	---	(-20,000)	(-20,000)
Operation & Maintenance, Army Reserve (contingency operations)	48,200	---	---	211,600	211,600	+163,400
Operation & Maintenance, Navy Reserve (contingency operations)	6,400	---	---	8,036	9,886	+3,486
Operation & Maintenance, Marine Corps Reserve (contingency operations)	27,950	---	---	---	48,000	+20,050
Operation & Maintenance, Air Force Reserve (contingency operations)	5,000	---	---	65,000	65,000	+60,000
Operation & Maintenance, Army National Guard (contingency operations)	183,000	---	220,000	2,033,100	424,000	+241,000
Operation & Maintenance, Air National Guard (contingency operations)	7,200	---	---	200,000	200,000	+192,800
Iraq Freedom Fund (contingency operations)	4,658,686	---	4,000,000	50,000	50,000	-4,608,686
Afghanistan Security Forces Fund (contingency operations)	---	---	---	1,200,000	1,500,000	+1,500,000
Iraq Security Forces Fund (contingency operations)	---	---	---	1,408,000	1,700,000	+1,700,000
Joint IED Defeat Fund (contingency operations)	---	---	---	1,500,000	1,920,700	+1,920,700
Total, Operation and Maintenance	33,217,848	---	37,409,426	38,122,348	44,260,734	+11,042,886
Procurement 4/						
Aircraft Procurement, Army	---	---	---	556,000	---	---
(contingency operations)	232,100	---	132,400	---	1,461,300	+1,229,200
Missile Procurement, Army (contingency operations)	55,000	---	---	---	---	-55,000
Procurement of Weapons and Tracked Combat Vehicles, Army	---	---	---	1,048,280	---	---
(contingency operations)	860,190	---	1,214,672	---	3,393,230	+2,533,040
Procurement of Ammunition, Army (contingency operations)	273,000	---	275,241	---	237,750	-35,250
Other Procurement, Army	---	---	---	1,817,527	---	---
(contingency operations)	3,174,900	---	1,939,830	---	5,003,995	+1,829,095
Aircraft Procurement, Navy	---	---	---	153,700	---	---
(contingency operations)	138,837	---	34,916	---	486,881	+348,044
Weapons Procurement, Navy (contingency operations)	116,900	---	131,400	---	109,400	-7,500
Procurement of Ammunition, Navy and Marine Corps	---	---	---	99,930	---	---
(contingency operations)	38,885	---	143,150	---	127,880	+88,995
Other Procurement, Navy	---	---	---	278,500	---	---
(contingency operations)	49,100	---	28,865	---	319,965	+270,865
Procurement, Marine Corps	---	---	---	1,281,068	---	---
(contingency operations)	1,710,145	---	621,450	---	4,898,269	+3,188,124
Aircraft Procurement, Air Force	---	---	---	720,100	---	---
(contingency operations)	115,300	---	912,500	---	2,291,300	+2,176,000
Missile Procurement, Air Force	---	---	---	25,400	---	---
(contingency operations)	17,000	---	32,650	---	32,650	+15,650
Other Procurement, Air Force	---	---	---	1,220,293	---	---
(contingency operations)	17,500	---	5,850	---	1,317,607	+1,300,107

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2007 (H.R. 5631)
(Amounts in thousands)

	FY 2006 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
Procurement, Defense-Wide	---	---	---	56,255	---	---
(contingency operations)	182,075	---	121,600	---	145,555	-36,520
National Guard and Reserve Equipment (emergency)	1,000,000	---	---	---	---	-1,000,000
Total, Procurement	7,980,932	---	5,598,524	7,255,053	19,825,782	+11,844,850
Research, Development, Test and Evaluation 4/						
Research, Development, Test & Evaluation, Army (contingency operations)	13,100	---	---	---	---	-13,100
Research, Development, Test & Evaluation, Navy	---	---	---	110,000	---	---
(contingency operations)	---	---	---	---	231,106	+231,106
Research, Development, Test & Evaluation, Air Force	---	---	---	33,064	---	---
(contingency operations)	12,500	---	---	---	36,964	+24,464
Research, Development, Test and Evaluation, Defense-Wide	---	---	---	155,144	---	---
(contingency operations)	25,000	---	---	---	139,644	+114,644
Total, Research, Development, Test and Evaluation	50,600	---	---	298,208	407,714	+357,114
Revolving and Management Funds 4/						
Defense Working Capital Funds	---	---	---	373,474	---	---
(contingency operations)	2,516,400	---	1,000,000	---	---	-2,516,400
Total, Revolving and Management Funds	2,516,400	---	1,000,000	373,474	---	-2,516,400
Other Department of Defense Programs						
Drug Interdiction and Counter-Drug Activities, Defense (contingency operations)	27,620	---	---	---	100,000	+72,380
Related Agencies 5/						
Intelligence Community Management Account (contingency operations)	---	---	---	219,265	19,265	+19,265
TITLE IX General Provisions						
Additional transfer authority	---	---	---	(2,500,000)	---	---
(Contingency operations)	(2,500,000)	---	(2,500,000)	---	(3,000,000)	(+500,000)
Global war on terror efforts in Afghanistan and Iraq	---	50,000,000	---	---	---	---
Equipment Reset Transfer Authority	---	---	---	(6,700,000)	---	---
Army and Marine Corps Reset (emergency)	---	---	---	13,100,000	---	---
Predators for SOCOM (emergency)	---	---	---	65,400	---	---
O&M to assist African Union forces (emergency)	---	---	---	20,000	---	---
Total, General Provisions	---	50,000,000	---	13,185,400	---	---
Total, Title IX 4/	50,000,000	50,000,000	50,000,000	65,214,500	70,000,000	+20,000,000
TITLE X-FY 2006 WILDLAND FIRE EMERGENCY APPROPRIATIONS						
DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Wildland Fire Management 6/	---	---	---	100,000	100,000	+100,000
DEPARTMENT OF AGRICULTURE						
Forest Service						
Wildland Fire Management 6/	---	---	---	175,000	100,000	+100,000
Total, Title X	---	---	---	275,000	200,000	+200,000
Total for the bill (net)	397,886,263	420,413,166	416,340,489	427,329,190	436,540,771	+38,654,508
OTHER APPROPRIATIONS						
Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006 (P.L.109-148, Division B)						
Title I, Chapter 2 (emergency)	3,456,512	---	---	---	---	-3,456,512
Transfer authority (emergency)	(500,000)	---	---	---	---	(-500,000)
Title II, Chapter 2 (emergency)	10,000	---	---	---	---	-10,000
Title III, Chapter 2 (rescissions)	-80,000	---	---	---	---	+80,000
Total	3,386,512	---	---	---	---	-3,386,512

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2007 (H.R. 5631)
(Amounts in thousands)

	FY 2006 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND HURRICANE RECOVERY 2006 (Public Law 109-234)						
Title I, Chapter 2 (emergency)	63,573,085	---	---	---	---	-63,573,085
Rescissions	-80,000	---	---	---	---	+80,000
Rescissions (emergency)	-39,400	---	---	---	---	+39,400
Transfer authority (emergency)	(3,250,000)	---	---	---	---	(-3,250,000)
Title II, Chapter 2 (emergency)	1,004,173	---	---	---	---	-1,004,173
Transfer authority (emergency)	(150,000)	---	---	---	---	(-150,000)
Title V, Chapter 1 (emergency)	708,000	---	---	---	---	-708,000
Total	65,165,858	---	---	---	---	-65,165,858
Total, Other Appropriations	68,552,370	---	---	---	---	-68,552,370
Net grand total (including other appropriations)	466,438,633	420,413,166	416,340,489	427,329,190	436,540,771	-29,897,862
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Lease of defense real property (permanent)	11,880	12,000	12,000	12,000	12,000	+120
Disposal of defense real property (permanent)	14,850	15,000	15,000	15,000	15,000	+150
Army Venture Capital Fund (reappropriation)	---	15,000	15,000	15,000	15,000	+15,000
O&M, Army transfer to National Park Service:						
Defense function	-1,980	---	-2,499	---	-2,499	-519
Non-defense function	1,980	---	2,499	---	2,499	+519
Title IX O&M, Navy transfer to Coast Guard, Op.Exp (By transfer) (contingency operations)	---	---	---	(90,000)	(90,000)	(+90,000)
Title IX O&M, Defense-wide transfer to Department of State (By transfer) (contingency operations)	---	---	---	---	(20,000)	(+20,000)
Tricare accrual (permanent, indefinite auth.) 2/	10,707,483	11,230,629	11,230,629	11,230,629	11,230,629	+523,146
Less Title IX FY 2006 supplemental appropriations	---	---	---	-7,926,735	---	---
Less Title X FY 2006 emergency appropriations 5/6/	---	---	---	-275,000	-200,000	-200,000
Less emergency appropriations 3/ 5/	-118,712,370	-50,000,000	-50,000,000	-57,987,765	-70,000,000	+48,712,370
Adjustment to balance with CBO's ATB estimate	2,181	---	---	---	---	-2,181
Total, scorekeeping adjustments	-107,975,976	-38,727,371	-38,727,371	-54,916,871	-58,927,371	+49,048,605
Adjusted total (includ. scorekeeping adjustments)	358,462,657	381,685,795	377,613,118	372,412,319	377,613,400	+19,150,743
Appropriations	(359,028,380)	(381,685,795)	(378,436,240)	(373,397,646)	(378,483,543)	(+19,455,163)
Rescissions	(-565,723)	---	(-823,122)	(-985,327)	(-870,143)	(-304,420)
Total (including scorekeeping adjustments)	358,462,657	381,685,795	377,613,118	372,412,319	377,613,400	+19,150,743
Amount in this bill	(466,438,633)	(420,413,166)	(416,340,489)	(427,329,190)	(436,540,771)	(-29,897,862)
Scorekeeping adjustments	(-107,975,976)	(-38,727,371)	(-38,727,371)	(-54,916,871)	(-58,927,371)	(+49,048,605)
Total mandatory and discretionary	358,462,657	381,685,795	377,613,118	372,412,319	377,613,400	+19,150,743
Mandatory	244,600	256,400	256,400	256,400	256,400	+11,800
Discretionary	358,218,057	381,429,395	377,356,718	372,155,919	377,357,000	+19,138,943

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT-FY 2007 (H R. 5631)
(Amounts in thousands)

	FY 2006 Enacted	FY 2007 Request	House	Senate 7/	Conference	Conference vs. Enacted
RECAPITULATION						
Title I - Military Personnel	83,017,553	88,088,114	84,914,940	85,480,239	86,352,460	+3,334,907
Title II - Operation and Maintenance	114,433,394	122,449,410	120,541,265	118,889,800	119,757,645	+5,324,251
Title III - Procurement	75,774,023	82,919,502	81,781,819	80,958,052	80,910,756	+5,136,733
Title IV - Research, Development, Test and Evaluation	71,410,904	73,156,008	75,336,246	72,998,272	75,721,604	+4,310,700
Title V - Revolving and Management Funds	2,221,556	2,436,430	2,436,430	1,981,430	2,436,430	+214,874
Title VI - Other Department of Defense Programs	2,502,883	2,420,401	2,430,501	2,471,813	2,471,233	-31,650
Title VII - Related Agencies	662,721	891,211	853,511	853,411	878,011	+215,290
Title VIII - General Provisions (net)	-2,136,771	52,000	-1,954,322	-1,793,327	-2,187,368	-50,597
Title IX - Additional Appropriations (net)	50,000,000	50,000,000	50,000,000	65,214,500	70,000,000	+20,000,000
Title X - Wildland Fire Management (net)	---	---	---	275,000	200,000	+200,000
Total, Department of Defense	397,886,263	420,413,166	416,340,489	427,329,190	436,540,771	+38,654,508
Other defense appropriations	68,552,370	---	---	---	---	-68,552,370
Total funding available (net)	466,438,633	420,413,166	416,340,489	427,329,190	436,540,771	-29,897,862
Scorekeeping adjustments	-107,975,976	-38,727,371	-38,727,371	-54,916,871	-58,927,371	+49,048,605
Total mandatory and discretionary	358,462,657	381,685,795	377,613,118	372,412,319	377,613,400	+19,150,743
RECAP BY FUNCTION						
Mandatory	244,600	256,400	256,400	256,400	256,400	+11,800
Discretionary:						
General purpose discretionary:						
Defense discretionary	358,216,077	381,429,395	377,354,219	370,144,545	377,354,501	+19,138,424
Nondefense discretionary	1,980	---	2,499	2,011,374	2,499	+519
Total discretionary	358,218,057	381,429,395	377,356,718	372,155,919	377,357,000	+19,138,943
Grand total, mandatory and discretionary	358,462,657	381,685,795	377,613,118	372,412,319	377,613,400	+19,150,743

FOOTNOTES:

1/ Included in Budget under Procurement title.

2/ Contributions to Department of Defense Retiree Health Care Fund (Sec. 725, P.L. 108-375).

3/ Includes Title IX contingency operations funds.

4/ If enacted before October 1, 2006, funds provided in Chapters III - VI of the Senate bill will be considered FY 2006 budget authority.

5/ If enacted before October 1, 2006, $494.265M of the Senate Bill will be FY 2006 emergency funds.

6/ Pursuant to Sec. 501 of H.Con.Res.376 (H.Res.818) and Sec. 402 of S.Con.Res.83 (Sec. 7035/P.L.109-234).

7/ Excludes $42,343,850 that will be considered under Military Quality of Life and VA Appropriations.

Mr. Speaker, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

I hope as I see those pages fluttering over there it is not an indication that we are going to have a long debate. I hope for the record that we are not going to see that.

We worked assiduously for 6 months to get this bill together. It is the tightest, toughest bill I have ever seen in the 25 years I have been on this committee. We sure don't want a lot of rhetoric to elucidate on what happened here. So I am prepared to yield back my time.

Mr. YOUNG of Florida. Mr. Speaker, I have two requests for time.

Mr. Speaker, I am happy to yield such time as he might consume to the distinguished chairman of the full Appropriations Committee, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, at the admonition of my dear friend from Pennsylvania, I am simply rising to compliment these two gentleman for the fabulous work they have done and to make one single point: this is the first conference report of 11 that we should have. It is my intention before the year is over to complete all of those reports.

But the point I really want to make and have the House understand, it is not the committee's intention to have an omnibus of any form. An omnibus only complicates the process, causes us to spend more money, not less, and undermines the very fine work that has been done by this committee.

Mr. Speaker, I rise in support of the FY07 Department of Defense Appropriations conference report. This is the first of 11 individual conference reports I hope to bring to the House floor for consideration this year.

The conference report funds the DoD at $377.6 billion plus a bridge fund of $70 billion for military operations in Iraq and Afghanistan.

In addition, the DoD conference report contains a clean continuing resolution that funds government operations at the lower rate of House-passed, Senate-passed, or last year's funding level through November 17th.

The underlying bill in this conference report—the DoD Appropriations bill—is the most important of our annual appropriation bills for it funds our national security. I would like to praise Chairman YOUNG and ranking member MURTHA for their fine bipartisan work. Chairman YOUNG has spoken to the specifics of the conference report so I will direct my attention to the need to complete our work this year.

As the body knows, the Appropriations Committee has made tremendous strides over the last two years in reforming the process of adopting our annual spending bills.

The Appropriations Committee has been strongly committed to bringing to this floor individual conference reports for each and every bill. We were successful in doing so last year and I hope to replicate that success again this year.

Early in this process, I made it very clear to my leadership and to our members that the Appropriations Committee would not entertain the prospect of an omnibus spending bill. This Committee has done everything in its power to ensure that this does not happen.

The Appropriations Committee passed each of the 11 spending bills through full committee by June 20th, and passed 10 of 11 bills off the House floor by June 30th. We remain ready to pass the final appropriations bill at a moment's notice.

The Appropriations Committee made a commitment to move its spending bills individually—in "regular order"—and within the framework of the Budget Resolution. We have done that. My colleagues, the Appropriations Committee has kept its word.

Moving our spending bills individually is the only way for us to maintain fiscal discipline. If history is any guide, an omnibus spending bill would also become a vehicle for legislative mischief, a proverbial Christmas tree for unrelated legislative proposals by attaching the year's unfinished business onto must-pass legislation. The pursuit of an omnibus strategy is a budget-buster and an invitation to unrestrained spending.

Chairman COCHRAN and I urge our colleagues to avoid this approach and move forward in passing individual conference reports.

Together, we remain committed to completing our work at the earliest possible date.

I urge the adoption of this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FRELINGHUYSEN), the vice chairman of the subcommittee.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, taking Mr. MURTHA's admonition, I rise in strong support of the bill and especially draw attention to the need to get the money out the door through the bridge fund.

Mr. Speaker, I rise in strong support of H.R. 5631, making appropriations for the Department of Defense of FY '07.

I commend the leadership of the Committee—Chairmen LEWIS and YOUNG, and Ranking Members OBEY and MURTHA—for their hard work in producing well-balanced bill that meets the needs of our warfighters today and lays the foundation for a strong national defense in the future.

This conference agreement provides $447.6 billion, including $70 billion in "bridge funding" to support our missions in Iraq, Afghanistan, and global war on terrorism.

The total is about $4.1 billion less than the President's budget request, but it is over $19 billion more than last year's DoD appropriations act.

Yet still, within this limited allocation, the conference report provides important resources for our warfighters:

AIRCRAFT

F/A–22 Raptor—$2.7 billion to procure 20 F–22s next year, nearly double what was requested by the Administration.

F–35 Lightening Joint Strike Fighter—almost $5 billion for development and procurement of the Joint Strike Fighter (JSF).

Hercules Cargo Planes—$787 million for nine Air Force C–130Js, and $243 million for Marine Corps KC–130Js.

SHIPS

New Assault Ship—$2.6 billion for two of the Navy's next-generation surface combat ship, the DD(X).

LHA Amphibious Assault Ship—$1.1 billion for the LHA Amphibious Assault Ship.

Attack Submarine—$2.5 billion, equal to the administration's request, for procurement of the next Virginia-class new attack-submarine.

MISSILE DEFENSE

The conference report provides $9.4 billion for missile defense programs—$110 million more than the President's budget request, and almost $1.6 billion (20%) more than current funding. We also provide for the initial deployment of a national missile defense system based in Alaska and California.

FCS

Future Combat System—Appropriates $3 billion for the Future Combat System, the Army's most high profile weapons modernization program. However, this figure is $320 million less than requested.

FORCE PROTECTION

The bill provides funds for increased protection for U.S. troops in Iraq, including $725 billion for personnel protective gear, such as body armor; $5.6 billion for more up armored Humvees, other tactical wheeled-vehicles and other equipment expended in Iraq and Afghanistan; and $1.5 billion to counter improvised explosive devices (IEDs).

BRIDGE

While these are the highlights of this important conference report, I would like to focus on the "Bridge Fund." The conference recommendation includes $70 billion in emergency funding for military operations in Iraq and Afghanistan.

IED

My colleagues, the standoff-weapon of choice for the insurgents in Iraq and Afghanistan is the IED—the roadside bomb, the suicide bomb, and recently in Afghanistan, the "bike" bomb.

Our enemy is aggressive, creative, and dangerous and this bridge fund contains $1.9 billion for the Joint IED Defeat Organization of the Department of Defense in order to stay one step ahead in protecting our warfighters.

CERP

The Commander's Emergency Response Program (CERP) is provided $500 million to help combatant commanders secure the peace by addressing emergency civilian needs in Afghanistan and Iraq.

Another $3.2 billion is provided to train and equip Iraqi and Afghan security forces—a vital mission that will allow American forces to hand over security responsibilities as soon as possible.

RESET—ARMY AND MARINES

Mr. Speaker, all of the resources in the "bridge fund" are important. But I would like to highlight the $5.8 billion to "reset" the Marines and the $17.1 billion provided to reset the Army. This funding is needed to fully equip deploying forces and to provide new and refurbished equipment for returning units.

Of the funds provided for the Army, $2.94 billion is for the Army Guard and Reserve, including $500 million to continue the effort initiated last year to outfit the Army National Guard with the equipment it needs for homeland defense and disaster response.

Mr. Speaker, the battle we wage in Iraq and Afghanistan is a tough battle. We're proud of the job of the Army and the Marines who are carrying the fight. But our forces are tearing up equipment at an alarming rate and without this re-set funding, we run the risk of witnessing the return of a "hollow Army" that cannot serve our national interests.

WARFIGHTERS

Mr. Speaker, the very foundation of our national security is not weapons systems or vehicles or munitions. No, our primary asset in the global war against terrorism is our warfighter—the brave young men and women of our armed forces who are protecting our homeland every day.

This conference report supports an active-duty force of 482-thousand Army soldiers, 340-thousand Navy personnel, 334-thousand Air Force pilots and airmen and 175-thousand Marines.

I am pleased this bill provides for another pay hike (2.2%) for our warfighters.

SUMMARY

This House should be proud of this legislation. It provides our fighting men and women with the resources they need to be: more deployable; more agile; more flexible; more interoperable; and more lethal in the execution of their missions.

It provides for: better training; better equipment; better weapons; and better paychecks for the troops and support for their families at home.

I am pleased to support this legislation and the warfighters who proudly wear our Nation's uniform.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time. I want to say thank you very much to the members on both sides of the aisle of the subcommittee. They worked diligently in a lengthy series of hearings, oversight hearings, justification hearings. I would like to compliment the staff who have worked many, many long, hard hours in resolving the differences between the House version of this bill and the Senate version of the bill. It is a great honor to work with all of these members, men and women.

I would say that this, as has been suggested, is a good bill. I urge its passage.

Mr. BLUMENAUER. Mr. Speaker, this year's Defense Appropriations Conference Report is a step up from previous defense spending bills. It contains funding for some very inventive programs and industries located in my district and throughout Oregon that will prove vital to strengthening our national security and military preparedness.

This conference report also provides funding to the Department of Defense to begin researching and expanding its unexploded ordnance cleanup capabilities. Recently a pilot program has been implemented for the first wide area assessment which has already yielded valuable information for improving our ordnance removal methods. It is my hope that this is only the beginning of what will hopefully become a comprehensive approach to cleaning up unexploded bombs here at home as well as abroad.

Another important program that will receive funding from this bill is the Northwest Manufacturing Initiative, which gives small businesses from my area involved with defense and military applications the ability to contract on a level playing field with the rest of the defense industry. Through this program, a coordinated effort between state, local, and the private industry, the Pacific Northwest is able to make its contributions to our Nation's security. From this we can ensure that the inventive and cost-effective solutions generated locally are implemented into our national defense strategy.

Mr. JEFFERSON. Mr. Speaker, I wish to express my support for the fiscal year 2007 Defense Appropriations bill.

Today we reaffirm our support and appreciation for the members of the armed services. We have fully funded an across-the-board pay raise of 2.2 percent and increased military housing allowances. $2 billion in funding will go to countering one of the gravest threats our soldiers face in combat, the use of IEDs. An additional $3 billion will go to outfitting our service members and their combat vehicles with stronger armor. These are undoubtedly important priorities, and I support the funding levels in the conference report.

I am pleased with the commitment we have shown to both the Navy and to our Nation's shipbuilding industrial base. By funding five new ships this fiscal year, as well as continuing to adequately fund ships currently under construction like the LPD–17 and the LHA Replacement, we are ensuring the Navy will maintain its prominence on the world stage.

As our Nation is currently involved in a long-term war on multiple fronts, the importance of this defense funding cannot be understated. I am in favor of the conference report and I thank the Defense appropriations subcommittee for its hard work.

Ms. WATERS. Mr. Speaker, I rise to oppose the conference report for the Fiscal Year 2007 Defense Appropriations Act.

Among other things, this bill contains $50 billion for the war in Iraq, pushing the total amount U.S. taxpayers have paid for the Iraq war and the war in Afghanistan to more than $500 billion. The vast majority of these costs are for the Iraq war.

This conference report throws billions of dollars into the sands of Iraq, while at the same time this Administration and the Republican Congress call for drastic cuts to dozens of vital domestic programs.

This is immoral and wrong. We should be investing in schools and health care for all Americans. Certainly, we should fully fund the Department of Veterans Affairs, which the Republican-controlled Congress has under-funded by $9 billion over the past 6 years.

In 2002, in the lead-up to the war, the Administration assured the Congress and the American people that this war would be affordable.

How wrong they were! Not only is the Iraq war devastating the lives of thousands of U.S. service members and Iraqis, it is devastating our Nation's finances. The Administration must develop a plan to not only pay for this misguided endeavor but also to bring our troops home.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this legislation.

The Defense Appropriations bill for fiscal year 2007 funds our military operations in Iraq and Afghanistan, among many other things. It is very similar to the Defense Authorization bill that I supported in the Armed Services Committee and on the House floor.

The bill provides $447.6 billion in funding, including $70 billion in emergency funds to support military operations in Iraq and Afghanistan. This grand total represents about 55 percent of the entire Federal discretionary budget. Overall defense spending has risen 40 percent since September 11th and is more than currently being spent by the rest of the world combined.

Appropriating $70 billion for the so-called bridge fund is realistic and necessary, because we must support our men and women in uniform, but I also believe the Administration must begin to take responsibility for the full cost of the war in Iraq and consider these costs through the regular appropriations process. There is no "emergency" here—we know that since this bridge fund would take us only halfway through fiscal year 2007, we should be expecting another request before the year is over. With total costs for operations in Iraq and Afghanistan crossing the half trillion dollar point after passage of this bill, the American people deserve greater candor from the Administration about both the predictable costs as well as the anticipated benefits of our undertakings in Iraq and Afghanistan.

Although I don't agree with the "emergency" designation, I'm pleased that the conferees saw fit to increase the bridge fund levels to include $17.1 billion to replace and refurbish Army equipment. This is the amount General Schoomaker testified that the Army needed in fiscal year 2007 to fully fund its reset program. It's true that even with this funding, the Army will still need tens of billions of dollars over the coming years for equipment rehabilitation and recapitalization—but this is an important start. The bridge fund also includes funding for Marine Corps equipment and body armor as well as $549 million to cover costs of the enhanced insurance and death gratuity benefits.

I am pleased that the conference report fully funds military pay, benefits, and the pay raise of 2.2 percent for the base force. It also includes language that I advocated for prohibiting funding for permanent U.S. bases in Iraq.

I remain concerned about rising costs of weapons systems that have yet to be fully funded, such as the Future Combat Systems and missile defense program, among others. A recent report from the Department of Defense identified 36 major weapons systems as having significant cost overruns. And yet Congressional Budget Office projections are that we'll need to increase defense budgets by 17 percent per year simply to sustain the current force structure and weapons programs. And this is happening at the same time that operations and maintenance and personnel costs—as well as training and recruiting costs—are rising.

So Mr. Speaker, this conference report is not perfect. It does not solve or attempt to solve some of these looming budget problems. But overall, it deserves to pass and I urge its approval.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROMOTING ANTITERRORISM CAPABILITIES THROUGH INTERNATIONAL COOPERATION ACT

Mr. KING of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4942) to establish a capability and office to promote cooperation between entities of the United States and its allies in the global war on terrorism for the purpose of engaging in cooperative endeavors focused on the research, development, and commercialization of high-priority technologies intended to detect, prevent, respond to, recover from, and mitigate against acts of terrorism and other high consequence events and to address the homeland security needs of Federal, State, and local governments, as amended.

The Clerk read as follows:

H.R. 4942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Antiterrorism Capabilities Through International Cooperation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The development and implementation of technology is critical to combating terrorism and other high consequence events and implementing a comprehensive homeland security strategy.

(2) The United States and its allies in the global war on terrorism share a common interest in facilitating research, development, testing, and evaluation of technologies that will aid in detecting, preventing, responding to, recovering from, and mitigating against acts of terrorism.

(3) Certain United States allies in the global war on terrorism, including Israel, the United Kingdom, Canada, Australia, and Singapore have extensive experience with, and technological expertise in, homeland security.

(4) The United States and certain of its allies in the global war on terrorism have a history of successful collaboration in developing mutually beneficial technologies in the areas of defense, agriculture, and telecommunications.

(5) The United States and its allies in the global war on terrorism will mutually benefit from the sharing of technological expertise to combat domestic and international terrorism.

(6) The establishment of a program to facilitate and support cooperative endeavors between and among government agencies, for-profit business entities, academic institutions, and nonprofit entities of the United States and its allies will safeguard lives and property worldwide against acts of terrorism and other high consequence events.

SEC. 3. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.

(a) IN GENERAL.—The Homeland Security Act of 2002 is amended by inserting after section 313 (6 U.S.C. 193) the following new section:

"SEC. 314. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director selected under subsection (c)(1).

"(2) INTERNATIONAL COOPERATIVE ACTIVITIES.—The term 'international cooperative activities' includes—

"(A) coordinated research projects, joint research projects, or joint ventures;

"(B) joint studies or technical demonstrations;

"(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

"(D) training of scientists and engineers;

"(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

"(F) exchanges or sharing of scientific and technological information; and

"(G) joint use of laboratory facilities and equipment.

"(3) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary for Science and Technology of the Department of Homeland Security.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(b) INTERNATIONAL COOPERATIVE ACTIVITIES.—

"(1) AUTHORIZATION.—The Under Secretary is authorized to carry out international cooperative activities to support the responsibilities specified under section 302.

"(2) MECHANISMS AND EQUITABILITY.—In carrying out this section, the Under Secretary may award grants to and enter into cooperative agreements or contracts with United States governmental organizations, businesses, federally funded research and development centers, institutions of higher education, and foreign public or private entities. The Under Secretary shall ensure that funding and resources expended in international cooperative activities will be equitably matched by the foreign partner organization through direct funding or funding of complementary activities, or through provision of staff, facilities, materials, or equipment.

"(3) COOPERATION.—The Under Secretary is authorized to conduct international cooperative activities jointly with other agencies.

"(4) FOREIGN PARTNERS.—Under this section, the Under Secretary may form partnerships with United States allies in the global war on terrorism, including Israel, the United Kingdom, Canada, Australia, Singapore, and other countries as appropriate.

"(5) EXOTIC DISEASES.—As part of the international cooperative activities authorized in this section, the Under Secretary may facilitate the development of information sharing and other types of cooperative mechanisms with foreign countries, including nations in Africa, to strengthen American preparedness against threats to the Nation's agricultural and public health sectors from exotic diseases.

"(c) PROGRAM AND DIRECTOR.—

"(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Program to facilitate international cooperative activities throughout the Science and Technology Directorate. The Program shall be headed by a Director, who shall be selected by and shall report to the Under Secretary.

"(2) RESPONSIBILITIES OF THE DIRECTOR.—

"(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in consultation with the Department of State and in coordination with other Federal agencies, mechanisms and legal frameworks to allow and to support international cooperative activities in support of homeland security research.

"(B) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

"(C) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with those of other components of the Department and of other relevant research agencies.

"(D) CONFERENCES AND WORKSHOPS.—The Director, periodically, shall support the planning and execution of international homeland security technology workshops and conferences to improve contact among the international community of technology developers and to help establish direction for future technology goals.

"(3) PROGRAM MANAGER AUTHORITY.—This subsection shall not be construed to limit the ability of a program manager to initiate or carry out international cooperative activities provided that such activities are appropriately coordinated with the Program established under this subsection.

"(d) BUDGET ALLOCATION.—There are authorized to be appropriated to the Secretary, to be derived from amounts otherwise authorized for the Directorate of Science and Technology, $25,000,000 for each of the fiscal years 2007 through 2010 for activities under this section.

"(e) REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this section, the Under Secretary, acting through the Director, shall transmit to the Congress a report containing—

"(A) a brief description of each partnership formed under subsection (b)(4), including the participants, goals, and amount and sources of funding; and

"(B) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

"(2) UPDATES.—At the end of the fiscal year that occurs 5 years after the transmittal of the report under subsection (a), and every 5 years thereafter, the Under Secretary, acting through the Director, shall transmit to the Congress an update of the report required under subsection (a).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Promoting antiterrorism through international cooperation program.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KING) and the gentleman from New Jersey (Mr. PASCRELL) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. KING of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I proudly rise in support of H.R. 4942. This is really legislation whose time has come. Let me at the very outset commend Ranking Member THOMPSON, Chairman REICHERT of the Emergency Preparedness Subcommittee, and my good friend from New Jersey, Mr. PASCRELL, for their tremendous cooperation and leadership on this legislation.

Mr. Speaker, we are engaged in a battle for survival. There is a war against international terrorism. It is a war in which we must know who our allies are, who our friends are. We have to know those who will stand with us through the tough times. We must know those who are willing to work with us and take risks with us.

The purpose of H.R. 4942 is to codify the right to assist in the sharing and developing of technologies, sharing of technologies between and among countries who share common values and who are dedicated to defeating international terrorism.

This legislation refers to certain specific allies in the global war on terrorism, such as Israel, the United Kingdom, Canada, Australia and Singapore. They have extensive experience with and technical expertise in homeland security, and we can benefit from them and they can benefit from us.

Really, the time has come for us to break down artificial barriers, artificial walls, and use the commonality of our cultures, of our traditions, of our beliefs, and use the benefit of our technological expertise to form a common bond as we go forward to defeat international terrorism.

This bill has a wide variety of support, as I believe it should. It is an aggressive step forward. It is a commonsense step forward.

Mr. Speaker, I reserve the balance of my time.

Mr. PASCRELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4942, the Promoting Antiterrorism Capabilities Through International Cooperation Act. This is a true product of bipartisan effort and collegial dedication.

□ 1845

I am heartened at the process by which this bill has moved forward.

In particular, I want to commend the hard work of both the chairman and the ranking member, Mr. KING, Mr. THOMPSON, and my counterpart, Chairman DAVID REICHERT, chairman of the Emergency Preparedness, Science, and Technology Subcommittee. Their commitment to this vitally important legislation has been unwavering, and the collaboration offered epitomizes the very best of what the Homeland Security Committee can, should, and must be. Indeed, it is a tremendous achievement to see this proposal move forward.

This legislation will help to ensure that the Department of Homeland Security works with our allies in the war on terror to develop and share the best homeland security technologies possible, and we will all be the better off because of it. This must be part of a global strategy in order to finish off terror.

H.R. 4942 will establish what we call the Science and Technology Homeland Security International Cooperative Programs Office. Its objective will be to facilitate international cooperative activities throughout the Directorate of Science and Technology within the Department of Homeland Security.

The Director of the Office, who shall report directly to the Under Secretary for Science and Technology, will be responsible for developing mechanisms and legal frameworks to allow and support international cooperative activity in support of homeland security research;

To identify and match domestic entities engaged in homeland security research with foreign entities so that they may partner in homeland security research activities;

To ensure coordination of international cooperative activities carried out by the Office with the activities of other components of the Department and other relative research agencies; and

Holding international homeland security technology workshops and conferences.

We saw in a recent trip of the Homeland Security Committee to Europe the significance of working closely with our allies. These international cooperative activities will be supported through grants, cooperative agreements, contracts with U.S. governmental organizations and businesses, federally funded research and development centers, institutions of higher education, and foreign public and private entities.

The bill seeks to strengthen ongoing partnerships as well as encourage new ones. And the bill specifically says that we should seek to partner with our allies in this global war, as the chairman has pointed out. This global war or terrorism includes our closest allies, the United Kingdom, Canada, Australia, Israel, and Singapore.

To be sure, the United States would greatly benefit from joint international homeland security development programs between the United States and our allies in the war on terror. The fact is this: Many of our allies have substantial experience dealing with terrorism. By necessity, they have become hotbeds for counterterrorism research.

The bill authorizes $25 million for international cooperation and cooperative activities for each of the fiscal years 2007 to 2010. It requires that the funds come out of the existing budget of the directorate of Science and Technology. $25 million is not a lot of money when we consider the vast array of benefits that such cooperation can produce.

Forming partnerships and working together in a way that will ultimately help secure America is the main objective of the bill, again, of global strategy, and it should always be the main objective of this body. Passage of the legislation today shows that the House takes this austere responsibility seriously.

Mr. KING of New York. Mr. Speaker, let me just concur in what the gentleman from New Jersey said about the bipartisan cooperation; and I want to especially thank him and the ranking member for the tremendous cooperation he gave us on this legislation.

I yield as much time as he may consume to the author of the legislation, the Chairman of the Emergency Preparedness Subcommittee, Sheriff REICHERT from the State of Washington.

Mr. REICHERT. Mr. Speaker, I remember the day when this legislation first kind of came to our attention. I attended a meeting with some good friends from our Israeli community, Jewish community, and we had this idea. And to watch it come from that day many months ago, just a discussion around a concept, to today when the legislation has finally come together is indeed exciting; and to know, too, that it is a bipartisan effort.

I congratulate the chairman, Mr. KING, and his wisdom and foresight in seeing that this is an important project, an important piece of legislation and moving it forward; and his good friend and my good friend, Mr. BENNIE THOMPSON, the ranking member of that committee; and also my good friend, my colleague from the subcommittee, Mr. PASCRELL; all working hard together, the staff of the Democrats and Republicans working hard on this legislation to make it come to the floor of the House of Representatives today.

As the chairman of the Committee on Homeland Security Subcommittee on Emergency Preparedness, Science and Technology, I rise today to express my strong support for H.R. 4942, the Promoting Antiterrorism Capabilities Through International Cooperation Act. My subcommittee passed H.R. 4942 on March 15; and on June 14, 2006, it was approved by the full Homeland Security Committee.

I congratulate again the chairman of the full committee and the ranking member and Mr. PASCRELL for all their hard work and all members of the committee for their support.

In just over 2 weeks since the 5-year anniversary of September 11, the 9/11 Commission's recommendations have taken center stage again as a principal guide to our Nation's homeland security measures. It is important that they take that role.

In its report, the 9/11 Commission recommended, and I quote, "the United States should engage other nations in developing a comprehensive coalition strategy against Islamist terrorism. There are several multilateral institutions in which such issues should be addressed, but the most important policies should be discussed and coordinated in a flexible contact group of leading coalition governments."

There is no question that one of these important policies is the development of homeland security technologies that keep our country safe. H.R. 4942 implements the Commission's recommendations by applying it to the homeland security technology we develop to help our Nation's first responders prevent, prepare for, respond to, and recover from acts of terrorism, national disasters, and other emergencies.

Echoing the 9/11 Commission recommendation on international cooperation in the war on terrorism, the title of 4942 says it all: The Promoting Antiterrorism Capabilities Through International Cooperation Act.

The United States, Israel, and our allies confront a common enemy and share similar homeland security challenges. Cooperation inside our government among Federal agencies and cooperation outside our government with Israel and our allies could very well prove to be the deciding factor in the war on terror.

Specifically, H.R. 4942 enables the Department of Homeland Security's research and development arm, the Science and Technology Directorate, to coordinate international cooperative programs with our allies to advance homeland security research. The Science and Technology Directorate at the Department would coordinate joint research studies, scientist exchange programs, cooperative field exercises, and technology sharing with our strongest and most trusted allies in the war on terrorism, including Israel, the United Kingdom, Canada, Australia, Singapore.

Today, the United States cooperates with these nations to develop the best technologies to defeat our shared terrorist threat. H.R. 4942 makes those partnerships even stronger, with the force of law and the will of Congress behind them.

H.R. 4942 is modeled after a partnership created by Congress in 1977 between the United States and Israel called the Bi-national Industrial Research and Development Foundation, or the so-called BIRD Foundation.

The mission of the BIRD Foundation is to stimulate, promote, and support industrial research and development of mutual benefit to both nations. In 29 years, the BIRD Foundation has invested $225 million in 690 cooperative research and development projects mutually beneficial to the United States and Israel. The BIRD model serves as a solid foundation of international cooperation in homeland security research and development.

The international cooperation enabled by H.R. 4942 will give our Nation access to a worldwide library of lessons learned and scientific expertise that will no doubt strengthen our own homeland security measures. It is our duty, as allies united under a common purpose, to defeat terrorism, that we join forces in the laboratory to combat our shared adversaries and meet our similar technology needs.

H.R. 4942 incorporates the wisdom of the 9/11 Commission and the BIRD Foundation partnership between the United States and Israel to strengthen our hand in developing technologies that will make us all, the United States and its allies alike, safer and more secure.

I urge my colleagues to join me in voting in favor of this critical legislation.

Mr. PASCRELL. Mr. Speaker, I yield as much time as he wishes to consume to the ranking member of Homeland Security, my friend, and a gentleman in all sense of the word, from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank my colleague from New Jersey for those kind words.

I rise this evening in strong support of H.R. 4942, the Promoting Antiterrorism Capabilities Through International Cooperation Act, which Chairman KING and I introduced along with Chairman REICHERT and Ranking Member PASCRELL and other Members. I am happy to see this bill finally make it to the House floor.

I first raised the idea of this bill in January 2005, soon after I became ranking member. I know my Democratic colleagues had pushed for it in the 108th Congress as well. While it took a while to get my colleagues on board, I was glad when they finally did. The product before us today is a good one.

Personally, I expressly want to thank Chris Beck and Todd Gee from my staff and Andy Weiss from the majority staff for their hard work on this bill.

The threat of terrorism is an international one. Terrorist attacks occur all over the world, and we must promote international cooperation to stop them.

Cooperation in developing antiterrorism technology should be a top priority. The different challenges faced by our many friends around the world have resulted in new approaches that the United States should leverage to protect our citizens.

In fact, Mr. Speaker, the United States has a history of conducting scientific and technological collaborations with Israel, the United Kingdom, Canada, Australia, and others. The Department of Homeland Security has participated in some of these partnerships with foreign governments and others. This legislation will encourage and further strengthen those efforts, as well as direct the Department to look to new partners beyond those we already have.

I am especially heartened that this bill will strengthen the means for protecting our Nation's agriculture and public health from exotic diseases. Emerging diseases that can affect both animals and humans are a threat to the world's population. Active collaboration with scientists in Africa, where many of these diseases originate, should be promoted. I am glad this bill encourages that collaboration.

Too often, Mr. Speaker, the United States presents a posture of unilateralism to the world. I hope that through programs like the one authorized in this legislation we encourage a more cooperative approach.

I strongly support this legislation, and I urge my colleagues to do the same.

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Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we stated, H.R. 4942 will enable us to work with certain allies, Israel, the United Kingdom, Canada, Australia and Singapore, to engage with them in cooperative endeavors, focus on research, development, the commercialization of high-priority technologies, and enable us to prevent acts of terrorism and address the homeland security needs of Federal, State and local governments.

The gentleman from New Jersey referenced the $25 million for each of the fiscal years from 2007 to 2010. That money is to be matched in each instance by the foreign partner organizations who participate in this international cooperative activity. This is very significant legislation. It is very vital. I would certainly urge the passage of the bill.

But before I yield back my time, I would like to include for the RECORD letters exchanged between the Committee on Homeland Security and the Committee on Science regarding jurisdiction over H.R. 4942. I certainly thank the Science Committee and the gentleman from New York (Mr. BOEHLERT) for their input on this bill and thank my colleagues for their bipartisan support.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, September 22, 2006.
Hon. SHERWOOD BOEHLERT,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Science Committee's jurisdictional interest in H.R. 4942, the "Promoting Antiterrorism Capabilities Through International Cooperation Act." The Committee on Homeland Security acknowledges your claim to jurisdiction over provisions contained in this bill, as amended, and appreciates your agreement not to request a sequential referral. The Committee on Homeland Security understands that nothing in this legislation or your decision to forgo a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of our response will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor. The Committee on Homeland Security will also support your request to be conferees during any House-Senate conference on this legislation.

Thank you for your cooperation as we work towards the enactment of H.R. 4942.

Sincerely,

PETER T. KING,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, September 21, 2006.
Hon. PETER T. KING,
Chairman, Committee on Homeland Security,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Science Committee in matters being considered in H.R. 4942, the Promoting Antiterrorism Capabilities Through International Cooperation Act, as amended by the Homeland Security Committee. The Science Committee has jurisdictional interest in this bill based on the Committee's jurisdiction over the Department of Homeland Security Science and Technology Directorate, "DHS S&T", and other DHS research and development (See Rule X(o)(14) which grants the Science Committee jurisdiction over "Scientific research, development, and demonstration, and projects therefore").

This bill would amend the Homeland Security Act of 2002 to establish a capability and office within DHS S&T to promote international "cooperative endeavors focused on research, development, and commercialization of high-priority technologies intended to detect, prevent, respond to, recover from, and mitigate against acts of terrorism and other high consequence events." All of the international cooperative activities authorized by the bill relate to homeland security research (e.g., "coordinated research projects, joint research projects, or joint ventures;" "training of scientists and engineers;" and "joint use of laboratory facilities and equipment"). In addition, the funding for such activities is to be derived from amounts otherwise authorized to DHS S&T.

The Science Committee acknowledges the importance of H.R. 4942 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of your response will be included in the Committee report and in the CONGRESSIONAL RECORD when the bill is considered on the House Floor.

The Science Committee also expects that you will support our request to be conferees during any House-Senate conference on this legislation.

Thank you for your attention to this matter.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

Mr. PASCRELL. Mr. Speaker, I urge passage of H.R. 4942 and thank the cosponsors and sponsors of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. KING of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from New York (Mr. KING) that the House suspend the rules and pass the bill, H.R. 4942, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MORE BORDER PATROL AGENTS NOW ACT OF 2006

Mr. ROGERS of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6160) to recruit and retain Border Patrol agents.

The Clerk read as follows:

H.R. 6160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "More Border Patrol Agents Now Act of 2006".

SEC. 2. BORDER PATROL AGENT ENHANCEMENT.

(a) PLAN.—In order to address the recruitment and retention challenges faced by the United States Border Patrol, the Secretary of Homeland Security shall, not later than six months after the date of the enactment of this Act, submit to the Committee on Homeland Security and the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan to determine how the Border Patrol can better recruit and retain Border Patrol agents with the appropriate skills and training to effectively carry out its mission and responsibilities.

(b) CONTENTS.—The plan shall include, at a minimum, the following components:

(1) A strategy for the utilization of the recruitment authority provided in subsection (a) of section 9702 of title 5, United States Code (as added by section 3), as well as any other strategies the Secretary determines to be important in recruiting well-qualified Border Patrol agents.

(2) A strategy for the utilization of the retention authority provided in subsection (b) of section 9702 of title 5, United States Code (as added by section 3), as well as any other strategies the Secretary determines to be important in retaining well-qualified Border Patrol agents.

(3) An assessment of the impact that current pay levels for Border Patrol agents has on the Department's ability to recruit and retain Border Patrol agents, especially in high cost-of-living areas.

(4) An assessment of whether increased opportunities for Border Patrol agents to transfer between duty stations would improve employee morale and enhance the Department's ability to recruit and retain well-qualified Border Patrol agents.

SEC. 3. RECRUITMENT AND RETENTION BONUSES FOR BORDER PATROL AGENT ENHANCEMENT.

(a) IN GENERAL.—Chapter 97 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 9702. Border Patrol agent enhancement

"(a) RECRUITMENT BONUSES FOR BORDER PATROL AGENTS.—

"(1) IN GENERAL.—In order to carry out the plan described in section 2(a) of the More Border Patrol Agents Now Act of 2006, the Secretary of Homeland Security may pay a bonus to an individual to recruit a sufficient number of Border Patrol agents.

"(2) BONUS AMOUNT.—

"(A) IN GENERAL.—The amount of a bonus under this subsection shall be determined by the Secretary, but may not exceed 25 percent of the annual rate of basic pay of the position involved as of the beginning of the period of service referred to in paragraph (3)(A).

"(B) LUMP-SUM.—A bonus under this subsection shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(3) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the individual entering into a written service agreement with the United States Border Patrol. The agreement shall include—

"(A) the period of service the individual shall be required to complete in return for the bonus; and

"(B) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of such termination.

"(4) LIMITATION ON ELIGIBILITY.—A bonus under this section may not be paid to recruit an individual for—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(5) TERMINATION.—The authority to pay bonuses under this subsection shall terminate five years after the date of the enactment of this section.

"(b) RETENTION BONUSES FOR BORDER PATROL AGENTS.—

"(1) IN GENERAL.—In order to carry out the plan described in section 2(a) of the More

Border Patrol Agents Now Act of 2006, the Secretary of Homeland Security may pay a retention bonus to a Border Patrol agent.

"(2) SERVICE AGREEMENT.—Payment of a bonus under this subsection is contingent upon the employee entering into a written service agreement with the United States Border Patrol to complete a period of service with the Border Patrol. Such agreement shall include—

"(A) the period of service the employee shall be required to complete in return for the bonus; and

"(B) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of such termination.

"(3) BONUS AMOUNT.—

"(A) IN GENERAL.—The amount of a bonus under this subsection shall be determined by the Secretary, but may not exceed 25 percent of the annual rate of basic pay of the position involved as of the beginning of the period of service referred to in paragraph (2)(A).

"(B) LUMP-SUM.—A bonus under this subsection shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(4) LIMITATION.—A bonus under this subsection may not be based on any period of service which is the basis for a recruitment bonus under subsection (a).

"(5) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this subsection shall expire five years after the date of the enactment of this section.

"(c) WAIVER AUTHORITY RELATING TO REEMPLOYED ANNUITANTS.—

"(1) IN GENERAL.—In order to help address the challenges faced by the United States Border Patrol, the Secretary of Homeland Security may appoint annuitants to positions within the United States Border Patrol in accordance with succeeding provisions of this subsection.

"(2) EXCLUSION FROM OFFSET.—An annuitant serving in a position within the United States Border Patrol pursuant to an appointment made under paragraph (1)—

"(A) shall not be subject to the provisions of section 8344 or 8468, as the case may be; and

"(B) shall not, for purposes of subchapter III of chapter 83 or chapter 84, be considered an employee.

"(3) LIMITATIONS.—

"(A) APPOINTMENTS.—The authority to make any appointments under paragraph (1) shall terminate five years after the date of the enactment of this subsection.

"(B) EXCLUSION.—The provisions of paragraph (2) shall not, in the case of any annuitant appointed under paragraph (1), remain in effect—

"(i) with respect to more than five years of service (in the aggregate); nor

"(ii) with respect to any service performed after the end of the ten-year period beginning on the date of the enactment of this subsection.

"(4) NO DISPLACEMENT.—No appointment under this subsection may be made if such appointment would result in the displacement of any Border Patrol employee.

"(5) DEFINITION.—For purposes of this subsection, the term 'annuitant' has the meaning given such term by section 8331 or 8401, as the case may be.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

"9702. Border Patrol agent enhancement.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. ROGERS) and the gentleman from Florida (Mr. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama.

GENERAL LEAVE

Mr. ROGERS of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 6160, the More Border Patrol Agents Now Act of 2006. This legislation will help Border Patrol put agents along our Nation's borders now, quickly and cost efficiently.

Securing our Nation's borders is an issue that ranks at the top of the list for many Americans. The President has responded by committing at least 6,000 new Border Patrol agents on our borders over the next 2 years. I wholeheartedly support this commitment, and the provisions in my bill will help us reach this goal.

Shockingly, the Border Patrol statistics show that an average of 33 applicants must be vetted before just one is hired. This means that 66,000 applicants must be screened before just 2,000 new agents are hired.

In addition, Border Patrol typically loses 700 agents annually to retirements and other law enforcement agencies. My bill addresses these personnel challenges.

First, it provides the Secretary of Homeland Security with the authority to pay recruitment and retention bonuses. Second, it allows the Border Patrol to rehire recently retired agents.

From the outset, my bill's incentives will encourage highly qualified individuals to become career Border Patrol agents; and once we make these investments to train each agent, we should also make sure these new agents are not recruited away by other law enforcement agencies. Therefore, retention bonuses are essential to maintaining a premier workforce.

My legislation also provides authority to the Secretary to rehire retired Border Patrol agents. While some agents hired recently will be able to work until age 60, current law requires most agents to retire at age 57. At a time when the American public is calling for a larger, stronger Border Patrol, it is wrong to overlook this talent pool. After all, most of these retired officers can provide cost-effective and valuable expertise almost immediately.

These officers could not only manage field operations and oversee agents, but also could serve as instructors. This provision would ensure the invaluable experience of knowledge of these retired agents is brought back to the field instead of going unused.

Mr. Speaker, I have toured the southwest border twice and visited the Border Patrol Training Academy in Artesia, New Mexico. I have heard firsthand about these personnel concerns from Border Patrol Chief David Aguilar and from the National Border Patrol Council.

This legislation has been crafted to directly and immediately address the Border Patrol's concerns. I am proud to note that the National Border Patrol Council has endorsed the legislation as well. The National Border Patrol Council president, T.J. Bonner, wrote: "The council strongly supports this legislation and urges the United States House of Representatives to enact it swiftly in order to provide the Border Patrol with some of the essential tools that it needs in order to be able to recruit and retain well-qualified individuals to help secure our borders," and I include the entire letter for the RECORD.

NATIONAL BORDER PATROL COUNCIL
OF THE AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
Campo, CA, September 25, 2006.

Hon. MIKE ROGERS,
Chairman, Subcommittee on Management, Integration, and Oversight, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN ROGERS: The National Border Patrol Council appreciates your leadership on homeland security issues, and is especially grateful for your commitment to ensure that the Border Patrol has adequate staffing in order to carry out its vital border security mission. At your invitation, we recently met and discussed this issue at length. H.R. 6160, the "More Border Patrol Agents Now Act of 2006," incorporates the Council's central recommendations regarding this matter.

This legislation will enable the Border Patrol to substantially increase its ranks immediately through the addition of retired employees who possess invaluable experience and knowledge. It will also assist the Border Patrol in its efforts to attract and retain well-qualified individuals by establishing recruitment and retention bonuses for them, as well as by requiring the Department of Homeland Security to develop a comprehensive plan to enhance recruitment and retention incentives.

On behalf of the nearly 11,000 front-line employees that it represents, the National Border Patrol Council expresses its gratitude to you for introducing this important bill. The Council strongly supports this legislation, and urges the United States House of Representatives to enact it swiftly in order to provide the Border Patrol with some of the essential tools that it needs to be able to recruit and retain well-qualified individuals to help secure our borders.

Sincerely,

T.J. BONNER,
President.

I want to especially thank Chairman TOM DAVIS of the Government Reform Committee for his leadership on this bill. I would also like to thank Mr. ISSA for his cosponsorship and his leadership on this issue as well. I urge my colleagues to vote "yes" on H.R. 6160, the More Border Patrol Agents Now Act for 2006.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend Chairman ROGERS for both of us working together, along with the members of our subcommittee and also full committee. I think that this bill is about retention, recruitment and respect for the men and women of the U.S. Border Patrol.

Specifically, this bill will allow bonuses and recruitment and retention of the additional Border Patrol agents that are needed. Just today in committee we heard from the Department of Homeland Security Secretary, Mr. Chertoff, who talked about our SpyNet program that is now ongoing and was just awarded to the Boeing Company. We are going to need Border Patrol agents that can be on the border that can respond to what is seen on television on this recorded and tour system that they are going to put along the borders.

I think it is also important to recognize that the flexibility as it relates to this piece of legislation is going to be very, very important for us to make sure that we have enough border agents.

It would also allow the Department to rehire retired Border Patrol agents that are willing to serve their country. I think that is very, very important.

I think it is important that we have enough individuals on the border and also make sure that we take advantage of their full law enforcement capabilities.

I think it is important also to recognize that our Customs border protection officers who secure our borders and conduct inspections of people in vehicles and cargo are also facing staffing shortages. I think if we are going to protect our borders, I think it is important we don't leave these individuals behind. But I do want to recognize the fact that I am excited and encouraged that we are moving this bill forward today, tonight, to make sure that at least we have the individuals in question funded to the level that they need to be funded, maybe higher, but making sure that we are moving towards real security here in the United States of America.

I can tell you that it has been very, very fortunate for me to work with not only the chairman but also the full committee on this piece of legislation. We have had many hearings on it. We have also had those men and women on the front line, members of our committee have gone to the front line and met with these individuals. I think it is important as we move along with the SpyNet program that we have retired members that are willing to come back and serve. And also put forth the kind of bonuses for retention and break down on attrition on border protection.

I would also like to say that when we look at national security, Mr. Speaker, I think it is important that we work in a bipartisan way. I would like to see more of this spirit as we move on, hopefully implementing the full 9/11 recommendations. This is one part of it, and moving in that direction.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too want to recognize and thank my colleague from Florida. He has been a real ally in this effort to make sure that our Border Patrol have the resources they need and work in a very cordial and bipartisan way. I appreciate him.

I do want to acknowledge his concern over Border Patrol officers. I share that. It is my hope that as soon as we can get this agent issue behind us that we can turn our attention to try to make sure that these officer ranks are swelled as well.

But the thing that I want to most emphasize with my colleagues in the House is that with this legislation and with our circumstance on the border and the understaffing, time is of the essence; and so I urge my colleagues to favorably consider this legislation and vote "aye."

Mr. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Speaker, I thank the chairman, Chairman ROGERS, and Congressman MEEK.

Mr. Speaker, I would like to paraphrase the great Frederick Douglass, who reminded us that we may not get all that we have worked for; however, we will work for all that we get.

Clearly, we have worked to get more Border Patrol agents. It is important that we do so. At the rate of 33 to 1, 66,000 before we can get 2,000, it will take a considerable amount of time to get the number of agents needed. So we should work and we have worked for more Border Patrol agents.

However, the record should also reflect, Mr. Speaker, that we have worked for more Customs and border protection officers. They are the people that inspect people as well as cargo at ports of entry. They are the persons who caught the Millennium Bomber. They need help, too. I thank the chairman for his indication that we will move in that direction.

This bill is not all that we have worked for, but it is all that we can get right now, and I urge my colleagues to support the bill. I thank the chairman and Congressman MEEK.

Mr. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to the chairman by saying I appreciate his recognition of our Customs border protection officers and their need of being able to be a part of something good and something in protecting America.

I think that it is important that not only on the minority side but on the majority side we make a commitment to these very fine men and women. They put their lives on the line every day serving our country. These are individuals that are conducting inspections of people, vehicles, and cargo. As long as we hold them in our heart and also in our mind, as we move forward from this point on, I think it will protect America even further.

I join Mr. GREEN and also Mr. ROGERS in encouraging all of our Members to vote in the affirmative in making sure that we pass this very important piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I thank the chairman for his leadership and the ranking minority member. It is clear that we have had the goal for adding Border Patrol agents for some time in this Congress.

A number of years ago when the Homeland Security Committee was first being created and we were looking at how better to protect our border, it became apparent that as we went to air marshals, we had more people leaving the Border Patrol than we could hire. When we were hiring into the Border Patrol, we were pulling them out of State and local police, and then they would move over to other agencies.

Unless we take special efforts in this Congress to do more to retain our Border Patrol and pay additional money to them, we are not going to be able to meet the hypothetical goals that we have set for ourselves.

When we debated about fencing on the border, we heard that we need to have more Border Patrol. We have had difficulty holding the Border Patrol we have and meeting the numbers of our current assessments which would only put us to a fraction of actually controlling the border.

That is why in the House, and most on our side at least support border fencing and virtual fencing, but we also support dramatic increases in the number of Border Patrol and changing and making adaptations in their pay scales and in their retention because without that, we will not have adequate Border Patrol.

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So I thank the chairman for his leadership with this because this is an important part of a comprehensive border strategy for the people who are on the ground who have in many cases jobs where they sit there for long periods of time, where they may or may not see somebody coming in through the southern border in particular in very hot environments, and to retain somebody in that job requires additional assistance. And I am glad to see that we are authorizing that, that we are starting to move ahead, because this is one of the most critical steps, along with the fencing, in controlling the Southwest border.

Mr. ROGERS of Alabama. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank Chairman ROGERS and Ranking Member MEEK both for their leadership.

This has been a committee that has found common ground in many instances, and certainly I rise to support the More Border Patrol Agents Now Act of 2006, which would help develop a plan that would give us a long-term opportunity to plan over the years for recruitment of our Border Patrol agents.

Let me tell you what else I think is needed that I hope will be included in our long-range plan, an affirmation of the Border Patrol agents, of the value of their work, the necessity of their work. Certainly we know that there have been some ups and downs. Right now, we are confronting an issue in Texas about the prosecution of Border Patrol agents and whether the facts were in order, but I think it is important that they know the rules, they have professional development, and as well there is a definitive way to recruit. But let me say to you that I hope that as we move toward legislation that addresses the question of Border Patrol agents, we will address the question of professional development, their civil service status.

And I would commend to you H.R. 4044, legislation that I wrote, that I had the endorsement of the National Border Patrol Council. Mr. T.J. Bonner is president, who is seeking to ensure that there is a civil service protection for Border Patrol agents and there is a certain elevation of their level that speaks to their compensation. So that has to be a part of the package of recruitment as well. And, of course, advancement, salary increases, these are real, hard-core issues that will help retain those that we hire.

Lastly, let me say that, in addition, we do want to ensure that they have the equipment; and I know we have had a series of amendments taken from H.R. 4044, the leadership of Mr. THOMPSON and the full committee for body armor and special weapons and night vision and computers. We have to give them the equipment that they need to ensure that they can do the job. And I know, as I see Mr. ROGERS and my good friend, the ranking member, I see the word "accountability," not wasting dollars and making sure that we go in the right direction in terms of expending these dollars for our Border Patrol so that we make sure that we are an efficient department. I want to do that, too.

I close on this note: The question is always asked whether or not we are safer today than we were 5 years ago. Certainly what is missing is we have not kept up with the 9/11 Commission report in providing Border Patrol agents in the numbers that we should have provided. Certainly any statement that we make today on the floor that commends Border Patrol agents and thanks them but also talks about having more of them is a step in the right direction. And I would only ask my colleagues to realize that in being safe at home, we have to confront the issues dealing with our conflict in Iraq.

But I do rise to support this legislation. I thank the gentleman for yielding, and I ask my colleagues to support the More Border Patrol Agents Now Act of 2006. And I thank the distinguished gentleman from Florida and the full committee.

I rise in support of the More Border Patrol Agents Now Act of 2006, H.R. 6160. The More Border Patrol Agents Now Act would require the Homeland Security Secretary to develop a plan to determine how the Border Patrol can better recruit and retain Border Patrol agents. It also would establish bonuses for agents who agree to serve for a specified period of time. In addition, it would waive the offset that reemployed annuitants currently have to pay if they return to government service after retirement. The authority to provide these incentives would terminate five years after the enactment of H.R. 6160.

I agree that we should require the Homeland Security Secretary to develop a plan to determine how the Border Patrol can better recruit and retain Border Patrol agents. I also agree that we should authorize the incentives. But much more is needed to deal effectively with the retention and recruitment issues of the Border Patrol.

We also need to provide the Border Patrol with the equipment and resources they need to secure the border. I have introduced a bill that would provide the Border Patrol with the equipment and resources they need, the Rapid Response Border Protection Act of 2005, H.R. 4044.

H.R. 4044 would add 15,000 Border Patrol agents over the next five years, increasing the number of agents from 11,000 to 26,000. With more than 8,000 miles of land and coastal borders to patrol continuously, it is evident that this increase is desperately needed, particularly if they are to be able to respond in sufficient numbers when heavily armed smugglers are encountered. H.R. 4044 also has provisions for body armor, special weapons, and night vision equipment.

H.R. 4044 is strongly endorsed by the National Border Patrol Council and the National Homeland Security Council, organizations that represent the front-line employees who enforce our immigration and customs laws.

I have said often that a piecemeal approach to immigration reform will not work. We need comprehensive immigration reform that will fix our broken immigration system, such as would be provided by my Save America Comprehensive Immigration Act, H.R. 2092. But even a good immigration system will not stop drug smugglers from crossing our borders illegally. For that, we need a Border Patrol with enough agents to patrol the entire border effectively, and they have to have the weapons and other equipment that is necessary for confrontations with heavily armed drug smugglers and the other dangerous criminals who cross the border illegally.

Nevertheless, the More Border Patrol Agents Now Act is a step in the right direction. I urge you to vote for it.

Mr. ROGERS of Alabama. Mr. Speaker, I would like to close by once again thanking Ranking Member MEEK for his support and hard work; and I urge my colleagues to vote "aye" on H.R. 6160.

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 6160, the More Border Patrol Agents Now Act of 2006.

This legislation takes an important step toward making our borders more secure and our country safer. More agents along our Nation's borders will lead to better enforcement of our immigration laws. The President's commitment of 6,000 more Border Patrol agents in the next two years is a good start to enhancing border security, but if these agents cannot be easily hired, or if current Border Patrol agents are lost to other employment, this enhanced security cannot be maintained.

Personnel concerns should not be a factor limiting the effectiveness of the Border Patrol.

H.R. 6160 addresses some of these concerns. By streamlining the hiring process and offering recruitment and retention bonuses, H.R. 6160 takes steps to ensure that the Border Patrol will be an effective first line of defense at our borders.

Numerous times, I have met with Border Patrol agents in and around my district in Southern California. On several occasions, the issue of the age limit for new hires has been brought up. Currently, the Border Patrol is covered under law enforcement retirement provisions, meaning new hires must be under the age of 40, unless they presently serve or have previously served in a position covered by federal civilian law enforcement retirement. This precludes retired members of our armed forces from employment by the Border Patrol if they are 40 years of age or older. Because of this arbitrary provision, the Border Patrol is unable to hire extremely qualified individuals, many of whom would need little further training to be effective Border Patrol agents. It is my hope that Congress will address the age limit issue so even more qualified agents can be hired.

I want to thank Mr. ROGERS for his leadership on this issue. I would also like to thank Chairmen KING and DAVIS and both the Homeland Security and Government Reform Committees for responding to the needs of the Border Patrol Agency so it can better secure our Nation's borders.

Mr. THOMPSON of Mississippi. Mr. Speaker, the Administration requested that the Border Patrol increase its ranks by 6,000 more agents by 2008. This Congress has failed to act to meet this goal.

This bill is a good start towards ensuring we at least provide better salaries to the Border Patrol agents we already have.

But this bill only addresses part of the border security equation. It fails to address the other half—Customs and Border Protection Officers.

Mr. Speaker, we have heard that the Border Patrol and the Customs and Border Protection Officer Corps both face recruitment and retention problems.

As we know, the Border Patrol agents guard our borders, which is a tough job. But this bill overlooks the demanding and dangerous job that Customs and Border Protection Officers' perform when they inspect cargo and people entering the United States at the various Ports of Entry. Both of these jobs are an important part of efforts to protect our borders, and the people doing these jobs should be justly compensated.

The only way we can address these employment issues is by exploring all options available to this Congress and the Department through the legislative and oversight process, not simply relying on an election year gimmick of passing a bill that will not likely be acted on by the Senate nor enacted into law.

A meaningful full-step forward would be having a hearing on this bill and requesting all of the stakeholders to come and testify before our Committee on how to address the employment problems in the Customs and Border Protection Directorate.

Mr. Speaker, I will support this bill because I know this is a good step towards fully securing our country. But, we will only be making real progress when we hire enough Border Patrol agents and Customs and Border Protection Officers and make sure both these groups are better paid and equipped.

Mr. WAXMAN. Mr. Speaker, border security is an issue of great concern to all Americans. It deserves serious deliberation and congressional consideration. Unfortunately, the bill before us now, H.R. 6160, the More Border Patrol Agents Now Act, was introduced yesterday and is being considered on the floor today without benefit of committee action by either the Homeland Security or Government Reform Committee.

H.R. 6160 would grant the Department of Homeland Security the ability to award Border Patrol agents lump-sum recruitment and retention bonuses of up to 25 percent of annual pay. It would also allow the Department to rehire retirees. The Department can already do this under current Governmentwide authorities as long as it works with the Office of Personnel Management, OPM, the agency which best understands hiring needs.

Giving the Department this direct authority to circumvent OPM may or may not be a good idea. Appropriate action by the committees of jurisdiction would have allowed us to determine whether or not this independent authority is needed.

In short, we should not view this bill as a magic bullet to cure the ills of the Border Patrol. The Director of the OPM already has the authority to authorize the head of an agency to pay these bonuses. So the only real effect of this measure will be to cut the Federal agency with the most expertise in Federal personnel issues out of the decisionmaking process with regard to the Border Patrol.

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 6160, the More Border Patrol Agents Now Act of 2006.

This legislation takes an important step toward making our borders more secure and our country safer. More agents along our Nation's borders will lead to better enforcement of our immigration laws. The President's commitment of 6,000 more Border Patrol agents in the next 2 years is a good start to enhancing border security, but if these agents cannot be easily hired, or if current Border Patrol agents are lost to other employment, this enhanced security cannot be maintained.

Personnel concerns should not be a factor limiting the effectiveness of the Border Patrol. H.R. 6160 addresses some of these concerns. By streamlining the hiring process and offering recruitment and retention bonuses, H.R. 6160 takes steps to ensure that the Border Patrol will be an effective first line of defense at our borders.

Numerous times, I have met with Border Patrol agents in and around my district in Southern California. On several occasions, the issue of the age limit for new hires has been brought up. Currently, the Border Patrol is covered under law enforcement retirement provisions, meaning new hires must be under the age of 40, unless they presently serve or have previously served in a position covered by federal civilian law enforcement retirement.

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I want to thank Mr. ROGERS for his leadership on this issue. I would also like to thank Chairmen KING and DAVIS and both the Homeland Security and Government Reform Committees for responding to the needs of the Border Patrol Agency so it can better secure our Nation's borders.

Mr. ROGERS of Alabama. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. ROGERS) that the House suspend the rules and pass the bill, H.R. 6160.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE HOUSE THAT THE BORDER PATROL IS PERFORMING AN INVALUABLE SERVICE

Mr. ROGERS of Alabama. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1030) expressing the sense of the House of Representatives that the United States Border Patrol is performing an invaluable service to the United States, and that the House of Representatives fully supports the more than 12,000 Border Patrol agents.

The Clerk read as follows:

H. RES. 1030

Whereas Border Patrol agents are a highly trained and qualified group of men and women;

Whereas Border Patrol agents protect the United States from an influx of illegal immigration, illicit drugs, counterfeit goods, and terrorists;

Whereas Border Patrol agents protect our borders in some of the most remote and dangerous areas of the country; and

Whereas Border Patrol agents continue to perform their duties under tough circumstances: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the men and women of the United States Border Patrol should be supported for their dedication to the United States and to their mission to secure our borders.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. ROGERS) and the gentlewoman from California (Ms. LORETTA SANCHEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama.

GENERAL LEAVE

Mr. ROGERS of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ROGERS of Alabama. Mr. Speaker, as a strong supporter of this resolution, I further ask unanimous consent that the sponsor of this legislation, the gentleman from North Carolina (Mr. JONES), be allowed to control the time in support of H. Res. 1030.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman from Alabama and because the resolution is short, I would like to read the remainder of the resolution and then make my comments and yield time to those who would like to speak.

To continue as the Reading Clerk read:

"Whereas Border Patrol agents are a highly trained and qualified group of men and women;

"Whereas Border Patrol agents protect the United States from an influx of illegal immigration, illicit drugs, counterfeit goods, and terrorists;

"Whereas Border Patrol agents protect our borders in some of the most remote and dangerous areas of the country; and

"Whereas Border Patrol agents continue to perform their duties under tough circumstances: Now, therefore, be it

"Resolved, that it is the sense of the House of Representatives that the men and women of the United States Border Patrol should be supported for their dedication to the United States and to their mission to secure our borders."

Mr. Speaker, the reason I wanted to come forward with this resolution, and I know that certainly Ms. SHEILA JACKSON-LEE from Texas and others in the other party as well as my own party, we have been very concerned about two Border Patrol agents, Mr. Ramos and also Mr. Compean, two Border Patrol agents that joined their colleagues, over 12,000 Border Patrol agents, who I think, in my humble opinion, have a very, very difficult job. I would compare their job, quite frankly, to our men and women in uniform overseas in Afghanistan and Iraq, because they are trying to protect the borders of those citizens of Iraq and Afghanistan and we are trying to protect the borders of the American citizen.

Mr. Compean and Mr. Ramos I have had the opportunity to talk with by telephone, and I talked to their attorneys. These men were doing their job to protect the American citizen in Texas. And a drug smuggler from Mexico was trying to flee the United States, and in his van he had over 700 pounds of marijuana. These men stopped him. There was a confrontation that took place. The drug smuggler started across the border. There were shots fired, and he was hit in the buttocks as he was trying to cross the border.

Since that time, Mr. Speaker, these two men have been found guilty in a court of law. They have the possibility of spending 20 years in a Federal pen.

I hate to say this, but the U.S. Attorney gave immunity to the drug smuggler, who still had indictments over his head here in this country. He was given immunity; and these two men, who have families, are now financially broke from trying to defend their honor and the fact that they did their job for the Border Patrol.

I felt that it was important tonight, and I know my colleagues do, which some will be speaking later, that so many times there are law enforcement all over this Nation as well as our men and women in uniform that do a very, very invaluable job for this country. They ask nothing but to be respected for the tough job that they do. Whether it is the military or the Border Patrol or law enforcement, the pay never meets the requirements that we ask of those individuals; and tonight I felt that it was important to put this resolution in.

This resolution will not have to go to the Senate, by the way. This will be a resolution of the Members of the House of Representatives that are not speaking to the charges and the penalty of Compean and Ramos, but we will be saying to the Border Patrol of this country you are appreciated by the House of Representatives. We know you have a very difficult and tough job.

Because, Mr. Speaker, we are not only talking about people who come to this country illegally, between 8,000 and 10,000 every week that come across the border illegally. We are talking about the possibility of terrorists. I have said many times on the floor of this House that I am more concerned about terrorism coming from Central and South America than I am coming from Iraq and Afghanistan, quite frankly. And these are the men and women who are in the remote areas of America trying to defend the borders to protect the American citizen.

So I am pleased tonight to say that we will have a chance tonight, or tomorrow, I guess, to vote on this resolution to say to those in the United States Border Patrol, we appreciate you. You are doing a very valuable job, a very important job for this country.

I live in North Carolina. I do not have Border Patrol in my State, but I do appreciate those that are on the border in the Southwest and other parts of the United States.

So, with that, Mr. Speaker, I reserve the balance of my time.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 1030, legislation honoring the United States Border Patrol. Without a doubt, the United States Border Patrol provides a critical service to this Nation. We rely on them to be highly trained, to be very qualified, to carry out the challenging and important job of securing our Nation's borders. And not just at the Southern border, like what we have in California.

But I was recently at a hearing that we had up in Seattle to talk about the issues going on at our northern border; and, of course, our Border Patrol was there. And the issues that they have, the things that they confront are vast, and it is such a difficult, difficult job to do.

So we really do want to honor and let them know, as the House of Representatives, that we understand that their jobs are done in difficult conditions, in the desert, forest, and with professionalism and with unfailing dedication.

So I support the work that the United States Border Patrol is doing. And for that reason I think that we should not only honor them with words but also provide our Border Patrol agents with the resources that they need to do their job.

As I said, when I was up in Seattle, one of the things we kept hearing over and over from the Border Patrol is that they need more resources. They need more people at the borders. They need more technology at the borders.

In the 9/11 Act, Congress promised to increase the numbers of Border Patrol agents, of immigration agents and of the detention beds that we need when we get these people who are coming without the right documents and that we would also provide state-of-the-art technology to help the Border Patrol actually secure the borders. But, unfortunately, time after time after time in this House, that has been voted down. We have not lived up to the promise, and the Border Patrol remains understaffed and without access to necessary space and equipment that they need.

So I expect that this House Resolution 1030 will receive broad bipartisan support. I can't imagine too many people who would vote against it, and I am looking forward to working with my colleagues who cast this vote to actually fulfill the promise of this vote, and that would be to give the much-needed resources to the United States Border Patrol.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I would like to yield 3 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in support of House Resolution 1030.

Let me just note that platitudes are not enough. When it really counts, the Border Patrol does need our support, and that includes building a fence, which some people who perhaps would be happy to sing the praises of the Border Patrol are not willing to help them with something that they consider to be essential to securing their job.

Tonight, we are commending the service of 12,000 men and women of the U.S. Border Patrol. They are, in fact, performing an invaluable service on our border, putting their lives on the line daily to protect us, all of us.

☐ 1930

They are protecting us from the effects of illegal immigration which are being felt in my State dramatically. They are protecting us from drug smugglers, human traffickers, and, yes, terrorists.

Yet, as we declare our support today for these brave people who have been protecting us, we should note that this administration, that this administration's U.S. Attorney's Office has targeted two U.S. Border Patrol agents, Ignacio Ramos and Jose Compean.

The U.S. Attorney's Office has destroyed their careers and destroyed their lives and thrown their families into turmoil. This administration, which has a questionable record on border security, has decided to throw the book at these two agents seeking the harshest possible punishment. What for? For procedural violations that should have only resulted in a reprimand and this now has been turned into felonies by the U.S. Attorney's Office.

To say that Ramos and Compean have been treated unjustly and unfairly is an understatement. Adding insult to injury, the U.S. Attorney's Office has granted immunity to the Mexican drug dealer, the smuggler who these two officers intercepted. This criminal alien was caught with 743 pounds of marijuana, and the U.S. Attorney's Office has treated this criminal as if he were a victim.

At the same time, the book was thrown at our border patrol agents. I will submit for the RECORD, Mr. Speaker, my letter to the Attorney General regarding this outrageous case. The brutal treatment of the two border guards has demoralized our Border Patrol agents. I hope as we sing our praises today, that we understand that we are, yes, grateful to all of these people who protect us at the border, including the two Border Patrol agents that are now under attack.

In the meantime, let the case of Border Patrol agents Ramos and Compean be revisited and the outrageous criminal charges against them dropped.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
September 21, 2006.

Hon. ALBERTO R. GONZALES,
Attorney General of the United States,
Washington, DC.

DEAR MR. ATTORNEY GENERAL: I am writing today to ask you to personally intervene in the prosecution of U.S. Border Patrol Agents Compean and Ramos. This proceeding has garnered national attention calling into question the Administration's commitment to secure our borders and demoralizing the frontline men and women of the U.S. Border Patrol.

I have examined the statement by U.S. Attorney Johnny Sutton regarding the conviction of Border Patrol agents Compean and Ramos. It is disturbing to see that the limited resources available for investigation and prosecution were directed not at drug smugglers, but rather aimed at two veteran border patrol agents. These agents, who have risked their lives guarding our borders, did not follow the prescribed procedure concerning the discharge of their weapons. However, their lapse of compliance occurred during a tumultuous confrontation with an illegal immigrant, a criminal who was in the process of smuggling 743 pounds of illegal drugs into the United States. Subsequently, the agents did not fully report what had happened, which also violated standard operating procedures. Such violations certainly deserve a reprimand. Instead of a measured response, the U.S. Attorney has demanded the harshest possible punishment on two otherwise outstanding Border Patrol agents. There seems to be an uncompromising commitment to bring down these two border guards, while an illegal drug smuggler is being treated with great respect and elevated to the status of victim. If there ever was a classic example of distorted priorities, this it.

As to the specifics of the case: The two border agents intercepted a suspicious vehicle. The driver fled on foot, running toward the border. Officer Compean, armed with a shotgun, cut off the drug smuggler. A witness heard someone yell "hit him, hit him" and then Compean shouted for the fleeing criminal to stop. Officer Compean could have shot him at close range. Instead, he refrained from deadly force by using the butt of his shotgun. A struggle ensued with Officer Compean ending up on the ground with dirt in his eyes, rendering the Officer vulnerable and at risk. Officer Ramos, seeing his partner laying bloodied on the ground, only then shot at the assailant as he ran toward the border. The fleeing criminal was wounded in the buttocks as he raced away from the altercation. After the incident the officers did not report the discharging of their weapons and failure to do so was a violation of standard operation procedures. Furthermore, they attempted to conceal this mistake, which dug them in even deeper.

Bad decisions or mistakes are never easy to acknowledge to superiors. The desire to cover up bad decisions is a human temptation and always makes an error even worse. Nevertheless, the Herculean prosecutorial effort and huge allocation of time and resources mobilized against Officers Compean and Ramos was not justified. Nor was the prosecution's demand for a sentence that could put these two officers in prison for 20 years. This action will destroy not only their careers, but the lives of two veteran patrol agents and their families. The statement made by U.S. Attorney Sutton is not persuasive enough to warrant the severity of the penalty being sought against Officers Compean and Ramos.

Did the two officers make a mistake? Yes. Did they violate procedures, not report those errors, and then obscure the facts? Yes. Does this case justify a severe reprimand, or perhaps a month-long suspension? Yes. Does it justify the egregious legal retaliation demanded by the U.S. Attorney? NO!

Common sense should guide authorities in such matters. Throw the book at criminals who threaten our families and society, not at public servants protecting us because they've made an error and not admitted it. Of course, had the fleeing drug dealer been an honest U.S. citizen peaceably surrendering to authorities, shooting him would then justify the severe punishment sought by the U.S. Attorney's Office. But that's not what happened!

The criminal was clearly not a benign individual who Border Patrol agents erroneously targeted. An honest citizen doesn't abandon his car, run for the border, and flee from a law enforcement officer. This was not an attack on an innocent victim. He was an illegal alien, a criminal involved in smuggling 743 pounds of illicit narcotics into our country that could have ended up in the hands of our children.

The border patrol agents are heroes, good guys who protect us. In this one case they did not follow the prescribed procedures when they discharged their weapons and then tried to conceal their error. So, let these two public servants who risk their lives to protect us, be properly disciplined, not destroyed.

The American people see this case as an illustration of the Administration's inexplicable support of illegal immigration. Please demonstrate this is not true by personally intervening in this case. The sentencing of Agents Compean and Ramos should be postponed so there can be a more thorough investigation of the facts and a more rational, balanced and just response from the U.S. Attorney's Office.

Sincerely,

DANA ROHRABACHER,
Member of Congress.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished member of our committee, the gentlewoman from California, and we acknowledge her ongoing leadership on these issues, certainly Mr. SOUDER for his leadership, and my good friend, Mr. JONES from North Carolina.

We have had a common discussion on those very important issues. Let me applaud you for bringing this resolution to the floor of the House which gives us an opportunity to affirm our commitment and appreciation for the Border Patrol agents that serve America's front lines.

Let me share with you the good work, impressive work that our Border Patrol agents have been involved in. First of all, they have patrolled our borders since 1924. They are, in fact, the Nation's front liners.

For example, in fiscal year 2005, Border Patrol agents made almost 1.2 million arrests of people for illegally entering the country. They seized more than 12,300 pounds of cocaine, more than 1.2 million pounds of marijuana. The total street value of drugs interdicted in fiscal year 2005 was more than $1.4 billion.

We are long overdue in affirming and applauding the Border Patrol agents of America, both on the northern and southern border. The Border Patrol also is charged with the responsibility of preventing terrorists and terrorists' weapons, including weapons of mass destruction, from entering the United States.

They are there day in and day out. They are there Sunday through Sunday, 7 days a week, year in and year out, holidays and nonholidays.

The Border Patrol agents are there when we are asleep, and they are there when we are awake. But of course in terms of responding to the concerns that they have, I would be remiss if I did not mention that we have legislation, H.R. 4044, to provide more equipment, 15,000 Border Patrol agents over the next 5 years, increasing the number of agents from 11,000 to 26,000.

With more than 8,000 miles of land and coastal borders to patrol continuously, it is evident that an increase is needed, but more importantly resources are needed and professionalism is needed.

Mr. Speaker, let me speak for a moment on professionalism. This tragedy that has occurred in Texas, my own State, cries out for relief. We are looking to address this question by getting the facts and moving, hopefully expeditiously, for hearings in this Congress.

Mr. JONES, I hope that you will encourage, as I am, the committees of jurisdiction to go ahead and hold hearings. Because what we are are fact finders. We do not misspeak, we hope. We do not pass myths and untruths, we hope. We tell the American people the truth, we hope.

I say that, because, of course, I have debated many bills on this floor where there is a great disagreement on the facts that are involved. And many of us have had our differences on the Iraq war and still believe in the misdirection of that issue.

But in this instance, I think we can find common ground that the men and women that are on the front lines, whether they are DEA, drug enforcement agents, FBI, whether they be ATF, whether they are U.S. marshals, deserve the opportunity to have their story fairly told.

And what I can glean from the facts of this case in Texas is there are questions about whether their facts have been told correctly and whether or not they have been told appropriately. So to the Border Patrol agents as we stand here and congratulate you, I know that you ask us whether there is a bite in our bark, whether or not as we stand here and affirm you, we promise that we will look into the issues of professionalism and your civil service status and your right to arbitration and your right to address your issues of workplace questions in an organized manner.

You are asking us whether we are going to provide you with the necessary new Border Patrol agents, whether or not we are going to give you the equipment that includes power boats and includes night goggles and computers and a number of other equipment, helicopters, that will give you what you need to have.

And then you ask the question, when you are in the line of duty, will we stand by you with the facts? Will we have the wherewithal to ensure that all of the facts are on the table, so that the miscarriage of justice, prosecution, ultimate incarceration, destruction of your family, does not occur on the clock of Members of the United States Congress?

So I rise to support this initiative of my friend, Mr. JONES from North Carolina, H. Res. 1030, and I enthusiastically affirm the invaluable service that the United States Border Patrol agents are performing for America as they stand in the way, in the bridge, if you will, on the northern and southern border. In the darkness of night, in the coldness of night, in the warmness of night, in the rainiest of nights, and in the greatest disasters that may face us, Border Patrol agents are there to protect us.

I ask my colleagues to support this amendment, and I ask that we be able to address the questions that are being raised in Texas in fairness and opportunity for fairness.

I rise in support of House Resolution 1030, which would express the sense of the House of Representatives that the Border Patrol is performing an invaluable service to the United States, and that the House of Representatives fully supports the more than 12,000 Border Patrol agents.

Border Patrol agents have patrolled our borders since 1924, and they have an impressive record of accomplishments. For instance, in FY 2005, Border Patrol Agents made almost 1.2 million arrests of people for illegally entering the country, and they seized more than 12,300 pounds of cocaine and more than 1.2 million pounds of marijuana. The total street value of drugs interdicted in FY 2005 was more than $1.4 billion. The Border Patrol also is charged with the responsibility of preventing terrorists and terrorists weapons, including weapons of mass destruction, from entering the United States.

Although we should express our support for the Border Patrol, we also should provide the Border Patrol agents with the equipment and resources they need to secure the border. We need a Border Patrol with enough agents to patrol the entire border effectively, and they have to have the weapons and other equipment that is necessary for confrontations with heavily armed drug smugglers and the other dangerous criminals who cross the border illegally.

I have introduced a bill that would provide the Border Patrol with the equipment and resources they need, the Rapid Response Border Protection Act of 2005, H.R. 4044.

H.R. 4044 would add 15,000 Border Patrol agents over the next five years, increasing the number of agents from 11,000 to 26,000. With more than 8,000 miles of land and coastal borders to patrol continuously, it is evident that this increase is desperately needed, particularly if they are to be able to respond in sufficient numbers when heavily armed smugglers are encountered. H.R. 4044 also has provisions for body armor, special weapons, and night vision equipment.

H.R. 4044 is strongly endorsed by the National Border Patrol Council and the National Homeland Security Council, organizations that represent the front-line employees who enforce our immigration and customs laws.

Nevertheless, it also is important to express our support for the hard work and dedication of the men and women in the Border Patrol, and of course I further salute all of the men and women who provide service in the securing of our Homeland at the northern and southern borders and at our ports, ports of entry and coastlines. I ask my colleagues to vote for H. Res. 1030.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr Speaker, I thank the gentleman from North Carolina for yielding me time and thank him for this resolution.

Mr. Speaker, we also want to, in addition to the Border Patrol, praise all of the people in the Department of Homeland Security, in the Coast Guard, in ICE, and Customs and Border Protection at the points of entry.

For those who may not be completely familiar, the Border Patrol are the people who are in between the points of entry. Obviously, the men and women at the point of entry, the ICE agents internally, as they pursue the investigations which often cross into the zones of the Border Patrol, and at ports of entry, and the Coast Guard which are at water points of entry, are all working together in a seamless organization.

Unfortunately, the Border Patrol often gets the least attention of those different agencies. And this resolution correctly gives them some of the credit that they are due. Often they are not only in these very hot zones in the south, at times cold in the winter, and in the north, very cold; often we forget we have a northern Border Patrol as well. That is actually, not the numbers, but a bigger percent increase than the south. They are often also alone.

One of the reasons we need a fence and virtual fencing and other technological things to help our Border Patrol agents is often there is one there, or there may be four scattered over a mile and a half, and all of a sudden there is a group of seven SUVs coming at them, as we have had in Arizona, armed to the teeth. Even when we get a tip and put a Blackhawk in, you are looking at heavily armored vehicles coming at a few agents with no warning.

It may be a case of where you may have groups of 300 to 400 illegal immigrants coming at one or two or three or four agents. They have no idea whether they are armed or not armed. There are zones along the border where there is not as much pressure on illegal immigrants, but which are huge drug-trafficking areas, not only on the south border, but on the north border, along Blaine, Washington.

Going east from there is the trafficking of so-called BC Bud, this high-grade marijuana that is basically the same as cocaine. Arms trafficking going back into Canada. The largest export right now in British, Columbia is not timber; it is not any other product other than marijuana.

And the reason cocaine and heroin and guns are going into BC where we now see violence breaking out, first RCMP officers killed in British, Columbia, are going through those zones where the Border Patrol in the north border are trying to protect it. Often one or two agents with armed, heavily armed people coming at us.

And Neely's Crossing, just east of El Paso, where they have a bulldozer on the Mexican side. The drug lords have a bulldozer on their side. It is one of the only areas of the Rio Grande which is basically spotty puddles of water in that zone, has a gravel base. And they push additional gravel in there. Anytime we put a barrier up, they put it there.

And as they brought one vehicle across at one point, some of our Border Patrol were tipped off. As this vehicle tried to get back across on the Mexican side, it got stuck. We know there were at least, the guess is, 10 tons of marijuana. We got about a 1½ tons out.

They jumped out of their vehicles with AK-47s, armed heavily at our Border Patrol who then back up, which brings us to this fundamental question. Not only do these men and women deserve our credit for putting themselves at risk, not only do they have difficult jobs, and often are they outnumbered, but then this case that is occurring in Texas, without understanding all of the legal formalities, will have a chilling effect on the Border Patrol's willingness to defend us.

Because, if they think they are going to be prosecuted if they try to defend us, depending upon the particular angle at a given time of what someone is doing, and they are in a shootout, and the other side has guns, deliver poison into the United States in the terms of narcotics, or potentially chemical or nuclear weapons, or potentially high-risk terrorists who are willing to pay high dollars, and our Border Patrol are afraid to even risk any type of confrontation because they are going to be prosecuted by our government, how are we going to stay safe?

We need to praise them for taking the risk. We need to praise them for being willing to stay out in the cold and in the heat and be outnumbered and not know what kind of guns are at them. We certainly do not need to be prosecuting them. So I hope this resolution makes it clear where this House stands. I am sure we will have committee hearings. We may have to wait until the case goes through, but the Border Patrol needs to know that this Congress stands behind them, that we are going to get to the bottom of the type of procedures that are involved in this and make sure that they can defend not only themselves, but defend us, our children, our families and our Nation.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I would just like to say to the previous speaker that I would really like to see the information on 300 or 400 people running across the border at one time.

Because I have just never heard of a case like that. Having said that, we do support the Border Patrol. We are glad that Mr. JONES has this resolution up on the floor tonight.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. SOUDER) to respond to Ms. SANCHEZ.

Mr. SOUDER. Mr. Speaker, as the gentlewoman knows, in San Diego we used to have, I saw with my own eyes in the middle of the night, about 1,200. But as we fenced that area, we broke up the big groups there in San Diego.

And so in San Diego you no longer have the huge groups of 1,000. We thought we were down to groups of basically, I have seen 50 or 100 with my own eyes, but as the gentlewoman had probably heard, I cannot remember if you were there when Secretary Chertoff was speaking to our Homeland Security Committee this morning, but that Congressman PEARCE from New Mexico said that there are a number of cases, particularly in New Mexico right now, because as we worked on the Arizona border, pushed them into New Mexico where he said this morning that he had seen 300 to 400 at a time in New Mexico.

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That is questioning the statement of a Member from New Mexico who just saw this in the last 7 to 14 days. I myself have seen 50 to 100, and I used to see 1,200 before we built a fence in San Diego.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume, and I am just going to make a couple of comments, and then I am going to finish.

I want to first thank Ms. SANCHEZ and Ms. SHEILA JACKSON-LEE for her comments and what she stated as well as Ms. SANCHEZ and my friend, Mr. SOUDER from Indiana, and Mr. ROHRABACHER from California.

I think that we all agree that this resolution is important, and I just want to say that I would agree with the comments made by Ms. SANCHEZ that we need to make sure that the border patrol has what it needs to secure the borders for this great Nation.

I want to say to Ms. JACKSON-LEE, as well as Mr. ROHRABACHER, that we do need to make sure that these agents had been treated fairly in the process as it related to the indictment.

I would say to Mr. SOUDER, I thank you as well as other Members who serve on the Homeland Security Committee for your leadership to make sure that we do protect our borders.

The only other point I would like to make, Mr. Speaker, is that it has been made by these people who live in California and Texas and even my friend from Indiana, as well as my friends from California, that this is a very difficult job. These are men and women that are dedicated. They are not doing it for the money. They are doing it for the love of this country. And what they are doing is the same thing that our military does and that is try to make America secure.

Mr. HIGGINS. Mr. Speaker, I have every intention of voting for the resolution on the floor today because it honors the men and women of the U.S. Border Patrol.

But I think the greatest way to honor the men and women who risk their lives to protect us against terrorist attacks is by passing legislation that provides the funding and tools they need to do their job effectively. It is unfortunate, however, that my colleagues on the other side of the aisle show this appreciation only through rhetoric.

The Bush Administration has had almost six years to secure the border, the Republican Congress eleven. Yet in the past two weeks they have chosen to honor our border agents by recycling legislation that has no funding.

The sponsor of today's resolution voted "yes" only once of the last 5 border security bills proposed to enhance the resources of the Border Patrol. That vote, taken on May 2, 2005, was a $284 million emergency spending bill to secure the nation's border. It would have allowed 550 additional border patrol agents and 200 additional immigration investigators. Unfortunately, the Republicans voted "no" on motion.

Similarly, last December, my Republican colleagues voted against the Democratic Motion to Recommit for H.R. 4437 which would have:

Created 3,000 new U.S. Border Patrol agent positions every year through FY 2010 (a total of 12,000 new agents);

Added 25,000 new detention beds every year through FY 2010 (a total of 100,000 new beds) to permanently end catch-and-release;

Developed a comprehensive, technologically superior, round-the-clock, fully interoperable surveillance system to monitor every mile of the border;

Required plans to integrate high altitude monitoring technologies, radiation portal monitors, K–9 detection teams, and other technologies; and,

Make physical infrastructure enhancements, including additional checkpoints, all weather access roads, and vehicle barriers, while maintaining the speed of commerce through such points of entry.

Honoring the men and women of the Border Patrol should not only consist of rhetoric. We need comprehensive policy accompanied by dollars and resources to support the Border Patrol.

I will vote for House Resolution 1030, but I am disheartened with the lack of support that my colleagues across the aisle have repeatedly shown toward our men and women securing the border.

A pat on the back is nice. But allocating resources would go a long way to securing the border.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to support H. Res. 1030 to express a sense of the House of Representatives that the United States Border Patrol is performing an invaluable service to the United States, and that the House of Representatives fully supports the more than 12,000 Border Patrol agents. As a member of the Committee on Homeland Security, I know well the important role the Border Patrol plays in defending and protecting our homeland from foreign threats.

I strongly support this resolution because Border Security is an issue of utmost importance to my district the U.S. Virgin Islands and have in the past, proposed legislations to require the Department of Homeland Security, DHS, to establish a Border Patrol Unit in the U.S. Virgin Islands.

The security of the residents of the U.S. Virgin Islands as well as the mainland residents is greatly compromised. The U.S. V.I. contains over 175 miles of open unprotected borders which provides a viable alternative for terrorists, human smugglers and drug smugglers to gain access to the U.S. mainland because we are only 1,600 kilometers away from the U.S mainland.

Since 1998 Mr. Speaker, close to 1000 Chinese nationals have entered the U.S. Virgin Islands to transit undetectably into the mainland. These landings have occurred mainly during the pre-dawn hours at one of the several cays on the Island of St. John. The shear number of individuals who are able to infiltrate the island is indicia of vulnerability to a possible terrorist attack.

The lack of a Border Patrol Security Unit, has placed an unreasonable burden on other Federal agencies such as the Immigration and Customs Enforcement, ICE, which has to now spend considerable amount of man-hours apprehending, processing and detaining aliens in custody. This detracts from the time ICE would have to carryout its investigatory duties.

Just last month, there was an article published in the Economist Magazine describing the U.S. V.I as "America's most vulnerable point, a lovely place" but "woefully unprepared for a terrorist attack." The article points out that "illegal aliens land in the Virgin Islands openly and regularly, yet they are rarely caught." Having a Border Patrol unit in the Virgin Islands, Mr. Speaker, will not only greatly enhance the security of the Virgin Islands, but the entire Nation as well.

I urge my colleagues to support H. Res. 1030.

Mr. JONES of North Carolina. Mr. Speaker, I have no other speakers on H. Res. 1030, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. ROGERS) that the House suspend the rules and agree to the resolution, H. Res. 1030.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 5187. An act to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

H. Con. Res. 480. Concurrent resolution to correct the enrollment of the bill H.R. 3127.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5574. An act to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3421. An act to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes.

BIODEFENSE AND PANDEMIC VACCINE AND DRUG DEVELOPMENT ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5533) to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biodefense and Pandemic Vaccine and Drug Development Act of 2006".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Biomedical Advanced Research and Development Authority; National Biodefense Science Board.
Sec. 4. Clarification of countermeasures covered by Project BioShield.
Sec. 5. Technical assistance.
Sec. 6. Procurement.

SEC. 3. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY; NATIONAL BIODEFENSE SCIENCE BOARD.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 319K the following:

"SEC. 319L. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.

"(a) BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.—

"(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Biomedical Advanced Research and Development Authority.

"(2) IN GENERAL.—The Secretary shall coordinate and oversee the acceleration of countermeasure and product advanced research and development by—

"(A) facilitating collaboration among the Department of Health and Human Services, other Federal agencies, relevant industries, academia, and other persons, with respect to such advanced research and development;

"(B) promoting countermeasure and product advanced research and development;

"(C) facilitating contacts between interested persons and the offices or employees authorized by the Secretary to advise such persons regarding requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act; and

"(D) promoting innovation to reduce the time and cost of countermeasure and product advanced research and development.

"(3) DIRECTOR.—The BARDA shall be headed by a Director (referred to in this section as the 'Director') who shall be appointed by the Secretary and to whom the Secretary shall delegate such functions and authorities as necessary to implement this section.

"(4) DUTIES.—

"(A) COLLABORATION.—To carry out the purpose described in paragraph (2)(A), the Secretary shall—

"(i) facilitate and increase the expeditious and direct communication between the Department of Health and Human Services and relevant persons with respect to countermeasure and product advanced research and development, including by—

"(I) facilitating such communication regarding the processes for procuring such advanced research and development with respect to qualified countermeasures and qualified pandemic or epidemic products of interest; and

"(II) soliciting information about and data from research on potential qualified countermeasures and qualified pandemic or epidemic products and related technologies;

"(ii) at least annually—

"(I) convene meetings with representatives from relevant industries, academia, other Federal agencies, international agencies as appropriate, and other interested persons;

"(II) sponsor opportunities to demonstrate the operation and effectiveness of relevant biodefense countermeasure technologies, and

"(III) convene such working groups on countermeasure and product advanced research and development as the Secretary may determine are necessary to carry out this section; and

"(iii) carry out the activities described in section 6 of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

"(B) SUPPORT ADVANCED RESEARCH AND DEVELOPMENT.—To carry out the purpose described in paragraph (2)(B), the Secretary shall—

"(i) conduct ongoing searches for, and support calls for, potential qualified countermeasures and qualified pandemic or epidemic products;

"(ii) direct and coordinate the countermeasure and product advanced research and development activities of the Department of Health and Human Services;

"(iii) establish strategic initiatives to accelerate countermeasure and product advanced research and development and innovation in such areas as the Secretary may identify as priority unmet need areas; and

"(iv) award contracts, grants, cooperative agreements, and enter into other transactions, for countermeasure and product advanced research and development.

"(C) FACILITATING ADVICE.—To carry out the purpose described in paragraph (2)(C) the Secretary shall—

"(i) connect interested persons with the offices or employees authorized by the Secretary to advise such persons regarding the regulatory requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act related to the approval, clearance, or licensure of qualified countermeasures or qualified pandemic or epidemic products; and

"(ii) ensure that, with respect to persons performing countermeasure and product advanced research and development funded under this section, such offices or employees provide such advice in a manner that is ongoing and that is otherwise designated to facilitate expeditious development of qualified countermeasures and qualified pandemic or epidemic products that may achieve such approval, clearance, or licensure.

“(D) Supporting innovation.—To carry out the purpose described in paragraph (2)(D), the Secretary may award contracts, grants, and cooperative agreements, or enter into other transactions, such as prize payments, to promote—

“(i) innovation in technologies that may assist countermeasure and product advanced research and development;

“(ii) research on and development of research tools and other devices and technologies; and

“(iii) research to promote strategic initiatives, such as rapid diagnostics, broad spectrum antimicrobials, and vaccine manufacturing technologies.

“(5) Transaction authorities.—

“(A) Other transactions.—In carrying out the functions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have authority to enter into other transactions for countermeasure and product advanced research and development.

“(B) Expedited authorities.—

“(i) In general.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have the expedited procurement authorities, the authority to expedite peer review, and the authority for personal services contracts, supplied by subsections (b), (c), and (d) of section 319F–1.

“(ii) Application of provisions.—Provisions in such section 319F–1 that apply to such authorities and that require institution of internal controls, limit review, provide for Federal Tort Claims Act coverage of personal services contractors, and commit decisions to the discretion of the Secretary shall apply to the authorities as exercised pursuant to this paragraph.

“(iii) Authority to limit competition.—For purposes of applying section 319F–1(b)(1)(D) to this paragraph, the phrase ‘BioShield Program under the Project BioShield Act of 2004’ shall be deemed to mean the countermeasure and product advanced research and development program under this section.

“(iv) Availability of data.—The Secretary may require that, as a condition of being awarded a contract, grant, cooperative agreement, or other transaction under subparagraph (B) or (D) of paragraph (4), a person make available to the Secretary on an ongoing basis, and submit upon request to the Secretary, relevant data related to or resulting from countermeasure and product advanced research and development carried out pursuant to this section.

“(C) Advance payments; advertising.—The authority of the Secretary to enter into contracts under this section shall not be limited by section 3324(a) of title 31, United States Code, or by section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

“(D) Milestone-based payments allowed.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions, under this section, the Secretary may use milestone-based awards and payments.

“(E) Foreign nationals eligible.—The Secretary may under this section award contracts, grants, and cooperative agreements to, and may enter into other transactions with, highly qualified foreign national persons outside the United States, alone or in collaboration with American participants, when such transactions may inure to the benefit of the American people and are consistent with National security.

“(F) Establishment of advanced research centers.—The Secretary may establish one or more federally-funded research and development centers, or university-affiliated research centers in accordance with section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)), provided that such centers are consistent and complementary with the duties described in paragraph (4), and are consistent and complementary with, and deemed necessary after considering the availability of, existing federally-supported basic research programs.

“(6) Vulnerable populations.—In carrying out the functions under this section, the Secretary may give priority to the advanced research and development of qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to the emergency health security needs of children and other vulnerable populations.

“(7) Personnel authorities.—

“(A) Specially qualified scientific and professional personnel.—In addition to any other personnel authorities, the Secretary may—

“(i) without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, appoint highly qualified individuals to scientific or professional positions in BARDA, such as program managers, to carry out this section; and

“(ii) compensate them in the same manner in which individuals appointed under section 9903 of such title are compensated, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(B) Special consultants.—In carrying out this section, the Secretary may—

“(i) appoint special consultants pursuant to section 207(f); and

“(ii) accept voluntary and uncompensated services.

“(c) Inapplicability of Certain Provisions.—

“(1) Disclosure.—

“(A) In general.—The Secretary shall withhold from disclosure under section 552 of title 5, United States Code, specific technical data or scientific information that is created or obtained during the countermeasure and product advanced research and development funded by the Secretary that reveal vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats. Such information shall be deemed to be information described in section 552(b)(3) of title 5, United States Code.

“(B) Oversight.—Information subject to nondisclosure under subparagraph (A) shall be reviewed by the Secretary every 5 years to determine the relevance or necessity of continued nondisclosure.

“(2) Federal advisory committee act.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a working group of BARDA or to the National Biodefense Science Board under section 319M.

“(d) Authorization of Appropriations.—For the purpose of carrying out advanced research and development under this section, there are authorized to be appropriated $160,000,000 for each of the fiscal years 2007 and 2008. Such authorizations are in addition to other authorizations of appropriations that are available for such purpose. Amounts appropriated under the preceding sentence are available until expended.

“(e) Definitions.—For purposes of this section:

“(1) BARDA.—The term ‘BARDA’ means the Biomedical Advanced Research and Development Authority.

“(2) Other transactions.—The term ‘other transactions’ means transactions, other than procurement contracts, grants, and cooperative agreements, such as the Secretary of Defense may enter into under section 2371 of title 10, United States Code.

“(3) Qualified countermeasure.—The term ‘qualified countermeasure’ has the meaning given such term in section 319F–1.

“(4) Qualified pandemic or epidemic product.—The term ‘qualified pandemic or epidemic product’ has the meaning given the term in section 319F–3.

“(5) Advanced research and development.—

“(A) In general.—The term ‘advanced research and development’ means, with respect to a product that is or may become a qualified countermeasure or a qualified pandemic or epidemic product, activities that predominantly—

“(i) are conducted after basic research and preclinical development of the product; and

“(ii) are related to manufacturing the product on a commercial scale and in a form that satisfies the regulatory requirements under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act.

“(B) Activities included.—The term under subparagraph (A) includes—

“(i) testing of the product to determine whether the product may be approved, cleared, or licensed under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act for a use that is or may be the basis for such product becoming a qualified countermeasure or qualified pandemic or epidemic product, or to help obtain such approval, clearance, or license;

“(ii) design and development of tests or models, including animal models, for such testing;

“(iii) activities to facilitate manufacture of the product on a commercial scale with consistently high quality, as well as to improve and make available new technologies to increase manufacturing surge capacity;

“(iv) activities to improve the shelf-life of the product or technologies for administering the product; and

“(v) such other activities as are part of the advanced stages of testing, refinement, improvement, or preparation of the product for such use and as are specified by the Secretary.

“(6) Research tool.—The term ‘research tool’ means a device, technology, biological material, reagent, animal model, computer system, computer software, or analytical technique that is developed to assist in the discovery, development, or manufacture of qualified countermeasures or qualified pandemic or epidemic products.

“(7) Program manager.—The term ‘program manager’ means an individual appointed to carry out functions under this section and authorized to provide project oversight and management of strategic initiatives.

“(8) Person.—The term ‘person’ includes an individual, partnership, corporation, association, entity, or public or private corporation, and a Federal, State, or local government agency or department.

“SEC. 319M. NATIONAL BIODEFENSE SCIENCE BOARD AND WORKING GROUPS.

“(a) In General.—

“(1) Establishment and function.—The Secretary shall establish the National Biodefense Science Board (referred to in this section as the ‘Board’) to provide expert advice and guidance to the Secretary on scientific, technical and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

“(2) Membership.—The membership of the Board shall be comprised of individuals who represent the Nation's preeminent scientific, public health, and medical experts, as follows—

“(A) such Federal officials as the Secretary may determine are necessary to support the functions of the Board;

“(B) four individuals representing the pharmaceutical, biotechnology, and device industries;

“(C) four individuals representing academia; and

"(D) five other members as determined appropriate by the Secretary.

"(3) TERM OF APPOINTMENT.—A member of the Board described in subparagraph (B), (C), or (D) of paragraph (2) shall serve for a term of 3 years, except that the Secretary may adjust the terms of the initial Board appointees in order to provide for a staggered term of appointment for all members.

"(4) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board and may serve not more than 2 consecutive terms.

"(5) DUTIES.—The Board shall—

"(A) advise the Secretary on current and future trends, challenges, and opportunities presented by advances in biological and life sciences, biotechnology, and genetic engineering with respect to threats to biodefense or public health security posed by naturally occurring infectious diseases and chemical, biological, radiological, and nuclear agents;

"(B) at the request of the Secretary, review and consider any information and findings received from the working groups established under subsection (b); and

"(C) at the request of the Secretary, provide recommendations and findings for expanded, intensified, and coordinated biodefense research and development activities.

"(6) MEETINGS.—

"(A) INITIAL MEETING.—Not later than one year after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006, the Secretary shall hold the first meeting of the Board.

"(B) SUBSEQUENT MEETINGS.—The Board shall meet at the call of the Secretary, but in no case less than twice annually.

"(7) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(8) CHAIRPERSON.—The Secretary shall appoint a chairperson from among the members of the Board.

"(9) POWERS.—

"(A) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subsection.

"(B) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(10) PERSONNEL.—

"(A) EMPLOYEES OF THE FEDERAL GOVERNMENT.—A member of the Board that is an employee of the Federal Government may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

"(B) OTHER MEMBERS.—A member of the Board that is not an employee of the Federal Government may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board.

"(C) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

"(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board with the approval for the contributing agency without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(b) DEFINITIONS.—Any term that is defined in section 319L and that is used in this section shall have the same meaning in this section as such term is given in section 319L.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section for each of the fiscal years 2007 and 2008.".

SEC. 4. CLARIFICATION OF COUNTERMEASURES COVERED BY PROJECT BIOSHIELD.

(a) QUALIFIED COUNTERMEASURES.—Section 319F-1(a)(2) of the Public Health Service Act (42 U.S.C. 247d-6a(a)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) diagnose, mitigate, prevent, or treat harm from any biological agent (including organisms that cause an infectious disease) or toxin, or from any chemical, radiological, or nuclear agent, that may cause a public health emergency affecting national security; or";

(2) in subparagraph (B), by striking "treat, identify, or prevent harm" and inserting "diagnose, mitigate, prevent, or treat harm"; and

(3) by adding after and below subparagraph (B) the following:

"If through publication in the Federal Register the Secretary makes a determination that there is credible evidence that a biological agent has the potential to cause an epidemic or pandemic that may constitute a public health emergency, a countermeasure to such agent shall, without further administrative action, be considered a qualified countermeasure within the meaning of this paragraph.".

(b) SECURITY COUNTERMEASURES.—Section 319F-2(c)(1)(B)(i)(I) of the Public Health Service Act (42 U.S.C. 247d-6b(c)(1)(B)(i)(I)) is amended by striking "to treat" the first place such term appears and all that follows through "from a condition" and inserting the following: "to diagnose, mitigate, prevent, or treat harm from any biological agent (including organisms that cause an infectious disease) or toxin or from any chemical, radiological, or nuclear agent identified as a material threat under paragraph (2)(A)(ii), or to diagnose, mitigate, prevent, or treat harm from a condition".

SEC. 5. TECHNICAL ASSISTANCE.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

"SEC. 565. TECHNICAL ASSISTANCE.

"The Secretary, in consultation with the Commissioner of Food and Drugs, shall establish within the Food and Drug Administration a team of experts on manufacturing and regulatory activities (including compliance with current Good Manufacturing Practice) to provide both off-site and on-site technical assistance to the manufacturers of qualified countermeasures (as defined in section 319F-1 of the Public Health Service Act), security countermeasures (as defined in section 319F-2 of such Act), or vaccines, at the request of such a manufacturer and at the discretion of the Secretary, if the Secretary determines that a shortage or potential shortage may occur in the United States in the supply of such vaccines or countermeasures and that the provision of such assistance would be beneficial in helping alleviate or avert such shortage.".

SEC. 6. PROCUREMENT.

Section 319F-2 of the Public Health Service Act (42 U.S.C. 247d-6b) is amended—

*(1) in the section heading, by inserting "**AND SECURITY COUNTERMEASURE PROCUREMENTS**" before the period; and*

(2) in subsection (c)—

(A) in the subsection heading, by striking "BIOMEDICAL";

(B) in paragraph (5)(B)(i), by striking "to meet the needs of the stockpile" and inserting "to meet the stockpile needs";

(C) in paragraph (7)(B)—

(i) by striking the subparagraph heading and all that follows through "Homeland Security Secretary" and inserting the following: "INTERAGENCY AGREEMENT; COST.—The Homeland Security Secretary"; and

(ii) by striking clause (ii);

(D) in paragraph (7)(C)(ii)—

(i) by amending clause (I) to read as follows:

"(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment, partial payment for significant milestones, or payment to increase manufacturing capacity is necessary to ensure success of a project, the Secretary shall pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The Secretary shall, to the extent practicable, make the determination of advance payment at the same time as the issuance of a solicitation. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. The contract may also provide for additional advance payments of 5 percent each for meeting the milestones specified in such contract. Provided that the specified milestones are reached, these advance payments of 5 percent shall not be required to be repaid. Nothing in this subclause shall be construed as affecting the rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to the termination of contracts for the convenience of the Government."; and

(ii) by adding at the end the following:

"(VII) PROCUREMENT OF MULTIPLE PRODUCTS AND TECHNOLOGIES.—The Secretary may enter into multiple transactions for the procurement of multiple technologies and products from multiple manufacturers of security countermeasures in order to mitigate against the risks associated with dependence on a single supplier or technology.

"(VIII) SALES EXCLUSIVITY.—The contract may provide that the vendor is the exclusive supplier of the product to the Federal Government for a specified period of time, not to exceed the term of the contract, on the condition that the vendor is able to satisfy the needs of the Government. During the agreed period of sales exclusivity, the vendor shall not assign its rights of sales exclusivity to another entity or entities without approval by the Secretary. Such a sales exclusivity provision in such a contract shall constitute a valid basis for a sole source procurement under section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)).

"(IX) SURGE CAPACITY.—The contract may provide that the vendor establish domestic manufacturing capacity of the product to ensure that additional production of the product is available in the event that the Secretary determines that there is a need to quickly purchase additional quantities of the product. Such contract may provide a fee to the vendor for establishing and maintaining such capacity in excess of the initial requirement for the purchase of the product. Additionally, the cost of maintaining the domestic manufacturing capacity shall be an allowable and allocable direct cost of the contract.

"(X) ADDITIONAL CONTRACT TERMS.—The Secretary, in any contract for procurement under this section, may specify—

"(aa) the dosing and administration requirements for countermeasures to be developed and procured;

"(bb) the amount of funding that will be dedicated by the Secretary for development and acquisition of the countermeasure; and

"(cc) the specifications the countermeasure must meet to qualify for procurement under a contract under this section."; and

(E) in paragraph (8)(A), by adding at the end the following: "In the case of such agreements by the Secretary, the Secretary may allow other executive agencies to order qualified and security countermeasures under procurement contracts or other agreements established by the Secretary, and such ordering process (including transfers of appropriated funds between an agency and the Department of Health and Human Services as reimbursements for such orders for countermeasures) may be conducted under the authority of section 1535 of title 31, United States Code, except that all such orders shall be processed under the terms established under this section for the procurement of countermeasures."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentlewoman from California (Ms. ESHOO) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

I rise today in strong support of H.R. 5533, the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

Like the NIH Reform Act that we will be considering later this evening, this legislation is the end product of a cooperative, bipartisan effort to help improve research outputs for the benefit of all Americans should the unspeakable happen here again on American soil.

As my colleagues are no doubt aware, biodefense is an area where the Federal Government must take a strong role because there is no business model that will support the investments we need without a clear path from the Federal Government. However, we also know that the expertise in this area mostly lies with the private sector, so we must make sure that we facilitate a strong working partnership.

Project BioShield was signed into law on July 21, 2004, to help encourage the development of new bioterrorism countermeasures. The legislation provided procedures for bioterrorism-related procurement, hiring and awarding of research grants in an effort to make it easier for United States Department of Health and Human Services to quickly commit substantial funds to countermeasure projects.

This past April, the Subcommittee on Health held a hearing on Project BioShield; and at this hearing our expert witnesses identified a number of barriers to fully realizing Project BioShield's potential. They highlighted the fact that there is no single point of authority within the Department of Health and Human Services for the advanced research and development of medical countermeasures to make important procurement decisions. Additionally, HHS has limited purchasing and contractual flexibility, and this inefficient structure and limited flexibility exacerbates the shortcomings of the status quo.

Drug and vaccine development is unnecessarily lengthy, often taking between 8 and 12 years, and many potential products fail prematurely following basic research due to limited funding for advanced research and development. There simply is not enough motivation for academic researchers, drug and vaccine manufacturers and other possible partners to commit substantial resources to bring new and improved products to the market quickly.

I believe that the legislation before us today helps address the problems raised in our hearing and represents a huge improvement over the status quo.

I would like to commend the chairman of our Energy and Commerce Committee, Chairman BARTON of Texas; Congressman MIKE ROGERS of Michigan; and Congresswoman ANNA ESHOO of California for their strong leadership on this legislation that builds on the achievements of the Project BioShield Act and takes further steps to identify and promote medical countermeasures to bioterrorism and other public health emergencies, including potential pandemic infectious diseases.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. ESHOO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am really proud to be the Democratic sponsor of this bill; and I want to salute my friend and my colleague, Representative ROGERS, for the work that he has done. We have really enjoyed working together, and I think that the best part of this all is that our work has really produced something that is important for the American people. So I want to thank him for everything that he has done to see that the bill is on the floor today.

This legislation really addresses a very urgent issue which is critical to our Nation's security and our public health.

A month after the 9/11 attacks on New York and Washington, our country was attacked again. When we were attacked that second time, it was when envelopes of anthrax spores were mailed to several media outlets and congressional offices. The attacks killed five people, they crippled our mail service here on the Hill and cost hundreds of millions of dollars to clean up.

We are now observing the spread of a virulent new strain of Avian influenza, the so-called Asian bird flu, in Asia and around the world, causing nearly 150 deaths and threatening to become the next deadly pandemic.

Whether the threat is man-made bioterrorism or a highly infectious disease, our country is at risk, and we are losing precious time in the race to develop effective countermeasures that could save thousands or even millions of lives.

In hearings earlier this year on the Project BioShield Act, it was apparent that gaps remained in our effort to address these threats to the public health.

In particular, we learned that very few companies are willing to risk their limited resources to develop the vaccines and the antidotes to respond to chemical, biological, radiological or nuclear attacks or to a fast-spreading influenza.

Given the risks and the costs involved, it is not surprising that companies would rather pursue the next blockbuster cancer medicine or cholesterol medicine rather than take a chance on an uncertain market where the government is likely to be the only customer.

So having heard this in the hearings, we rolled our sleeves up. We understood that Project BioShield does not address the problem. While the law set aside $5.6 billion over 10 years to obtain drugs for the Strategic National Stockpile, companies receive very little compensation until they can deliver a minimum number of doses. As a result, many of these potential drugs languish in the laboratory in what is known as the "Valley of Death."

As with any drug, the development of biodefense drugs require efficacy trials, toxicity testing, production design and a range of other activities that are expensive but necessary to determine whether a drug will work, whether it is safe and how it will be manufactured.

The centerpiece of this legislation that we are on the floor on behalf of this evening develops a new, or places a new office within HHS, the Biomedical Advanced Research and Development Authority, BARDA, which would be a single point of Federal authority for the development of medical countermeasures.

This bill will empower BARDA to make milestone payments to drug developers at key stages of their work, helping to reduce financial risks of taking on this great challenge. In other words, we are going to get the job done.

I urge my colleagues to support this important legislation, which will ensure that our country does its best to prepare for the worst.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Michigan (Mr. ROGERS), the author of the legislation.

Mr. ROGERS of Michigan. Mr. Speaker, I rise today in strong support of H.R. 5533, the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

I would like to thank Chairman BARTON and Chairman DEAL and the Energy Committee staff for their continued support on this effort.

I want to thank my colleague and friend, Congresswoman ANNA ESHOO, and her staff for your commitment, your energy, your counsel and your enthusiasm to get this bill as far as we have come. Thank you very much. It has been a joy to work with you.

And I have to say at the time of this intense pre-election partisanship, I am thankful that we might serve as an example to many, that you can reach across the aisle to pass important legislation that affects the American people so deeply as their future security, the security of their children and their families and the well-being of the United States of America. Thank you for working with us. I appreciated the opportunity to do that.

I would also like to recognize the administration and their willingness to work with us to build upon Project BioShield, of which they really led the charge. We found that it was not sufficient, it needed some improvement, but it was very forward leaning of this President to come out and establish for the first time BioShield, knowing that the threat was real from terrorists around the country and trying to develop at least a program that would deal with the bioterror threat to the United States. They have been so willing to work with us in finding out what worked and what did not work and this second round we think improves BioShield dramatically and really has to happen if we are going to have protection against biothreats in the future.

The efforts include both offensive and defensive ways to find new developments and better treatments for those infected by bioterrorist attacks and naturally occurring attacks, as was mentioned by the mention of the bird flu.

The problems that we have discovered in looking at BioShield was that there was no single point of authority within HHS for the advanced research and development of countermeasures and quick procurement decisions, and, really, there is only one customer for these type of vaccines, and this is the place where we found some difficulty. There is really only one customer, and that customer is the people of the United States, the government of the United States. With a single source contract it is very hard to attract venture capital, very hard to get private industry excited about developing something if they did not know where the Federal Government was going to be when it came to purchasing something that we are the only ones that were going to buy it, a hard place to be.

So we came up with the single point of authority to make quick decisions; and the Valley of Death takes a long time, 8 to 12 years, to develop these vaccines, very labor intensive, a lot of intellectual power applied to coming up with the right vaccine to be the right prophylactic for what we know is a bioterrorism or natural-occurring event. That Valley of Death, because we are the single source of those contracts, was very real and stalling what we know is great research to happen for the cure and the development of these vaccines.

Also, we found that it did not motivate academic researchers, drug and vaccine manufacturers and other possible partners to commit substantial resources.

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What this bill does, Mr. Speaker, is address all those issues and gives us a framework to go forward and bring out the best in our scientific community, our academic community, our producing community to come up with the right safety net for the protection of the United States when it comes to bioterror threats and natural occurring threats in and around our societies, which we know is already here, bird flu mentioned, but we also know the real threat of bioterrorism as well.

I would hope, Mr. Speaker, that we could encourage the Senate to take our lead here and set aside any partisanship that may arise in the course of this bill in the Senate and take quick action. This really means the safety and security of every family in this country. Bioterrorism is, unfortunately, a reality in 2006 and beyond; and they need to set aside any differences they may have in the Senate and take this bill up. So I would encourage Senate Democrat leadership to do just that.

I would also commend Senator BYRD, who has created this bipartisan product, and urge they move this product as soon as possible. And I would also urge, Mr. Speaker, that this important piece of legislation be passed as quickly as possible.

Ms. ESHOO. Mr. Speaker, I just want to close. I do not think I have any other individuals to come to the floor to speak on this this evening.

I also want to thank our staffs, because they have worked exceedingly hard and exceedingly well with one another, both from Mr. ROGERS' staff, certainly mine, with Steve Keenan and Jennifer Nieto, and everyone that helped them in my office, as well as John Ford on the minority staff of the committee, as well as the majority staff. I salute all of you. I thank you. I am proud of the work we have been able to do.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 5533, the "Biodefense and Pandemic Vaccine and Drug Development Act of 2006".

In an effort to respond to the new era of heightened threats to our national security and the increased risk of harm to Americans, Congress passed the "Project Bioshield Act" in July of 2004. The basic purpose of Project Bioshield was to support research that would lead to the development and availability of "countermeasures" to combat public health emergencies that threaten our national security. The main provisions of this law included: (1) flexible procedures for bioterrorism-related procurement, hiring of personnel, and awarding of research grants; (2) guaranteeing a Federal Government market for new biomedical countermeasures; and (3) permitting emergency use of unapproved countermeasures.

Building on the Project Bioshield Act, H.R. 5533 takes further steps to identify potential medical countermeasures to protect the public health and national security from biological, chemical, radiological, and nuclear threats. Additionally, this legislation ensures the rapid development of medical countermeasures against such threats, including potential pandemic infectious diseases and it seeks to expand the collaboration and coordination between government and the private sector so that we can effectively respond in the event of a public health emergency.

Since the implementation of Project Bioshield, it has become apparent that certain barriers still exist to the development of countermeasures. Many promising countermeasures are not making it through the advanced research and development stages necessary to bring products to the point of eligibility for procurement. H.R. 5533 seeks to rectify this impediment to advanced stage countermeasure development.

This legislation seeks to streamline the countermeasure research and development process and create a single point of Federal authority by creating a new office called the Biomedical Advanced Research and Development Agency (BARDA) within the Department of Health and Human Services. BARDA would establish a "one stop shop" agency for advanced research and development of medical countermeasures, including drugs and vaccines to respond to bioterrorism and natural disease outbreaks. This agency would be responsible for directing and coordinating collaboration among HHS entities, other Federal agencies, relevant industries, academia, and other individuals with respect to countermeasure research and development.

I commend my colleagues, Representatives ESHOO and ROGERS, for their diligent and impassioned work on this issue. This is a good bill and I urge my colleagues to support it.

Mr. BARTON of Texas. Mr. Speaker, please include this exchange of correspondence in the RECORD for H.R. 5533.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 26, 2006.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR CHAIRMAN DAVIS: I acknowledge and appreciate your willingness not to exercise your referral of H.R. 5533, Biodefense and

Pandemic Vaccine and Drug Development Act of 2006. In doing so, I agree that your decision to forgo further action on the bill will not prejudice the Committee on Government Reform with respect to its jurisdictional prerogatives on this legislation or similar legislation.

Further, I recognize your right to request conferees on those provisions within the Committee on Government Reform's jurisdiction should they be the subject of a House-Senate conference on this or similar legislation.

I will include your letter and this response in the Congressional Record during floor consideration of H.R. 5533.

Sincerely

JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC:, September 26, 2006.

Hon. JOE BARTON,
Chairman, House Committee on Energy and Commerce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On September 20, 2006, the House Committee on Energy and Commerce reported H.R. 5533, the Biodefense and Pandemic Vaccine and Drug Development Act of 2006. As you know, the bill includes provisions within the jurisdiction of the Committee on Government Reform, specifically section 3 of the bill that would exempt the Authority proposed to be created by this legislation from portions of the Federal Advisory Committee Act and the Freedom of Information Act. Section 3 would also authorize the Secretary of Health and Human Services to utilize "other transaction" procurement authority.

In the interests of moving this important legislation forward, I agreed to waive sequential consideration of this bill by the Committee on Government Reform. However, I did so only with the understanding that this procedural route would not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar bill be considered in a conference with the Senate. Finally, I request that you include this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM DAVIS.

Mr. WAXMAN. Mr. Speaker, the bill before us would create a new agency within the Department of Health and Human Services, the Biomedical Advanced Research and Development Authority, or BARDA. I support creating this new agency. However, some provisions in the bill raise concerns because they waive a number of existing Federal statutes enacted to ensure proper government oversight. I want to express my reservations over these provisions, and urge that they be addressed in conference.

This bill contains exemptions from important federal open government laws designed to ensure accountability and transparency, like the Freedom of Information Act (FOIA) and federal procurement law. These open government laws are within the jurisdiction of the Committee on Government Reform, on which I am the ranking member, but unfortunately, the Government Reform Committee did not have an opportunity to consider the bill.

FOIA is the central law that guarantees public access to government information. It establishes the presumption that people should be able to access information held by the government. FOIA contains exemptions that prevent the disclosure of information in the case where harm could result from disclosure—including exemptions for classified information, trade secrets, information compiled for law enforcement purposes, and internal agency documents that would be exempt from discovery in litigation.

H.R. 5533 establishes a new FOIA exemption, requiring the Secretary to withhold from public disclosure "specific technical data of scientific information that is created or obtained during countermeasure research and product advanced development funded by the Secretary that reveal vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats." While this exemption appears narrow in scope, the Administration has a long record of interpreting narrow language broadly to withhold public information. Unless there is a compelling reason why the existing FOIA exemptions are inadequate—which there does not appear to be in this case—it is unwise to add new exemptions to FOIA. Moreover, the language of the new exemption is not clear. The language applies to any "advanced research and development that is funded by the Secretary," which may inappropriately extend the exemption far beyond BARDA to other research funded by the Department of Health and Human Services.

Another issue is so-called "other transaction authority." This authority is essentially a waiver from most federal procurement law—everything from competition requirements, to auditing and pricing safeguards, to the Buy America and Drug-free workplace laws. The authority was originally developed to help DOD in attracting smaller contractors to federal research and development contracts, though in practice it has not often been used to accomplish that objective. While I am not necessarily opposed to granting BARDA other transaction authority, I have yet to hear a convincing rationale for its necessity. If such a rationale exists, we should explore ways to limit its application at BARDA to those instances where it is truly needed, as opposed to the blanket grant of authority currently in H.R. 5533.

Finally, H.R. 5533 exempts all advisory committees established under the bill from section 14 of the Federal Advisory Committee Act. Section 14 was added to the FACA law because Congress decided that there was a proliferation of advisory committees and that it is important to ensure that they should continuously be reviewed to ensure their ongoing necessity. Again, there is no clear explanation for why this waiver of current law is necessary, or what interests would be protected by exempting the committees from renewal requirements.

All of these issues are within the jurisdiction of the Government Reform Committee, and I hope they can be addressed as this bill moves forward in the legislative process.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of H.R. 5533, to advance the development of biological countermeasures.

The anthrax attacks of 2001 shined a bright light on our lack of preparedness to deal with a biological attack. While we were blessed that Cipro was an effective countermeasure for anthrax specifically, the attacks led us to realize the real possibility that our enemies could develop the capability to attack our country using several biological agents for which we do not have effective countermeasures.

This possibility strikes great fear in most Americans, who have been bombarded in recent years with the threat not only of bioterrorism but also pandemic flu. However, this uncertainty of a biological attack or pandemic flu is the same factor that often keeps manufacturers from making the investments necessary to bring a countermeasure to market.

When medical treatments for conditions such as high blood pressure and high cholesterol are developed, pharmaceutical manufacturers are willing to make the investment in research and development because there is a known demand for these treatments. We are lucky that there is no current demand for biological countermeasures. As a country responsible for protecting American citizens, however, we cannot wait for a biological attack or pandemic flu to occur before these countermeasures are developed.

This is a classic case of market failure, where the government must intervene and provide public resources to ensure that we have effective countermeasures before a biological attack occurs. This bill achieves that goal by providing the incentives to encourage the private sector to develop these treatments. Specifically, it would provide the necessary assurances that the federal government will purchase the end product for use in the event of an attack. Additionally, it will provide milestone payments to countermeasure developers to bridge the funding gap between basic research and countermeasure development.

I encourage my colleagues to join me in supporting this bill, which will go a long way toward ensuring that we have effective biological countermeasures in place in the event of a biological attack or infectious disease pandemic.

Ms. ESHOO. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the bill, H.R. 5533, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ARROWROCK PROJECT HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4377) to extend the time required for construction of a hydroelectric project, and for other purposes.

The Clerk read as follows:

H.R. 4377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARROWROCK HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, on request of the licensee, the Commission shall—

(1) if the license for the project is in effect on the date of the enactment of this Act, extend the period for commencing construction of project works for a period of 3 years beginning on the date of enactment of this Act; or

(2) if the license for the project has been terminated before the date of enactment of this Act, reinstate the license and extend the period for commencing construction of project works for an additional 3-year period beginning on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4377, the Arrowrock Project Hydroelectric License Extension Bill, which extends the time in the hydroelectric license to begin construction of a 15-megawatt project by 3 years from the date of passage of this bill. The facility will be built at the existing Arrowrock Dam on the Boise River in Idaho and has been designated to minimize impacts there.

Over the past decade, this project has been delayed by a number of factors not necessarily within the control of the project developer, including delays related to the bull trout being declared threatened under the Endangered Species Act. We have now solved that problem and we have been assured that the project is ready to go once the license is extended.

This project has bipartisan support. It will further develop the hydroelectric facilities at existing dams, something we promoted in the Energy Policy Act of 2005, so I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4377, a bill which would require the Federal Energy Regulatory Commission to extend for a 3-year period the deadline for commencing construction on the proposed Arrowrock Hydroelectric Project in the State of Idaho.

The project was originally licensed in 1989, but due to extenuating circumstances, construction has not begun on the project as of this time. One reason for the delay was the need for required consultations with regard to the bull trout, a species which was listed as threatened only after the original license had been issued. The project is now moving forward with those required consultations.

The bill before us would simply extend the license to give the licensee more time in order to finalize the project and get construction under way. This measure was approved by the Energy and Commerce Committee by voice vote, along with four other hydroelectric licensing bills which we are also considering this evening.

I urge my colleagues to approve this measure.

Madam Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. WU. Madam Speaker, I rise in support for H.R. 4377, the Hydroelectric Project at Arrowrock Dam License Extension. This bill will bring more public power to Pacific Northwest energy customers by extending the time required for construction of the Arrowrock hydroelectric project.

The extension is necessary because of consultations with the Fish & Wildlife Service to evaluate and protect threatened species in the vicinity of the project—bull trout. Because of delays in these consultations the commencement of construction was delayed past the expiration date of March 2005. An extension of license P 4656 is needed in order to begin construction during winter of 2006 or 2007 to take advantage of the lower water conditions.

This project was unable to meet the March 20, 2005 start of construction deadline because the Fish & Wildlife Service would not begin consultation on the project until after it completed consultation on all of the Reclamation projects in the Upper Snake River Basin. That Upper Snake consultation was a direct outgrowth of the requirements of the Snake River Water Rights Act of 2004, H.R. 4818, Title X, and the Nez Perce Agreement of 2004. I believe that the inaction of one federal agency should not be the basis for depriving the citizens of Oregon, Idaho and the United States of important rights, including their rights under permits issued by other federal agencies.

I support H.R. 4377 and ask my colleagues to vote "yes" on the bill.

Mr. OTTER. Madam Speaker, I yield back the balance of my time, and I urge the immediate passage of 4377.

The SPEAKER pro tempore (Mrs. McMORRIS RODGERS). The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the bill, H.R. 4377.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TYGART DAM PROJECT HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4417) to provide for the reinstatement of a license for a certain Federal Energy Regulatory project.

The Clerk read as follows:

H.R. 4417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF LICENSE FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to project numbered 7307 of the Federal Energy Regulatory Commission, the Commission shall, upon the request of the licensee for the project, in accordance with that section (including the good faith, due diligence, and public interest requirements of that section and the procedures established under that section), extend the time required for commencement of construction of the project until December 31, 2007.

(b) APPLICABILITY.—Subsection (a) shall apply to the project upon the expiration of any extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the time required for commencement of construction of the project.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license of the Commission for the project expires before the date of enactment of this Act, the Commission shall—

(1) reinstate the license effective as of the date of the expiration of the license; and

(2) extend the time required for commencement of construction of the project until December 31, 2007.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4417, the Tygart Dam Project Hydroelectric License Extension Bill, extends the time in the hydroelectric license to start construction on the project until December 31, 2007. This is another project that has experienced delays. In this case, unfavorable market conditions delayed the start of the project. Today, those conditions have been resolved and the project is ready to begin. The project will be built at an existing dam, thus minimizing impacts. It is anticipated that the project will provide a substantial economic boost to the city of Grafton, West Virginia, as well as valuable hydroelectric power, and I urge my colleagues to support the bill.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4417, legislation which would require the Federal Energy Regulatory Commission to extend, upon the licensee's request and subject to compliance with commission procedures, the deadline for the commencement of construction of the proposed Tygart Dam Hydroelectric Project in West Virginia. That extension in this bill would be for a period of 1 year.

The project was originally licensed in 1989, but has not begun construction due to a lack of utility contracts in order to make the project financially viable. Those dynamics have now changed and the contractor is actively negotiating for the purchase of electricity to be produced by the facility.

The project enjoys strong local support in the community in West Virginia in which it will be located. The bill was also approved by the Energy and Commerce Committee by voice vote and is noncontroversial, and I urge approval of the legislation.

Madam Speaker, I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I also yield back the balance of my time, and I urge the immediate passage of H.R. 4417.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the bill, H.R. 4417.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SWIFT CREEK HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 244) to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

The Clerk read as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR THE FEDERAL ENERGY REGULATORY COMMISSION HYDROELECTRIC PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 1651, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 244, the Swift Creek Hydroelectric License Extension Bill, authorizing the Federal Energy Regulatory Commission to extend the time specified in the project license to begin construction of the Swift Creek Hydroelectric Project for three 2-year periods, a total of 6 years.

The Swift Creek Project is a 1.5 megawatt project in Wyoming. This bill has passed the Senate with unanimous consent, and passage of the bill today will send this bill directly to the President's desk and allow the further development of clean renewable hydroelectric power. I urge my colleagues to support S. 244.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of this legislation which would authorize the Federal Energy Regulatory Commission to extend the commencement of construction deadline for the Swift Creek Hydroelectric Project in Wyoming for three 2-year periods. The license was originally issued in 1997, and the bill before us would provide a routine extension of the commencement of construction deadline.

The legislation is noncontroversial and was approved by voice vote of the House Committee on Energy and Commerce, and so I urge the House approve the legislation.

Madam Speaker, I yield back the balance of our time.

Mr. OTTER. Madam Speaker, I yield back the balance of my time, and I urge the immediate passage of S. 244.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the Senate bill, S. 244.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

REYNOLDS CREEK HYDROELECTRIC LICENSE EXTENSION BILL

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 176) to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

The Clerk read as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11480, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods beyond the date that is 4 years after the date of issuance of the license.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

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Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 176, the Reynolds Creek Hydroelectric Licensing Extension Act, which authorizes the Federal Energy Regulatory Commission to extend the time specified in the project license to begin construction of the Reynolds Creek hydroelectric project for three 2-year periods, a total of 6 years. The Reynolds Creek project is a five megawatt project on Prince of Wales Island in Alaska.

This bill has passed the Senate by unanimous consent. Passage of this bill today will send it to the President's desk and allow further development of clean, renewable hydroelectric power.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the legislation which would authorize the Federal Energy Regulatory Commission to extend the commencement of the construction deadline for the Reynolds Creek hydroelectric project in Alaska for three 2-year periods. The license was originally issued in the year 2000, and the bill before us would provide a routine extension of the commencement of construction deadline.

The legislation is non-controversial and was approved by voice vote of the House Energy and Commerce Committee. I urge that the House approve this measure.

Madam Speaker, I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I yield back the balance of my time and urge the immediate passage of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the Senate bill, S. 176.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EXTENDING DEADLINE FOR COMMENCEMENT OF CONSTRUCTION OF CERTAIN HYDROELECTRIC PROJECTS IN CONNECTICUT

Mr. OTTER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 971) to extend the deadline for commencement of construction of certain hydroelectric projects in Connecticut, and for other purposes.

The Clerk read as follows:

H.R. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT NUMBERED 11547.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 11547, the Commission shall, upon enactment of this Act, extend the time period during which the licensee is required to commence the construction of the project to and including May 30, 2007. Thereafter the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 2 consecutive 2-year periods.

(b) REINSTATEMENT OF EXPIRED LICENSE.—The Commission shall reinstate the license for Federal Energy Regulatory Commission project numbered 11547 effective as of the date of its expiration, and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

SEC. 2. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECTS NUMBERED 10822 AND 10823.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission projects numbered 10822 and 10823, the Commission shall, upon enactment of this Act, extend the time period during which the licensee is required to commence the construction of each such project to and including May 30, 2007. Thereafter the Commission shall, at the request of the licensee for each such project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 2 consecutive 2-year periods.

(b) REINSTATEMENT OF EXPIRED LICENSE.—The Commission shall reinstate the licenses for Federal Energy Regulatory Commission projects numbered 10822 and 10823 effective as of the date of their expiration, and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. OTTER) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

GENERAL LEAVE

Mr. OTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 971, a bill to provide license extensions of time to begin construction of three hydroelectric projects in Connecticut: the 440 kilowatt Hale project, the 373 kilowatt Collinsville Upper and the 1.1 megawatt Collinsville Lower projects. The bill extends the start time period for construction until May 30, 2007, for all three projects, and also authorizes the Federal Energy Regulatory Commission to extend the time and the start date by two additional 2-year periods.

These renewable hydroelectric projects will provide a boost to the local economy, remove river debris and enhance fishery resources by constructing fish ladders. They also provide a valuable new resource of hydroelectric energy in the New England area.

Madam Speaker, I urge my colleagues to support the bill.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the legislation which would authorize the Federal Energy Regulatory Commission to extend the commencement of construction deadline for three hydroelectric projects in the State of Connecticut. The legislation would enable the Commission to extend until May of 2007 the deadline, with the ability to issue two additional 2-year extensions, for commencing construction on the proposed Hale hydroelectric project. In addition, the bill would require the FERC to extend the commencement of construction deadlines for the Collinsville Upper hydroelectric project and the Collinsville Lower hydroelectric project.

This measure is noncontroversial and was approved by voice vote of the House Energy and Commerce Committee. It is my pleasure to urge its approval by the House.

Madam Speaker, I would say to the gentleman from Idaho, I have no additional requests for time, and seeing that he has one, we will yield back the balance of our time. I am sure these will be friendly comments.

Madam Speaker, I yield back the balance of my time.

Mr. OTTER. Madam Speaker, I thank the gentleman for his consideration.

Madam Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Madam Speaker, I rise today in strong support of H.R. 971, to extend the deadline for commencement of construction of certain hydroelectric plants in my State of Connecticut. I thank the gentleman for yielding time; and I also thank the chairman of the full committee, Chairman BARTON, for his leadership and work on this important legislation.

The Federal Energy Regulatory Commission has approved licenses for three hydroelectric plants in Connecticut. Unfortunately, due to reasons beyond their control, Summit Hydroelectric has been unable to begin construction on these approved projects. The delays have been caused by regulatory changes and lease negotiations with the State of Connecticut.

We know that section 13 of the Federal Power Act requires that the construction of a licensed project begin with 2 years from the date the license is issued. FERC is authorized under the law to extend this deadline upon a finding that such extension is "not incompatible with the public interest." FERC did provide a one-time extension, but more time is needed, and that is why we have this legislation before us here tonight, to enable these projects to go forward.

Like two other operational hydroelectric facilities located in my district in eastern Connecticut, these facilities will benefit local communities by adding historical value, because many of the dams are of historic nature, increasing property tax revenues to the town and providing for economic stimulation.

In addition, the facilities would significantly reduce trash and pollution in the rivers. For example, one such facility is estimated to remove about three tons of trash each year from the rivers through the screening process. Each of these facilities will remove 36 tons a year of sulfur dioxide pollution, 15 tons per year of nitrogen oxide pollution, and 5,000 tons a year of carbon dioxide pollution. So these facilities are not only important to generate electricity, they are also important to clean up the rivers and to clean up the air. In addition, they will all include fish ladders that are beneficial to our native salmon migration.

Finally, Madam Speaker, we know that increasing renewable energy sources has never been more important. Hydropower serves to help lessen our dependence on imported oil, which is paramount to increasing our Nation's security and reducing pollution.

Mr. OTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank the gentleman from Connecticut for the information that he has given us; and I appreciate his personal perspective on the continuation of the licenses for these dams and the construction.

Madam Speaker, I yield back the balance of my time and urge the immediate passage of H.R. 971.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Idaho (Mr. OTTER) that the House suspend the rules and pass the bill, H.R. 971.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL INSTITUTES OF HEALTH REFORM ACT OF 2006

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6164) to amend title IV of the Public Health Service Act to revise and extend the authorities of the National Institutes of Health, and for other purposes.

The Clerk read as follows:

H.R. 6164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Reform Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Organization of National Institutes of Health.
Sec. 3. Authority of Director of NIH.
Sec. 4. Authorization of appropriations.
Sec. 5. Reports.
Sec. 6. Certain demonstration projects.
Sec. 7. Foundation for the National Institutes of Health.
Sec. 8. Applicability.

SEC. 2. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.

(a) IN GENERAL.—Section 401 of the Public Health Service Act (42 U.S.C. 281) is amended to read as follows:

"SEC. 401. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.

"(a) RELATION TO PUBLIC HEALTH SERVICE.—The National Institutes of Health is an agency of the Service.

"(b) NATIONAL RESEARCH INSTITUTES AND NATIONAL CENTERS.—The following agencies of the National Institutes of Health are national research institutes or national centers:

"(1) The National Cancer Institute.

"(2) The National Heart, Lung, and Blood Institute.

"(3) The National Institute of Diabetes and Digestive and Kidney Diseases.

"(4) The National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(5) The National Institute on Aging.

"(6) The National Institute of Allergy and Infectious Diseases.

"(7) The National Institute of Child Health and Human Development.

"(8) The National Institute of Dental and Craniofacial Research.

"(9) The National Eye Institute.

"(10) The National Institute of Neurological Disorders and Stroke.

"(11) The National Institute on Deafness and Other Communication Disorders.

"(12) The National Institute on Alcohol Abuse and Alcoholism.

"(13) The National Institute on Drug Abuse.

"(14) The National Institute of Mental Health.

"(15) The National Institute of General Medical Sciences.

"(16) The National Institute of Environmental Health Sciences.

"(17) The National Institute of Nursing Research.

"(18) The National Institute of Biomedical Imaging and Bioengineering.

"(19) The National Human Genome Research Institute.

"(20) The National Library of Medicine.

"(21) The National Center for Research Resources.

"(22) The John E. Fogarty International Center for Advanced Study in the Health Sciences.

"(23) The National Center for Complementary and Alternative Medicine.

"(24) The National Center on Minority Health and Health Disparities.

"(25) Any other national center that, as an agency separate from any national research institute, was established within the National Institutes of Health as of the day before the date of the enactment of the National Institutes of Health Reform Act of 2006.

"(c) DIVISION OF PROGRAM COORDINATION, PLANNING, AND STRATEGIC INITIATIVES.—

"(1) IN GENERAL.—Within the Office of the Director of the National Institutes of Health, there shall be a Division of Program Coordination, Planning, and Strategic Initiatives (referred to in this subsection as the 'Division').

"(2) OFFICES WITHIN DIVISION.—

"(A) OFFICES.—The following offices are within the Division: The Office of AIDS Research, the Office of Research on Women's Health, the Office of Behavioral and Social Sciences Research, the Office of Disease Prevention, the Office of Dietary Supplements, the Office of Rare Diseases, and any other office located within the Office of the Director of NIH as of the day before the date of the enactment of the National Institutes of Health Reform Act of 2006. In addition to such offices, the Director of NIH may establish within the Division such additional offices or other administrative units as the Director determines to be appropriate.

"(B) AUTHORITIES.—Each office in the Division—

"(i) shall continue to carry out the authorities that were in effect for the office before the date of enactment referred to in subparagraph (A); and

"(ii) shall, as determined appropriate by the Director of NIH, support the Division with respect to the authorities described in section 402(b)(7).

"(d) ORGANIZATION.—

"(1) NUMBER OF INSTITUTES AND CENTERS.—In the National Institutes of Health, the number of national research institutes and national centers may not exceed a total of 27, including any such institutes or centers established under authority of paragraph (2) or under authority of this title as in effect on the day before the date of the enactment of the National Institutes of Health Reform Act of 2006.

"(2) REORGANIZATION OF INSTITUTES AND CENTERS.—

"(A) IN GENERAL.—Notwithstanding subsection (b), and subject to paragraph (1), the Director of NIH may, with the approval of the Secretary, reorganize the national research institutes and the national centers, including the addition, removal, or transfer of functions of such institutes and centers, and the establishment or termination of such institutes and centers, if the Director determines that the overall mission of the National Institutes of Health, or the management and operation of programs and activities conducted or supported by the National Institutes of Health, would be more efficiently carried out under such a reorganization.

"(B) ADMINISTRATIVE UNIT.—For purposes of paragraph (1), an administrative unit within the National Institutes of Health that is established under authority of subparagraph (A) shall be considered a national research institute or a national center, without regard to whether the administrative unit is designated by the Director of NIH as such an institute or center.

"(C) PUBLIC PROCESS.—Any reorganization under subparagraph (A) shall be carried out by regulation in accordance with the procedures for substantive rules under section 553 of title 5, United States Code.

"(3) REORGANIZATION OF OFFICE OF DIRECTOR.—Notwithstanding subsection (c), the Director of NIH may, after a series of public hearings, and with the approval of the Secretary, reorganize the offices within the Office of the Director, including the addition, removal, or transfer of functions of such offices, and the establishment or termination of such offices, if the Director determines that the overall management and operation of programs and activities conducted or supported by such offices would be more efficiently carried out under such a reorganization.

"(4) INTERNAL REORGANIZATION OF INSTITUTES AND CENTERS.—Notwithstanding any conflicting provisions of this title, the director of a national research institute or a national center may, after a series of public hearings and with the approval of the Director of NIH, reorganize the divisions, centers, or other administrative units within such institute or center, including the addition, removal, or transfer of functions of such units, and the establishment or termination of such units, if the director of such institute or center determines that the overall management and operation of programs and activities conducted or supported by such divisions, centers, or other units would be more efficiently carried out under such a reorganization.

"(5) NOTICE TO CONGRESS; EFFECTIVE DATE.—A reorganization under paragraph (2), (3), or (4) may not take effect before the expiration of 90 days after the Secretary submits to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate written notice of the reorganization.

"(e) SCIENTIFIC MANAGEMENT REVIEW BOARD FOR PERIODIC ORGANIZATIONAL REVIEWS.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of the National Institutes of Health Reform Act of 2006, the Secretary shall establish an advisory council within the National Institutes of Health to be known as the Scientific Management Review Board (referred to in this subsection as the 'Board').

"(2) DUTIES.—

"(A) REPORTS ON ORGANIZATIONAL ISSUES.—The Board shall provide advice to the appropriate officials under subsection (d) regarding the use of the authorities established in paragraphs (2), (3), and (4) of such subsection to reorganize the National Institutes of Health (referred to in this subsection as 'organizational authorities'). Not less frequently than once each 7 years, the Board shall—

"(i) determine whether and to what extent the organizational authorities should be used; and

"(ii) issue a report providing the recommendations of the Board regarding the use of the authorities and the reasons underlying the recommendations.

"(B) CERTAIN RESPONSIBILITIES REGARDING REPORTS.—The activities of the Board with respect to a report under subparagraph (A) shall include the following:

"(i) Reviewing all programs of the National Institutes of Health (referred to in this subsection as 'NIH') in order to determine the progress and cost-effectiveness of such programs and the allocation among the programs of the resources of NIH.

"(ii) Determining pending scientific opportunities, and public health needs, with respect to research within the jurisdiction of NIH.

"(iii) For any proposal for organizational changes to which the Board gives significant consideration as a possible recommendation in such report—

"(I) analyzing the budgetary and operational consequences of the proposed changes;

"(II) estimating the level of resources needed to implement the proposed changes; and

"(III) assuming the proposed changes will be made and making a recommendation for the allocation of the resources of NIH among the national research institutes and national centers.

"(C) CONSULTATION.—In carrying out subparagraph (A), the Board shall consult with—

"(i) the heads of national research institutes and national centers whose directors are not members of the Board;

"(ii) other scientific leaders who are officers or employees of NIH and are not members of the Board;

"(iii) advisory councils of the national research institutes and national centers;

"(iv) organizations representing the scientific community; and

"(v) organizations representing patients.

"(3) COMPOSITION OF BOARD.—The membership of the Board may not exceed 21 individuals, all of whom shall be voting members. The Board shall be composed of the following:

"(A) The Director of NIH, who shall be a permanent member on an ex officio basis.

"(B) Not fewer than 9 officials who are directors of national research institutes or national centers. The Secretary shall designate such officials for membership and shall ensure that the group of officials so designated includes directors of—

"(i) national research institutes whose budgets are substantial relative to a majority of the other institutes;

"(ii) national research institutes whose budgets are small relative to a majority of the other institutes;

"(iii) national research institutes that have been in existence for a substantial period of time without significant organizational change under subsection (d);

"(iv) as applicable, national research institutes that have undergone significant organization changes under such subsection, or that have been established under such subsection, other than national research institutes for which such changes have been in place for a substantial period of time; and

"(v) national centers.

"(C) Members appointed by the Secretary from among individuals who are not officers or employees of the United States. Such members shall include—

"(i) individuals representing the interests of public or private institutions of higher education that have historically received funds from NIH to conduct research; and

"(ii) individuals representing the interests of private entities that have received funds from NIH to conduct research or that have broad expertise regarding how the National Institutes of Health functions, exclusive of private entities to which clause (i) applies.

"(4) CHAIR.—The Chair of the Board shall be selected by the Secretary from among the appointed members of the Board, except that the Secretary may select the Director of NIH as the Chair. The term of office of the Chair shall be 2 years.

"(5) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at the call of the Chair or upon the request of the Director of NIH, but not fewer than 5 times with respect to issuing any particular report under paragraph (2)(A). The location of the meetings of the Board is subject to the approval of the Director of NIH.

"(B) PARTICULAR FORUMS.—Of the meetings held under subparagraph (A) with respect to a report under paragraph (2)(A)—

"(i) one or more shall be directed toward the scientific community to address scientific needs and opportunities related to proposals for organizational changes under subsection (d), or as the case may be, related to a proposal that no such changes be made; and

"(ii) one or more shall be directed toward consumer organizations to address the needs and opportunities of patients and their families with respect to proposals referred to in clause (i).

"(C) AVAILABILITY OF INFORMATION FROM FORUMS.—For each meeting under subparagraph (B), the Director of NIH shall post on the Internet site of the National Institutes of Health a summary of the proceedings.

"(6) COMPENSATION; TERM OF OFFICE.—The provisions of subsections (b)(4) and (c) of section 406 apply with respect to the Board to the same extent and in the same manner as such provisions apply with respect to an advisory council referred to in such subsections, except that the reference in such subsection (c) to 4 years regarding the term of an appointed member is deemed to be a reference to 5 years.

"(7) REPORTS.—

"(A) RECOMMENDATIONS FOR CHANGES.—Each report under paragraph (2)(A) shall be submitted to—

"(i) the Committee on Energy and Commerce within the House of Representatives;

"(ii) the Committee on Health, Education, Labor, and Pensions within the Senate;

"(iii) the Secretary; and

"(iv) officials with organizational authorities, other than any such official who served as a member of the Board with respect to the report involved.

"(B) AVAILABILITY TO PUBLIC.—The Director of NIH shall post each report under paragraph (2) on the Internet site of the National Institutes of Health.

"(C) REPORT ON BOARD ACTIVITIES.—Not later than 18 months after the date of the enactment of the National Institutes of Health Reform Act of 2006, the Board shall submit to the committees specified in subparagraph (A) a report describing the activities of the Board.

"(f) ORGANIZATIONAL CHANGES PER RECOMMENDATION OF SCIENTIFIC MANAGEMENT REVIEW BOARD.—

"(1) IN GENERAL.—With respect to an official who has organizational authorities within the meaning of subsection (e)(2)(A), if a recommendation to the official for an organizational change is made in a report under such subsection, the official shall, except as provided in paragraph (2) of this subsection, make the change in accordance with the following:

"(A) Not later than 100 days after the report is submitted under subsection (e)(7)(A), the official shall initiate the applicable public process required in subsection (d) toward making the change.

"(B) The change shall be fully implemented not later than the expiration of the 3-year period beginning on the date on which such process is initiated.

"(2) OBJECTION BY DIRECTOR OF NIH.—

"(A) IN GENERAL.—Paragraph (1) does not apply to a recommendation for an organizational change made in a report under subsection (e)(2)(A) if, not later than 90 days after the report is submitted under subsection (e)(7)(A), the Director of NIH submits to the committees specified in such subsection a report providing that the Director objects to the change, which report includes the reasons underlying the objection.

"(B) SCOPE OF OBJECTION.—For purposes of subparagraph (A), an objection by the Director of NIH may be made to the entirety of a recommended organizational change or to 1 or more aspects of the change.. Any aspect of a change not objected to by the Director in a report under subparagraph (A) shall be implemented in accordance with paragraph (1).

"(g) DEFINITIONS.—For purposes of this title:

"(1) The term 'Director of NIH' means the Director of the National Institutes of Health.

"(2) The terms 'national research institute' and 'national center' mean an agency of the National Institutes of Health that is—

"(A) listed in subsection (b) and not terminated under subsection (d)(2)(A); or

"(B) established by the Director of NIH under such subsection.

"(h) REFERENCES TO NIH.—For purposes of this title, a reference to the National Institutes of Health includes its agencies.".

(b) CONFORMING AMENDMENTS.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by redesignating subpart 3 of part E as subpart 19;

(2) by transferring subpart 19, as so redesignated, to part C of such title IV;

(3) by inserting subpart 19, as so redesignated, after subpart 18 of such part C; and

(4) in subpart 19, as so redesignated—

(A) by redesignating section 485B as section 464z–1;

(B) by striking "National Center for Human Genome Research" each place such term appears and inserting "National Human Genome Research Institute"; and

(C) by striking "Center" each place such term appears and inserting "Institute".

SEC. 3. AUTHORITY OF DIRECTOR OF NIH.

(a) IN GENERAL.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) by redesignating paragraph (14) as paragraph (22);

(2) by striking paragraphs (12) and (13);

(3) by redesignating paragraphs (4) through (11) as paragraphs (14) through (21);

(4) in paragraph (21) (as so redesignated), by inserting "and" after the semicolon at the end;

(5) in the matter after and below paragraph (22) (as so redesignated), by striking "paragraph (6)" and inserting "paragraph (16)"; and

(6) by striking paragraphs (1) through (3) and inserting the following paragraphs:

"(1) shall be responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management and operation of programs and activities within the National Institutes of Health;

"(2) shall coordinate and oversee the operation of the national research institutes, national centers, and administrative entities within the National Institutes of Health;

"(3) shall, in consultation with the heads of the national research institutes and national centers, be responsible for program coordination across the national research institutes and national centers, including conducting priority-setting reviews, to ensure that the research portfolio of the National Institutes of Health is balanced and free of unnecessary, duplicative research, and takes advantage of collaborative, cross-cutting research;

"(4) shall assemble accurate data to be used to assess research priorities, including information to better evaluate scientific opportunity, public health burdens, and progress in reducing health disparities;

"(5) shall ensure that scientifically based strategic planning is implemented in support of research priorities as determined by the agencies of the National Institutes of Health;

"(6) shall ensure that the resources of the National Institutes of Health are sufficiently allocated for research projects identified in strategic plans;

"(7)(A) shall, through the Division of Program Coordination, Planning, and Strategic Initiatives—

"(i) identify research that represents important areas of emerging scientific opportunities, rising public health challenges, or knowledge gaps that deserve special emphasis and would benefit from conducting or supporting additional research that involves collaboration between 2 or more national research institutes or national centers, or would otherwise benefit from strategic coordination and planning;

"(ii) include information on such research in reports under section 403; and

"(iii) in the case of such research supported with funds referred to in subparagraph (B)—

"(I) require as appropriate that proposals include milestones and goals for the research;

"(II) require that the proposals include timeframes for funding of the research; and

"(III) ensure appropriate consideration of proposals for which the principal investigator is an individual who has not previously served as the principal investigator of research conducted or supported by the National Institutes of Health;

"(B) may, with respect to funds reserved under section 402A(c)(1) for the Common Fund, allocate such funds to the national research institutes and national centers for conducting and supporting research that is identified under subparagraph (A); and

"(C) may assign additional functions to the Division in support of responsibilities identified in subparagraph (A), as determined appropriate by the Director;

"(8) shall, in coordination with the heads of the national research institutes and national centers, ensure that such institutes and centers—

"(A) preserve an emphasis on investigator-initiated research project grants, including with respect to research involving collaboration between 2 or more such institutes or centers; and

"(B) when appropriate, maximize investigator-initiated research project grants in their annual research portfolios;

"(9) shall ensure that research conducted or supported by the National Institutes of Health is subject to review in accordance with section 492 and that, after such review, the research is reviewed in accordance with section 492A(a)(2) by the appropriate advisory council under section 406 before the research proposals are approved for funding;

"(10) shall approve the establishment of all centers of excellence recommended by the national research institutes, other than centers recognized under section 414;

"(11) shall oversee research training for all of the national research institutes and National Research Service Awards in accordance with section 487;

"(12) may, from funds appropriated under section 402A(b), reserve funds to provide for research on matters that have not received significant funding relative to other matters, to respond to new issues and scientific emergencies, and to act on research opportunities of high priority;

"(13) may, subject to appropriations Acts, collect and retain registration fees obtained from third parties to defray expenses for scientific, educational, and research-related conferences;".

(b) CERTAIN AUTHORITIES.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by striking subsections (i) and (l); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(c) ADVISORY COUNCIL FOR DIRECTOR OF NIH.—Section 402 of the Public Health Service Act, as amended by subsection (b) of this section, is amended by adding after subsection (j) the following subsection:

"(k) COUNCIL OF COUNCILS.—

"(1) ESTABLISHMENT.—The Director of NIH shall establish within the Office of the Director an advisory council to be known as the 'Council of Councils' (referred to in this subsection as the 'Council') for the purpose of advising the Director on matters related to the policies and activities of the Division of Program Coordination, Planning, and Strategic Initiatives, including making recommendations with respect to the conduct and support of research described in subsection (b)(7).

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Council shall be composed of 27 members selected by the Director of NIH with approval from the Secretary from among the list of nominees under subparagraph (C).

"(B) CERTAIN REQUIREMENTS.—In selecting the members of the Council, the Director of NIH shall ensure—

"(i) the representation of a broad range of disciplines and perspectives; and

"(ii) the ongoing inclusion of at least 1 representative from each national research institute whose budget is substantial relative to a majority of the other institutes.

"(C) NOMINATION.—The Director of NIH shall maintain an updated list of individuals who have been nominated to serve on the Council, which list shall consist of the following:

"(i) For each national research institute and national center, 3 individuals nominated by the head of such institute or center from among the members of the advisory council of the institute or center, of which—

"(I) two shall be scientists; and

"(II) one shall be from the general public or shall be a leader in the field of public policy, law, health policy, economics, or management.

"(ii) For each office within the Division of Program Coordination, Planning, and Strategic Initiatives, 1 individual nominated by the head of such office.

"(3) TERMS.—

"(A) IN GENERAL.—The term of service for a member of the Council shall be 6 years, except as provided in subparagraphs (B) and (C).

"(B) TERMS OF INITIAL APPOINTEES.—Of the initial members selected for the Council, the Director of NIH shall designate—

"(i) nine for a term of 6 years;

"(ii) nine for a term of 4 years; and

"(iii) nine for a term of 2 years.

"(C) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.".

(d) REVIEW BY ADVISORY COUNCILS OF RESEARCH PROPOSALS.—Section 492A(a)(2) of the Public Health Service Act (42 U.S.C. 289a-1(a)(2)) is amended by inserting before the period the following: ", and unless a majority of the voting members of the appropriate advisory council under section 406, or as applicable, of the advisory council under section 402(k), has recommended the proposal for approval".

(e) CONFORMING AMENDMENT.—Section 402(a) of the Public Health Service Act (42 U.S.C. 282(a)) is amended by striking "Director of the National Institutes of Health" and all that follows through "who shall" and inserting "Director of NIH who shall".

(f) RULE OF CONSTRUCTION REGARDING AUTHORITIES OF NATIONAL RESEARCH INSTITUTES AND NATIONAL CENTERS.—This Act and the amendments made by this Act may not be construed as affecting the authorities of the national research institutes and national centers that were in effect under the Public Health Service Act on the day before the date of the enactment of this Act, subject to the authorities of the Director of NIH under section 401 of the Public Health Service Act (as amended by section 2(a) of this Act). For purposes of the preceding sentence, the terms "national research institute", "national center", and "Director of NIH" have the meanings given such terms in such section 401.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDING.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by inserting after section 402 the following:

"SEC. 402A. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated—

"(1) $29,747,874,000 for fiscal year 2007;

"(2) $31,235,268,000 for fiscal year 2008; and

"(3) $32,797,032,000 for fiscal year 2009.

"(b) OFFICE OF THE DIRECTOR.—Of the amount authorized to be appropriated under subsection (a) for a fiscal year, there are authorized to be appropriated for programs and activities under this title carried out through the Office of the Director of NIH the following amount, as applicable to the fiscal year:

"(1) $1,000,000,000 for fiscal year 2007.

"(2) $1,050,000,000 for fiscal year 2008.

"(3) $1,102,500,000 for fiscal year 2009.

"(c) TRANS-NIH RESEARCH.—

"(1) COMMON FUND.—

"(A) ANNUAL RESERVATION OF AMOUNTS.—Of the total amount appropriated under subsection (a) for fiscal year 2007 or any subsequent fiscal year, the Director of NIH shall reserve the applicable amount under subparagraph (B) for allocations under section 402(b)(7)(B) (relating to research identified by the Division of Program Coordination, Planning, and Strategic Initiatives), which reservations shall constitute an account to be known as the Common Fund.

"(B) AMOUNT OF RESERVATION.—Subject to subparagraph (C), the amount reserved by the Director of NIH under subparagraph (A) for a fiscal year shall be the sum of—

"(i) the base amount determined under subparagraph (D); and

"(ii) any additional amount determined under subparagraph (E).

Amounts reserved under the preceding sentence shall remain available until expended.

"(C) MAXIMUM RESERVATION.—

"(i) IN GENERAL.—The amount reserved by the Director of NIH under subparagraph (A) for a fiscal year shall not exceed 5 percent of the total amount appropriated under subsection (a) for such fiscal year, subject to clause (ii).

"(ii) APPLICABILITY.—Clause (i) may not apply with respect to any fiscal year beginning after the submission of recommendations under subparagraph (F).

"(iii) PRESERVATION OF RESERVATION.—For any fiscal year following the first fiscal year for which the percentage that applies for purposes of clause (i) is 5 percent, the reservation under subparagraph (A) for the fiscal year involved may not be less than 5 percent of the total amount appropriated under subsection (a) for such fiscal year. For fiscal year 2008 and each subsequent fiscal year, the percentage constituted by the reservation under subparagraph (A) relative to the total amount appropriated under subsection (a) for the fiscal year involved may not be less than the percentage constituted by the reservation under such subparagraph for the preceding fiscal year relative to the total amount appropriated under subsection (a) for such preceding fiscal year.

"(D) BASE AMOUNT.—The base amount referred to in subparagraph (B)(i) for a fiscal year is—

"(i) for fiscal year 2007, the amount reserved by the Director of NIH for fiscal year 2006 for research described in section 402(b)(7)(A)(i); and

"(ii) for fiscal year 2008 and each subsequent fiscal year, the amount reserved under subparagraph (A) for the preceding fiscal year.

"(E) ADDITIONAL AMOUNT CORRESPONDING TO INCREASES IN APPROPRIATIONS.—The additional amount referred to in subparagraph (B)(ii) is 50 percent of the amount by which the total amount appropriated under subsection (a) for the fiscal year involved exceeds the total amount appropriated under such subsection for the preceding fiscal year, except that for any fiscal year beginning after the submission of recommendations under subparagraph (F), such percentage may be adjusted by the Director of NIH, and such percentage shall be adjusted by the Director to the extent necessary for compliance with subparagraph (C)(iii).

"(F) EVALUATION.—During the 6-month period following the end of the first fiscal year for which the amount reserved by the Director of NIH under subparagraph (A) is equal to 5 percent of the total amount appropriated under subsection (a) for such fiscal year, the Secretary, acting through the Director of NIH, in consultation with the advisory council established under section 402(k), shall submit recommendations to the Congress for changes to the amount of the reservation under subparagraph (A).

"(2) TRANS-NIH RESEARCH REPORTING.—

"(A) LIMITATION.—With respect to the total amount appropriated under subsection (a) for fiscal year 2008 or any subsequent fiscal year, if the head of a national research institute or national center fails to submit the report required by subparagraph (B) for the preceding fiscal year, the amount made available for the institute or center for the fiscal year involved may not exceed the amount made available for the institute or center for fiscal year 2006.

"(B) REPORTING.—Not later than January 1, 2008, and each January 1st thereafter—

"(i) the head of each national research institute or national center shall submit to the Director of NIH a report on the amount made available by the institute or center for conducting or supporting research that involves collaboration between the institute or center and 1 or more other national research institutes or national centers; and

"(ii) the Secretary shall submit a report to the Congress identifying the percentage of funds made available by each national research institute and national center with respect to such fiscal year for conducting or supporting research described in clause (i).

"(C) DETERMINATION.—For purposes of determining the amount or percentage of funds to be reported under subparagraph (B), any amounts made available to an institute or center under section 402(b)(7)(B) shall be included.

"(D) VERIFICATION OF AMOUNTS.—Upon receipt of each report submitted under subparagraph (B)(i), the Director of NIH shall review and verify the accuracy of the amounts specified in the report.

"(E) WAIVER.—At the request of any national research institute or national center, the Director of NIH may waive the application of this paragraph to such institute or center if the Director finds that the conduct or support of research described in subparagraph (B)(i) is inconsistent with the mission of such institute or center.

"(d) TRANSFER AUTHORITY.—Of the total amount appropriated under subsection (a) for a fiscal year, the Director of NIH may (in addition to the reservation under (c)(1) for such year) transfer not more than 1 percent for programs or activities that are authorized in this title and identified by the Director to receive funds pursuant to this subsection. In making such transfers, the Director may not decrease any appropriation account under subsection (a) by more than 1 percent.

"(e) RULE OF CONSTRUCTION.—This section may not be construed as affecting the authorities of the Director of NIH under section 401.".

(b) ELIMINATION OF OTHER AUTHORIZATIONS OF APPROPRIATIONS.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) by striking the first sentence of paragraph (5) of section 402(i) (as redesignated by section 3(b));

(2) by striking subsection (e) of section 403A;

(3) by striking subsection (c) of section 404B;

(4) by striking subsection (h) of section 404E;

(5) by striking subsection (d) of section 404F;

(6) by striking subsection (e) of section 404G;

(7) by striking subsection (d) of section 409A;

(8) in section 409B—

(A) in subsection (a), by striking "under subsection (e)" and inserting "to carry out this section"; and

(B) by striking subsection (e);

(9) by striking subsection (e) of section 409C;

(10) in section 409D—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d);

(11) by striking subsection (e) of section 409E;

(12) by striking subsection (c) of section 409F;

(13) in section 409H, by striking—

(A) paragraph (3) of subsection (a);

(B) paragraph (3) of subsection (b);

(C) paragraph (5) of subsection (c); and

(D) paragraph (4) of subsection (d);

(14) by striking subsection (d) of section 409I;

(15) by striking section 417B;

(16) by striking subsection (g) of section 417C;

(17) in section 417D, by striking—

(A) paragraph (3) of subsection (a); and

(B) paragraph (3) of subsection (b);

(18) by striking subsection (d) of section 424A;

(19) by striking subsection (c) of section 424B;

(20) by striking section 425;

(21) by striking subsection (d) of section 434A;

(22) by striking subsection (d) of section 441A;

(23) by striking subsection (c) of section 442A;

(24) in section 445H—

(A) by striking subsection (b); and

(B) in subsection (a), by striking “(a)”;

(25) by striking subsection (d) of section 445I;

(26) by striking section 445J;

(27) in section 447A—

(A) by striking subsection (b); and

(B) in subsection (a), by striking “(a)”;

(28) by striking subsection (d) of section 447B;

(29) by striking subsection (g) in section 452A;

(30) by striking paragraph (7) in section 452E(b);

(31) in section 452G—

(A) by striking subsection (b); and

(B) in subsection (a), by striking “(a) ENHANCED SUPPORT.—”;

(32) by striking subsection (d) of section 464H;

(33) by striking subsection (d) of section 464L;

(34) by striking paragraph (4) of section 464N(c);

(35) by striking subsection (e) of section 464P;

(36) by striking subsection (f) of section 464R;

(37) by striking subsection (d) of section 464z;

(38) in section 467—

(A) by striking the first sentence;

(B) by striking “for such buildings and facilities” and inserting “for suitable and adequate buildings and facilities for use of the Library”; and

(C) by striking “The amounts authorized to be appropriated by this section include” and inserting “Amounts appropriated to carry out this section may be used for”;

(39) by striking section 468;

(40) in section 481A—

(A) in the matter preceding subparagraph (A) of subsection (c)(2)—

(i) by striking the term “under subsection (i)(1)” and inserting “to carry out this section”; and

(ii) by striking “under such subsection” and inserting “to carry out this section”; and

(B) by striking subsection (i);

(41) in subsection (a) of section 481B, by striking “under section 481A(h)” and inserting “to carry out section 481A”;

(42) by striking subsection (c) in the section 481C that relates to general clinical research centers;

(43) by striking subsection (e) in section 485C;

(44) by striking subsection (l) in section 485E;

(45) by striking subsection (h) in section 485F;

(46) by striking subsection (e) in section 485G;

(47) by striking subsection (d) of section 487;

(48) by striking subsection (c) of section 487A; and

(49) by striking subsection (c) in the section 487F that relates to a loan repayment program regarding clinical researchers.

(c) RULE OF CONSTRUCTION REGARDING CONTINUATION OF PROGRAMS.—The amendment of a program by a provision of subsection (b) may not be construed as terminating the authority of the Federal agency involved to carry out the program.

SEC. 5. REPORTS.

(a) REPORT OF DIRECTOR OF NIH.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 4(a) of this Act, is amended—

(1) by redesignating section 403A as section 403C;

(2) in section 1710(a), by striking “section 403A” and inserting “section 403C”; and

(3) by striking section 403 and inserting the following sections:

“SEC. 402B. ELECTRONIC CODING OF GRANTS AND ACTIVITIES.

“The Secretary, acting through the Director of NIH, shall establish an electronic system to uniformly code research grants and activities of the Office of the Director and of all the national research institutes and national centers. The electronic system shall be searchable by a variety of codes, such as the type of research grant, the research entity managing the grant, and the public health area of interest. When permissible, the Secretary, acting through the Director of NIH, shall provide information on relevant literature and patents that are associated with research activities of the National Institutes of Health.

“SEC. 403. BIENNIAL REPORTS OF DIRECTOR OF NIH.

“(a) IN GENERAL.—The Director of NIH shall submit directly to the Congress on a biennial basis a report in accordance with this section. The first report shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006. Each such report shall include the following information:

“(1) An assessment of the state of biomedical and behavioral research.

“(2) A description of the activities conducted or supported by the agencies of the National Institutes of Health and policies respecting the programs of such agencies.

“(3) Classification and justification for the priorities established by the agencies, including a strategic plan and recommendations for future research initiatives to be carried out under section 402(b)(7) through the Division of Program Coordination, Planning, and Strategic Initiatives.

“(4) A catalog of all the research activities of the agencies, prepared in accordance with the following:

“(A) The catalog shall, for each such activity—

“(i) identify the agency or agencies involved;

“(ii) state whether the activity was carried out directly by the agencies or was supported by the agencies and describe to what extent the agency was involved; and

“(iii) identify whether the activity was carried out through a center of excellence.

“(B) In the case of clinical research, the catalog shall, as appropriate, identify study populations by demographic variables and other variables that contribute to research on health disparities.

“(C) Research activities listed in the catalog shall include the following:

“(i) Epidemiological studies and longitudinal studies.

“(ii) Disease registries, information clearinghouses, and other data systems.

“(iii) Public education and information campaigns.

“(iv) Training activities, including National Research Service Awards and a breakdown by demographic variables and other appropriate categories.

“(v) Clinical trials, including a breakdown of participation by study populations and demographic variables and such other information as may be necessary to demonstrate compliance with section 492B (regarding inclusion of women and minorities in clinical research).

“(vi) Translational research activities with other agencies of the Public Health Service.

“(5) A summary of the research activities throughout the agencies, which summary shall be organized by the following categories:

“(A) Cancer.

“(B) Neurosciences.

“(C) Life stages, human development, and rehabilitation.

“(D) Organ systems.

“(E) Autoimmune diseases.

“(F) Genomics.

“(G) Molecular biology and basic science.

“(H) Technology development.

“(I) Chronic diseases, including pain and palliative care.

“(J) Infectious diseases and bioterrorism.

“(K) Health disparities.

“(L) Such additional categories as the Director determines to be appropriate.

“(b) REQUIREMENT REGARDING DISEASE-SPECIFIC RESEARCH ACTIVITIES.—In a report under subsection (a), the Director of NIH, when reporting on research activities relating to a specific disease, disorder, or other adverse health condition, shall—

“(1) present information in a standardized format;

“(2) identify the actual dollar amounts obligated for such activities; and

“(3) include a plan for research on the specific disease, disorder, or other adverse health condition, including a statement of objectives regarding the research, the means for achieving the objectives, a date by which the objectives are expected to be achieved, and justifications for revisions to the plan.

“(c) ADDITIONAL REPORTS.—In addition to reports required by subsections (a) and (b), the Director of NIH may submit to the Congress such additional reports as the Director determines to be appropriate.

“SEC. 403A. ANNUAL REPORTING TO INCREASE INTERAGENCY COLLABORATION AND COORDINATION.

“(a) COLLABORATION WITH OTHER HHS AGENCIES.—On an annual basis, the Director of NIH shall submit to the Secretary a report on the activities of the National Institutes of Health involving collaboration with other agencies of the Department of Health and Human Services.

“(b) CLINICAL TRIALS.—Each calendar year, the Director of NIH shall submit to the Commissioner of Food and Drugs a report that identifies each clinical trial that is registered during such calendar year in the databank of information established under section 402(j).

"(c) HUMAN TISSUE SAMPLES.—On an annual basis, the Director of NIH shall submit to the Congress a report that describes how the National Institutes of Health and its agencies store and track human tissue samples.

"(d) FIRST REPORT.—The first report under subsections (a), (b), and (c) shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006.

"SEC. 403B. ANNUAL REPORTING TO PREVENT FRAUD AND ABUSE.

"(a) WHISTLEBLOWER COMPLAINTS.—

"(1) IN GENERAL.—On an annual basis, the Director of NIH shall submit to the Inspector General of the Department of Health and Human Services, the Secretary, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report summarizing the activities of the National Institutes of Health relating to whistleblower complaints.

"(2) CONTENTS.—For each whistleblower complaint pending during the year for which a report is submitted under this subsection, the report shall identify the following:

"(A) Each agency of the National Institutes of Health involved.

"(B) The status of the complaint.

"(C) The resolution of the complaint to date.

"(b) EXPERTS AND CONSULTANTS.—On an annual basis, the Director of NIH shall submit to the Inspector General of the Department of Health and Human Services, the Secretary, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report that—

"(1) identifies the number of experts and consultants, including any special consultants, whose services are obtained by the National Institutes of Health or its agencies;

"(2) specifies whether such services were obtained under section 207(f), section 402(d), or other authority;

"(3) describes the qualifications of such experts and consultants;

"(4) describes the need for hiring such experts and consultants; and

"(5) if such experts and consultants make financial disclosures to the National Institutes of Health or any of its agencies, specifies the income, gifts, assets, and liabilities so disclosed.

"(c) FIRST REPORT.—The first report under subsections (a) and (b) shall be submitted not later than 1 year after the date of the enactment of the National Institutes of Health Reform Act of 2006.".

(b) STRIKING OF OTHER REPORTING REQUIREMENTS FOR NIH.—

(1) PUBLIC HEALTH SERVICE ACT; TITLE IV.—Title IV of the Public Health Service Act, as amended by section 4(b) of this Act, is amended—

(A) in section 404E(b)—

(i) by amending paragraph (3) to read as follows:

"(3) COORDINATION OF CENTERS.—The Director of NIH shall, as appropriate, provide for the coordination of information among centers under paragraph (1) and ensure regular communication between such centers."; and

(ii) by striking subsection (f) and redesignating subsection (g) as subsection (f);

(B) in section 404F(b)(1), by striking subparagraphs (F) and (G);

(C) by striking section 407;

(D) in section 409C(b), by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively;

(E) in section 409E, by striking subsection (d);

(F) in section 417C, by striking subsection (f);

(G) in section 424B(a)—

(i) in paragraph (1), by adding "and" after the semicolon at the end;

(ii) in paragraph (2), by striking "; and" and inserting a period; and

(iii) by striking paragraph (3);

(H) in section 429, by striking subsections (c) and (d);

(I) in section 442, by striking subsection (j) and redesignating subsection (k) as subsection (j);

(J) in section 464D, by striking subsection (j);

(K) in section 464E, by striking subsection (e);

(L) in section 464T, by striking subsection (e);

(M) in section 481A, by striking subsection (h);

(N) in section 485E, by striking subsection (k);

(O) in section 485H—

(i) by striking "(a)" and all that follows through "The Secretary," and inserting "The Secretary,"; and

(ii) by striking subsection (b); and

(P) in section 494—

(i) by striking "(a) If the Secretary" and inserting "If the Secretary"; and

(ii) by striking subsection (b).

(2) PUBLIC HEALTH SERVICE ACT; OTHER PROVISIONS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(A) in section 399E, by striking subsection (e);

(B) in section 1122—

(i) by striking "(a) From the sums" and inserting "From the sums"; and

(ii) by striking subsections (b) and (c);

(C) by striking section 2301;

(D) in section 2354, by striking subsection (b) and redesignating subsection (c) as subsection (b);

(E) in section 2356, by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and

(F) in section 2359(b)—

(i) by striking paragraph (2);

(ii) by striking "(b) EVALUATION AND REPORT" and all that follows through "Not later than 5 years" and inserting "(b) EVALUATION.—Not later than 5 years";

(iii) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively; and

(iv) by moving each of paragraphs (1) through (3) (as so redesignated) 2 ems to the left.

(3) OTHER ACTS.—Provisions of Federal law are amended as follows:

(A) Section 7 of Public Law 97–414 is amended—

(i) in subsection (a)—

(I) in paragraph (2), by inserting "and" at the end;

(II0) in paragraph (3), by striking "; and" and inserting a period; and

(III) by striking paragraph (4); and

(ii) in subsection (b), by striking the last sentence of paragraph (3).

(B) Title III of Public Law 101–557 (42 U.S.C. 242q et seq.) is amended by striking section 304 and redesignating section 305 and 306 as sections 304 and 305, respectively.

(C) Section 4923 of Public Law 105–33 is amended by striking subsection (b).

(D) Public Law 106–310 is amended by striking section 105.

(E) Section 1004 of Public Law 106–310 is amended by striking subsection (d).

(F) Section 3633 of Public Law 106–310 (as amended by section 2502 of Public Law 107–273) is repealed.

(G) Public Law 106–525 is amended by striking section 105.

(H) Public Law 107–84 is amended by striking section 6.

(I) Public Law 108–427 is amended by striking section 3 and redesignating sections 4 and 5 as sections 3 and 4, respectively.

SEC. 6. CERTAIN DEMONSTRATION PROJECTS.

(a) BRIDGING THE SCIENCES.—

(1) IN GENERAL.—From amounts to be appropriated under section 402A(b) of the Public Health Service Act, the Secretary of Health and Human Services, acting through the Director of NIH, (in this subsection referred to as the "Secretary") in consultation with the Director of the National Science Foundation, the Secretary of Energy, and other agency heads when necessary, may allocate funds for the national research institutes and national centers to make grants for the purpose of improving the public health through demonstration projects for biomedical research at the interface between the biological, behavioral, and social sciences and the physical, chemical, mathematical, and computational sciences.

(2) GOALS, PRIORITIES, AND METHODS; INTERAGENCY COLLABORATION.—The Secretary shall establish goals, priorities, and methods of evaluation for research under paragraph (1), and shall provide for interagency collaboration with respect to such research. In developing such goals, priorities, and methods, the Secretary shall ensure that—

(A) the research reflects the vision of innovation and higher risk with long-term payoffs; and

(B) the research includes a wide spectrum of projects, funded at various levels, with varying timeframes.

(3) PEER REVIEW.—A grant may be made under paragraph (1) only if the application for the grant has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a) and has been reviewed by the advisory council under section 402(k) of such Act (as added by section 3(c) of this Act) or has been reviewed by an advisory council composed of representatives from appropriate scientific disciplines who can fully evaluate the applicant.

(b) HIGH-RISK, HIGH-REWARD RESEARCH.—

(1) IN GENERAL.—From amounts to be appropriated under section 402A(b) of the Public Health Service Act, the Director of NIH may allocate funds for the national research institutes and national centers to make awards of grants or contracts or to engage in other transactions for demonstration projects for high-impact, cutting-edge research that fosters scientific creativity and increases fundamental biological understanding leading to the prevention, diagnosis, and treatment of diseases and disorders. The head of a national research institute or national center may conduct or support such high-impact, cutting-edge research (with funds allocated under the preceding sentence or otherwise available for such purpose) if the institute or center gives notice to the Director of NIH beforehand and submits a report to the Director of NIH on an annual basis on the activities of the institute or center relating to such research.

(2) SPECIAL CONSIDERATION.—In carrying out the program under paragraph (1), the Director of NIH shall give special consideration

to coordinating activities with national research institutes whose budgets are substantial relative to a majority of the other institutes.

(3) ADMINISTRATION OF PROGRAM.—Activities relating to research described in paragraph (1) shall be designed by the Director of NIH or the head of a national research institute or national center, as applicable, to enable such research to be carried out with maximum flexibility and speed.

(4) PUBLIC-PRIVATE PARTNERSHIPS.—In providing for research described in paragraph (1), the Director of NIH or the head of a national research institute or national center, as applicable, shall seek to facilitate partnerships between public and private entities and shall coordinate with the Foundation for the National Institutes of Health.

(5) PEER REVIEW.—A grant for research described in paragraph (1) may be made only if the application for the grant has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a) and has been reviewed by the advisory council under section 402(k) of such Act (as added by section 3(c) of this Act).

(c) REPORT TO CONGRESS.—Not later than the end of fiscal year 2009, the Director of NIH shall conduct an evaluation of the activities under this section and submit a report to the Congress on the results of such evaluation.

(d) DEFINITIONS.—For purposes of this section, the terms "Director of NIH", "national research institute", and "national center" have the meanings given such term in section 401 of the Public Health Service Act.

SEC. 7. FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (D)(ii) to read as follows:

"(ii) Upon the appointment of the appointed members of the Board under clause (i)(II), the terms of service as members of the Board of the ex officio members of the Board described in clauses (i) and (ii) of subparagraph (B) shall terminate. The ex officio members of the Board described in clauses (iii) and (iv) of subparagraph (B) shall continue to serve as ex officio members of the Board."; and

(ii) in subparagraph (G), by inserting "appointed" after "that the number of";

(B) by amending paragraph (3)(B) to read as follows:

"(B) Any vacancy in the membership of the appointed members of the Board shall be filled in accordance with the bylaws of the Foundation established in accordance with paragraph (6), and shall not affect the power of the remaining appointed members to execute the duties of the Board."; and

(C) in paragraph (5), by inserting "appointed" after "majority of the";

(2) in subsection (j)—

(A) in paragraph (2), by striking "(d)(2)(B)(i)(II)" and inserting "(d)(6)";

(B) in paragraph (4)—

(i) in subparagraph (A), by inserting ", including an accounting of the use of amounts transferred under subsection (l)" before the period at the end; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available—

"(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge that shall not exceed the cost of providing the copy; and

"(ii) to the appropriate committees of Congress."; and

(C) in paragraph (10), by striking "of Health." and inserting "of Health and the National Institutes of Health may accept transfers of funds from the Foundation."; and

(3) by striking subsection (l) and inserting the following:

"(l) FUNDING.—From amounts appropriated to the National Institutes of Health, for each fiscal year, the Director of NIH shall transfer not less than $500,000 and not more than $1,250,000 to the Foundation.".

SEC. 8. APPLICABILITY.

This Act and the amendments made by this Act apply only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from California (Ms. ESHOO) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the matter under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is a big day for me, or I guess I should say a big evening for me. When I became chairman of the Energy and Commerce Committee 3 years ago, I asked the staff to do two things: number one, prepare a list of all of the major agencies and major pieces of legislation that were under the jurisdiction of the committee; and then, number two, to prepare a list of those agencies and those major bills that were not authorized.

I was extremely surprised to find out that the National Institutes of Health, which at that time we were doubling the budget of, had not been authorized in 10 years. I said that is a very, very important agency, and because there is tremendous bipartisan support for the NIH, let's make that the first agency that we bring up to speed and reauthorize and, if necessary, reform. I thought, quite frankly, that that effort might take 3 to 6 months.

Well, 3 years later, as one of the last acts of this Congress, we are bringing to the floor an NIH reauthorization bill. It is a bill that has been the result of tremendous cooperation in the stakeholder community and within this Congress, Mr. DINGELL and myself as leaders of the committee, and many, many Members on both sides of the aisle, rank and file Members in terms of input.

The bill has gone through three to four drafts. We had a very intense markup on this bill in committee last week, and the result is a work product that is before us.

Fifty-one stakeholder groups have endorsed the bill, and I will put the endorsement sheet into the record. I am not going to read all 51 out, but I do want to read some of them: the American Cancer Society, the American Heart Association, the American Physical Therapy Association, the Association of American Medical Colleges, the Association of America and Universities, the Christopher Reeve Foundation, the Federation of American Societies for Experimental Biology, the Friends of Cancer Research, the Juvenile Diabetes Research Foundation, the Lance Armstrong Foundation, the March of Dimes, the National Association of State Universities and Land Grant Colleges, the National Coalition for Cancer Research, and the Parkinson's Action Network are just a few of the national organizations that have endorsed or supported this legislation.

Why is NIH reauthorization important, beyond the mechanical aspect of trying to have funding that is authorized and is given full oversight? Well, I think when you talk about major pieces of legislation you tend to talk in abstract terms, but I want tonight to personalize it a little bit.

My brother, John Barton, died of liver cancer 6 years ago. At the time that he passed away, he was taking an experimental NIH drug that, had it worked, would have saved his life. We were told by his doctors there was an 80 percent chance it would really, really help him, but there was a 20 percent chance it would exacerbate the disease. We took that risk. He signed the protocol, took the medication and, obviously, in his case it didn't work. He is no longer with us, but that NIH research program later did make a significant breakthrough that is helping liver cancer patients today.

My father passed away 10 years ago from complications of diabetes. The NIH has invested and is investing tremendous resources in trying to find a way to combat the scourge of diabetes.

I had an aunt who passed away from breast cancer 16 years ago. As we all know, that is one of the priority areas for NIH research.

I myself had a heart attack last December 15th, but I was able to be successfully treated because of NIH research that has created what we now call these coated stents. I have a number of these stents in my heart; and, because of prior NIH research, I am able to give this floor speech.

□ 2030

So when I talk about the need to reauthorize and reform the NIH, I am talking in an academic sense, but I am also talking very personal. It helps my family. It helps every American's family sense.

The bill before us would authorize the NIH for 13 years. It would freeze the number of existing institutes, there are 27, at 27. It would set up an internal time line controlled by the scientists and the administrators at NIH to review their internal organizations. If they want to make some changes, they can. They have to report to the Congress what those changes are.

For the first time, it would set up a common reporting system so that we know all the research that is being done at NIH and give the public an opportunity to track that research. It would set up for the first time a common fund which, over time, we would put sufficient funds in so that you could have peer-reviewed grants across the NIH structure so that the scientists in one institute that were working on, let's say, lung cancer in the Cancer Institute might work with people in the Lung Institute might work with the people at the Institute of Applied Biology. So they would all come together, and they would share their research on a merit-based research grant project.

It sets up a formal reporting system with NIH and again requires that those reports be standardized in a format that the public can easily understand and easily have access to. It gives the director of NIH some discretionary funding in which he can apply towards specific projects that he thinks are high-priority areas.

The bill before us sets up and maintains the merit-based peer review program that is already in existence at NIH, but it creates a reporting system, an accounting system of transparency that allows the public to see what is going on, and through the creation of this common fund actually gives the ability on a merit-based, peer-reviewed process to put the research dollars where they will do the most good and have the biggest impact.

So I think this is a very, very important piece of legislation. I consider it the signal achievement of the Energy and Commerce Committee in this Congress. I hope that, if we pass it this evening, that we can get the other body to take it up very quickly and also pass it over there. It will really, really help the NIH maintain its status as one of the crown jewels of the Federal Government.

I do want to thank Ranking Member DINGELL for his cooperation and his staff. John Ford of his staff has worked very, very hard working with the majority staff. Katherine Martin has worked on the majority side. And from the leadership side, Cheryl Jeager has worked very, very hard. We could not have done it at the Member level if it had not have been for the hard work at the staff level.

Again, I am very proud of this piece of legislation. I hope everybody in the body votes for it this evening.

SUPPORT FOR NIH REAUTHORIZATION

American Association for Cancer Research
American Cancer Society
American Heart Association
American Physical Therapy Association
American Society of Clinical Oncology
American Society for Microbiology
American Society for Therapeutic Radiology and Oncology
American Stroke Association
Association of American Medical Colleges (AAMC)
Association of American Universities (AAU)
American Urological Association
Autism One
Autism Society of America
Autism Speaks
California Healthcare Institute
Cancer Research and Prevention Foundation
Christopher Reeve Foundation
Coalition of Cancer Cooperatives Groups
C3: Colorectal Cancer Coalition
Community Oncology Alliance
COSAC
Cure Autism Now Foundation
Federations of American Societies for Experimental Biology (FASEB)
First Signs
Friends of Cancer Research
Generation Rescue
Intercultural Cancer Council Caucus
International Foundation for Anticancer Drug Discovery
International Myeloma Foundation
Juvenile Diabetes Research Foundation
Kidney Care Partners
Lance Armstrong Foundation
Lung Cancer Alliance
March of Dimes
Men's Health Network
National Alliance for Eye and Vision Research
National Association of State Universities and Land-Grant Colleges (NASULGC)
National Autism Association
National Coalition for Cancer Research
National Prostate Cancer Coalition
Oncology Nursing Society
Organization for Autism Research
Pancreatic Cancer Action Network
Parkinson's Action Network (PAN)
Society of Gynecologic Oncologists
Southwest Autism Research & Resource Center
The Deirdre Imus Environmental Center for Pediatric Oncology
Translating Research Across Communities (TRAC)
Unlocking Autism
University of California System
US Autism and Asperger Association

Madam Speaker, I reserve the balance of my time.

Ms. ESHOO. I yield myself such time as I might consume.

Madam Speaker, I want to start off by saluting Chairman BARTON. This is a great achievement for the chairman and for the country. JOE, you did everything for the right reasons; and you did it the right way with everyone.

This jurisdiction of NIH, which I very affectionately call the National Institutes of Hope, is really a crown jewel in the jurisdiction of the Energy and Commerce Committee. But it has been 13 years, I believe, since there has been a reauthorization; and it is extraordinary that a bill of such import has been brought to the floor and will receive the support, I think almost unanimously, of Members in the House of Representatives. And that is a tribute to you of how you have done this and how much you have cared about it.

There is the letters of endorsement from, it is really one of the greatest honor rolls of endorsers and stakeholders in the country, and the chairman made reference to them. So, to Chairman BARTON, congratulations, job well done, something really important for the people of our country.

We are considering this bill. It is the National Institutes of Health Reform Act of 2006, H.R. 6164. It is a very important piece of legislation that will reauthorize our foremost medical research center and the Federal focal point for medical research in our Nation.

The goal of the NIH is to acquire new knowledge to help prevent, to detect, to diagnose and to treat diseases and disabilities from the rarest genetic disorder to the common cold. The American people look to the NIH. They trust the NIH. They want us to make investments in it, because it does represent hope for the future.

The NIH conducts research in its own laboratories. It supports research of non-Federal scientists in universities. And I am proud that Stanford Medical School, under the great leadership of Dr. Phil Pizzo, is one of the supporters of this legislation. It supports medical schools, hospitals, and research institutions throughout the country and abroad. I think many people don't realize that, that there is a portion of this that takes place abroad. And it helps in the training of research investigators, and it fosters communication of medical health and health sciences information.

This Act is going to help to ensure the continued success of the NIH. There are many, many commendable provisions of this bill. The establishment of the common fund should serve to stimulate trans-NIH research in areas of emerging scientific opportunities, rising public health challenges, or knowledge gaps that deserve special attention and are going to benefit from additional research that involves collaboration between two or more institutes or centers.

Another significant provision of the legislation is the creation of an infrastructure to evaluate and report on the NIH research portfolio. It is very, very important, very difficult to go through and to document the contributions of the NIH in key areas, and this is going to provide for that.

The bill contains many admirable goals and provisions that are going to help NIH in its long-term battle to overcome human disease and disability.

What the bill does not address, and some Members raised this at the committee, is the issue of funding. Some of us think there could be more funding, that there is insufficient funding. This really is the largest problem facing the NIH today. After years of significant funding increases for NIH, this Congress has effectively chosen to flat-fund the agency. After adjusting for inflation, this could turn out to actually be a funding cut.

In an effort to address this problem, Representative MARKEY offered an amendment during our full committee markup last week. His amendment sought to ensure that this Congress provided a real 5 percent increase in funding for NIH, not one that could be diminished by inflation. But the amendment did not pass. It was defeated along a party line vote.

A significant increase in the number of grant applications combined with a frozen level of congressional funding has really taken its toll on the NIH. That is why some of us thought that it was very important to act and to provide more resources to ensure that NIH's funding levels don't fall any lower.

Despite the fact that this bill offers no assurances of what I just described, it is still a good bill, it is a solid bill, it makes progress, and I will support its passage, and I urge my colleagues to do that.

I also want to acknowledge the work of the Energy and Commerce Committee staff. Again, John Ford, who is a hero of so many of ours on the Democratic staff, Katherine Martin of the Republican staff, as well as Cheryl Jeager of Mr. BLUNT's staff, as well as my chief of staff, Jason Mahler. They all have had an important hand in this. We are all grateful to them.

Madam Speaker, I reserve the balance of our time.

The SPEAKER pro tempore. Without objection, the gentleman from Texas will control the time.

There was no objection.

Mr. BURGESS. Madam Speaker, it is now my pleasure to yield 3 minutes to the chairman of the Health Subcommittee, the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Madam Speaker, I would, as I rise in support of this legislation, first of all express appreciation to Chairman BARTON, who has previously spoken. Without his determination and hard work, we wouldn't be here tonight. It has been 3 long years, but he stuck by the issue, and I think the legislation that is here will be a great improvement. It will help improve research, the outcomes at NIH, by enhancing the agency's transparency by its reporting and its strategic planning for medical research.

During the 3-year development period, the Committee on Energy and Commerce and its Subcommittee on Health has held 11 hearings, had numerous interviews with NIH Institute and Center Directors, conducted consultations with NIH Director Zerhouni and Former NIH Director Harold Varmus, worked closely with experts in the area of public-sector organizational theory and design, piloted town-hall-style meetings with stakeholders, and the development of legislation to reauthorize programs of the NIH have been reached through a fully bipartisan process.

This is indeed a good day, and the National Institute of Health Reform Act I think is long overdue. That was reflected by the overwhelming vote in the committee of 42-1 as we passed this legislation out.

I would like to also join Chairman BARTON as he thanked the staff, and they have done tremendous work: Cheryl Jeager, Katherine Martin, and John Ford. They have worked long hours, and tonight we see the results of their efforts.

I hope, too, that as we pass this tonight that we will also be able to see our companion body do the same and that we will have this legislation on the President's desk by the end of this year and before the conclusion of this Congress. I urge my colleagues to join me in supporting this bill.

Ms. ESHOO. At this time I would like to yield 3 minutes to my wonderful colleague from California, Representative LOIS CAPPS, an extraordinary member of the committee and a great supporter of the NIH.

Mrs. CAPPS. Madam Speaker, I rise to also support this bill and hope that the initiatives taken in this legislation will enable the National Institutes of Health to best carry out its mission and achieve groundbreaking scientific discoveries.

Sometimes when constituents ask me what good is this place where I work, this Federal Government, I tell them just look out at Bethesda, Maryland, where the National Institutes of Health work every day, hard every day to achieve miracles that translate into lives changed in this country on a daily basis.

I also want to thank Chairman BARTON for his great efforts on this bill. He has been working tirelessly to see that this reauthorization actually did happen, and he did it in a bipartisan manner. As he demonstrated at this meeting, he added his own personal motivation for doing it, which, quite frankly, we could see more of in this House.

At the same time, we have missed some great opportunities, and I will mention two, one of which has been mentioned already by my colleague.

First, we are not providing the NIH with enough funds to carry out the amazing work that they do and that we ask them to do. The yearly increases to the NIH budget provided in this bill will probably not even keep up with inflation, especially following these last years of flat-funding the NIH.

But, in addition, during the Energy and Commerce Committee markup on the NIH Reform Act, Mr. WAXMAN and I introduced an amendment to include the language of H.R. 2231, the Breast Cancer and Environmental Research Act, which is authored by Congresswoman LOWEY. Although as Chairman BARTON pointed out during the markup, the bill's goal is to focus on structure and organization within the NIH, and I understand this, we felt that this amendment was a necessary vehicle to move legislation that has 255 bipartisan cosponsors.

The Breast Cancer and Environmental Research Act would direct the development and coordination of activities at the NIH to study the effects of the environment on the development of breast cancer. With National Breast Cancer Awareness Month upon us, let us do something really tangible to really combat the disease, instead of simply issuing proclamations or wearing ribbons. While those acts are very important, it is only through well-coordinated research that we will actually achieve our goal of eradicating this devastating disease.

The Breast Cancer Environmental Research Act fits perfectly into the new initiatives of the NIH Reform Act, considering the emphasis this bill places on trans-Institute research, transparency, and efficiency. We have very little time left in this Congress to pass legislation, and here was an opportunity to attach a related bill that enjoys wide support, but the majority said no to this opportunity.

□ 2045

So now that the NIH reauthorization has been completed in the House, I urge my colleagues to press for passage of the Breast Cancer and Environmental Research Act so we can make real a Federal commitment to an overall national strategy needed to discover the environmental correlations with breast cancer. It is time to take some real action to prevent, treat and cure this disease.

Mr. BURGESS. Madam Speaker, I yield myself such time as I may consume.

I would like to read a letter from Leo T. Furcht, M.D. who is the president of the Federation of American Societies for Experimental Biology. In his letter to Chairman BARTON Dr. Furcht wrote: "We thank you for your leadership in protecting the National Institutes of Health from disease-specific funding set-asides. From the FASEB perspective, directed research initiatives fail to recognize several principles inherent to the nature of medical research. Thus, we doubly appreciate your legislation's emphasis on investigator initiated competitive research."

Madam Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY), an esteemed psychologist.

Mr. MURPHY. Madam Speaker, I want to commend Chairman BARTON for working so hard on moving this vitally important bill, and I am grateful for the opportunity to work with him and include in the committee report recognition of the positive impact NIH can have on patient safety by collaborating on research across institutes and centers.

It is extremely important to all of us that the 27 institutes work together. This is why the Common Fund in this legislation, where institutes will collaborate on their research efforts, is so important.

Many times the research which grabs the headlines spells out new discoveries on the molecular or cellular or genetic levels, new discoveries of pharmaceutical treatments or dynamic discoveries of the causes and treatment of disease. But equally important to these laboratory results are the applications across disciplines. The Common Fund allows such collaborations.

We now know so much more about the cause and treatment of cancer, but we also have much to learn about how depression can exacerbate cancer and can double the cost of treatment.

Collaborating on research to improve patient safety will garner tremendous knowledge to improve the quality of care at the NIH as we work toward our Nation's next discovery.

Improving the reporting of research between the agencies of NIH can lead to a series of best practices to reduce the 90,000 American deaths caused from preventable infections acquired at health care facilities each year which contributes to $50 billion in unnecessary medical expenses. These efforts could also help to reduce the 195,000 preventable annual deaths due to medical errors.

Finally, I commend also the administration for virtually doubling the investment in NIH over the last few years. It is vitally important, and it is a great example to continue on. But this was also a time we had to reform some things in the agencies within NIH. This is an important bill, and I call upon my colleagues to support it enthusiastically. It will save more lives and more money.

Ms. ESHOO. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RUSH), our colleague on the Energy and Commerce Committee.

Mr. RUSH. Madam Speaker, I thank the gentlewoman for yielding this time to me.

I rise in support of this important bill to reauthorize the National Institutes of Health, and I want to thank both Chairman BARTON and his committee staff and also the ranking member, Mr. DINGELL, for working with me and my staff to accommodate my objectives and address the enduring problem of racial disparities in medical research and health care.

As I said during the Energy and Commerce Committee markup, politics is the art of the doable, the art of the possible. With regard to racial health disparities, this bill reflects a thoroughly negotiated compromise, and it does four outstanding and exemplary things.

First, it mandates that the director of NIH assemble all relevant information and data on health disparities research at the institutes in his critical role as portfolio manager.

Secondly, the bill includes reporting requirements on specific demographic information for its training activities at NIH. This addresses our deep-seated desire to determine the number and percentages of people of color as researchers at NIH.

Third, the bill designates health disparities as one of the 10 major categories subject to the summary reporting requirements by which NIH must now abide.

Fourth, it strengthens the mandate to verify that clinical trials are diverse and inclusive of women and people of color.

Madam Speaker, while I don't think this bill is a perfect bill, and many of us would have preferred a more aggressive agenda to tackle health disparities, these four provisions are significant, and they are worthy of support.

Let me close the same way I concluded my remarks in the Energy and Commerce Committee. I emphasized that the bill before us, the NIH Reform Act of 2006, is indeed just the beginning and not the end. Not only do I believe we can do more to compel NIH to aggressively address racial disparities in medical research, but we can do more to address racial disparities in all aspects of health care. And while I appreciate this bill's efforts to partly address this enduring injustice, and I know that the chairman and the ranking member worked hard to accommodate my concerns, along with the concerns of my colleagues on the Energy and Commerce Committee, I hope we will continue to work on this problem in a bipartisan manner that achieves lasting results.

Mr. BURGESS. Madam Speaker, it is my great pleasure to yield 2 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Madam Speaker, I rise today to echo the strong support for H.R. 6164. I want to thank Chairman BARTON and my colleagues on the other side of the aisle, Chairman DEAL, committee staff, everybody who put so much of their heart and soul into this bill, including my legislative assistant, Kelly Childress, who spent hours helping us put some of the provisions in this bill and the bill that was just before us.

This legislation does a lot of great things. The chairman of the committee stated why the NIH is our crown jewel. This bill does something very, very important. It is going to get more money to the people doing the research who come up with the solutions for so many ailments in this country. No other nation in the world has this kind of intellectual power in one place working to solve some of our most challenging health care problems. This bill accomplishes great things to that end.

I want to highlight one thing, if I may, a provision that for the first time addresses pain and palliative care. It is long overdue, but it is here. Fifty million Americans are either partially or completely disabled because of acute or chronic pain, and for the first time we elevate it in the eyes of NIH so they can study it. I always say lend me your EAR: Education, Access and Research can happen now because of this bill and because of the work of this House in a bipartisan way to reach out to 50 million Americans who suffer from pain, for people who suffer cancer and diabetes and arthritis and HIV-AIDS. The list is long. This House gives them hope tonight.

I want to say thank you to all who have put so much in it. This will make a difference in Americans' lives for now and in the future. I commend everybody who had a piece of it.

Ms. ESHOO. Madam Speaker, I am pleased to yield 4½ minutes to one of the most respected members of the Energy and Commerce Committee, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Speaker, I thank the gentlewoman, and I thank her for her excellent work on this legislation. And I thank the Members of the majority for their work on this legislation as well.

But I come to the floor in order to identify the single most glaring deficiency in the legislation. This is a promise of a 5 percent increase in the NIH budget each year. But the reality is that this 5 percent is an imaginary 5 percent because this 5 percent does not account for the reality of health care inflation.

On an average year, health care inflation is 3 to 4 percent. In some years it is 5 to 10 percent, meaning that a 5 percent increase is actually in some years an actual reduction in the amount of money which can be used for health care research.

In fact, what we have seen over the last 3 years is that while the Republicans have flatlined the NIH budget, it has actually lost 11 percent of its purchasing power in new research that targets the diseases which affect American families. Research is medicine's field of dreams from which we harvest the findings that give hope to American families, the clues that can unlock the diseases which they fear will affect their family, and there is no family that doesn't have some disease that they believe runs through their family's history. It could be Alzheimer's, Parkinson's, heart disease, cancer, diabetes, you name it; but it goes right down to some diseases that have very small numbers of Americans that are affected, like cystic fibrosis, which might only have 30,000 Americans.

What happens in a situation like this is because of the huge tax cuts which the Republicans have pushed through Congress year after year, we are incapable here in Congress of then gaining their support in order to increase above inflation by 5 percent the NIH budget.

And so who do we quote on a subject like this? Who do we quote on the subject of inflation and the impact that it has on American families? Who has been the single most articulate American on the subject of inflation in our lifetime? That person is Ronald Reagan. This is what Ronald Reagan said about inflation. He said: "Inflation is as violent as a mugger, as frightening as an armed robber, and as deadly as a hit man."

Mr. Speaker, we don't want the NIH research budget to be robbed by inflation. That is what is happening. It has happened since 2003. It is going to continue. Between 12 and 16 million American baby boomers are going to contract Alzheimer's. There is a belief that if we could make a breakthrough in Alzheimer's, we could delay its onset by 7 years, saving at least 50 to $60 billion because they won't need care during those years.

This is without question in my opinion the most important budget that comes through Congress because this is, more than terrorism, the one issue that puts the fear of God in the hearts of every family. It is that one of these diseases will come into one of their family members.

My belief is that there has been a series of choices made in the last 6 years to have these massive tax cuts that makes it impossible for us to give a cost-of-living increase on top of inflation. It is wrong, and I believe that this bill, as good as it is in so many places, is deficient in the one central area which is central.

□ 2100

Mr. BURGESS. Madam Speaker, I would remind the gentleman that President Reagan was no fan of high taxes, and I would also remind this body that the Republicans in this body have been responsible for the largest increase in NIH funding in America's history, period, end of discussion; except to add that Chairman BARTON was a leader in that regard.

Madam Speaker, I reserve the balance of my time.

Ms. ESHOO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURGESS. Madam Speaker, I yield myself the balance of my time.

I want to add to the list that Chairman BARTON read about individuals and groups that support this NIH reauthorization: the American Society of Clinical Oncology, the Autism Society of America, the Colorectal Cancer Coalition, the Men's Health Network, the Society for Gynecologic Oncologists, and the Deirdre Imus Environmental Center for Pediatric Oncology. Truly a diverse group that supports this legislation.

Madam Speaker, last week, many of us had constituents from our districts come through our offices who were cancer survivors, and the question always comes up, and Mr. MARKEY asked it tonight, are we doing enough? Well, another question that we could ask, and we should ask, is do we know what we have already done?

Let me quote, Madam Speaker: "This year, for the first time in history," for the first time in history, "the absolute number of cancer deaths in the United States has decreased. We now have 10 million cancer survivors. We can detect and treat cancer at earlier stages. Targeted therapies have emerged, using specific molecular targeting to treat tumors with new agents."

This quote was from Elias Zerhouni as he addressed our committee.

Madam Speaker, let me just add that, thanks to the tools and technologies developed by the Human Genome Project at the National Institutes of Health, changes in the genetic blueprints that are associated with all types of cancer are now known. A new generation of targeted diagnostics, therapeutics, and preventatives for all cancers will pave the way for more personalized cancer medicine.

What does this mean? It means that we are well on our way to a time when, should a person be diagnosed with cancer, their physician will be able to say whether or not certain therapeutics are appropriate. Think of the dollars that that will save. Not everyone who receives a diagnosis has to go through the same treatment. There are some genetic makeups that will be helped; there are some that will not be helped. Let us target our therapy where it does the most good. We are clearly moving in the right direction in this regard.

We heard the chairman, we heard people from the other side describe the National Institutes of Health as the crown jewel of the Federal Government. I believe that is correct, and we should all be proud of the organization's dedication to improving the health of Americans and mankind.

The bill before the full House tonight improves on that commitment by providing sustainable funding increases for medical research, granting the NIH Director more authority and increasing accountability, and it creates the Common Fund to put dollars toward trans-NIH research activities. These trans-NIH research initiatives will make historic breakthroughs in medical research.

Already, the National Cancer Institute and the National Human Genome Research Institute are collaborating on the Cancer Genome Atlas. This project will develop a useful atlas of the changes that occur in the human genetic blueprint associated with all types of cancers. This project will give medical professionals a new generation of targeted diagnostics, therapies and preventative services to treat a host of different cancers.

We are, indeed, Mr. Speaker, moving in the right direction. We are, indeed, doing good work for the American people with the reauthorization of this bill, and this bill maintains that important momentum. Be it a cure for cancer or greater understanding of the human genome or advances in heart disease, an avian flu vaccine, the National Institutes of Health has a proven record of innovation.

Mr. Speaker, this is a good bill. By increasing the authorized level by 5 percent, Chairman BARTON and Chairman DEAL have produced a bipartisan approach to capitalizing on the gains made by the NIH over the past several years.

Vote for your constituents and the future of medical care by voting in favor of H.R. 6164.

FEDERATION OF AMERICAN
SOCIETIES FOR EXPERIMENTAL BIOLOGY,
Bethesda, MD, September 26, 2006.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON: Please accept my thanks again for the opportunity to testify in support of your NIH reauthorization legislation on behalf of the Federation of American Societies for Experimental Biology (FASEB), The biomedical research community continues to support your vision for our nation's premier medical research agency.

I fully appreciate that one of the fundamental questions faced by your committee in producing this legislation was how to balance the responsibility of setting priorities for funding within NIH. FASEB strongly concurs with your view, as delineated in the reauthorization bill, that Congress continue to set overall funding levels for Institutes, Centers and the Common Fund, but that the selection of specific research areas to be funded remains principally the responsibility of NIH, through merit-based peer review. We believe that the NIH has the fullest understanding of not only the human and economic costs of a disease, but also of the scientific challenges and current opportunities that exist in specific areas and more broadly in biomedical research. Moreover, FASEB feels this role will only be strengthened by the portfolio management provisions of the NIH Reform Act.

We thank you for your leadership in protecting NIH from disease-specific funding set asides. From the FASEB perspective, directed research initiatives fail to recognize several principles inherent to the nature of medical research. Basic research, recognized universally as the foundation of most advances in disease-specific research, will inevitably suffer in a politically based system of allocating scarce dollars. Thus, we doubly appreciate your legislation's emphasis on investigator-initiated competitive research.

"Furthermore, earmarking by disease is not necessarily the way to produce breakthroughs in a particular area, since research in one area often produces unpredictable results that find specific use in another. There are numerous examples of the "serendipity of science" and there will be many more in the future. Disease specific funding runs counter to this well observed phenomenon.

In conclusion, FASEB reiterates its support for the NIH Reform Act of 2006. It is a tremendously successful balance that both improves upon the current system and preserves those aspects that have allowed NIH to achieve its global preeminence in medical research.

Sincerely,

LEO T. FURCHT,
FASEB President.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 6164, the "National Institutes of Health Reform Act of 2006". Despite certain shortcomings, this is an important piece of legislation that contains many significant and commendable goals.

I want to congratulate Chairman BARTON on crafting and moving the first National Institutes of Health (NIH) reauthorization bill in 13 years and I thank him for reaching out to stakeholders and colleagues on both sides of the aisle. In view of the numerous stakeholder endorsements of this bill, it appears that a careful balance has been struck in many of the bill's provisions.

The bill is based on several recommendations of the Institute of Medicine report, "Enhancing the Vitality of the National Institutes of Health." I hope that the provisions on greater accountability and transparency will help NIH use its resources in the most effective, efficient, and equitable manner possible.

The greatest problem this Congress has created for NIH, however, is tight funding. After years of significant funding increases for NIH in its fight against disease, this Congress has effectively chosen to provide flat funding for NIH. After adjusting for inflation, this actually is a funding cut.

Further compromising NIH's funding stream is the House budget resolution, passed on a partisan basis, that has resulted in a budget allocation for the House Labor-HHS Appropriations Subcommittee that virtually guarantees the flat funding of programs in its jurisdiction, including NIH. Tax cuts for the wealthy have a higher priority than domestic programs such as education or preventing and curing diseases.

A vast increase in the number of grant applications coupled with a frozen level of funding has forced NIH into a fiscal crisis. This year, the NIH budget decreased for the first time in over 30 years. President Bush has asked that we keep NIH's funding at the same level as FY 2007, but doing so would demonstrate a lack of commitment to the goals and ideals of NIH.

We are voting today on a bill that purports to authorize a 5 percent increase in the NIH budget over each of the next 3 years. This is too small. And when the Congressional Budget Office scores this bill, it will score it as costing nothing. That is because it merely authorizes appropriations, and there is no reason to believe that there will be any increase this year, no matter what we do today.

But despite the shortcoming in authorization levels, the bill contains many useful reforms, and has the overwhelming support of those organizations in the front lines of the fight against disease. I urge my colleagues to support it.

Mr. LANTOS. Mr. Speaker, tonight's debate on the National Institutes of Health Reform Act of 2006 is extremely important to the well-being of our Nation. The National Institutes of Health (NIH) is the world's greatest medical research center with its 27 separate institutes and centers. The lives of millions of Americans are directly impacted by the work of NIH helping prevent, detect, diagnose, and treat disease and disability. Medical research conducted by NIH has a proven record and with our support NIH will provide medical miracles for tomorrow.

I am pleased that the University of California, San Francisco (UCSF), in my congressional district is a leader in providing biomedical research, educating health care professionals and providing patient care. Its medical research developed gene-splicing techniques that have revolutionized biology and opened the biotechnology industry to save lives. NIH provides essential funding for USCF's promising research to treat AIDS, cancer, and diabetes and leading the way in stem cell biology.

Mr. Speaker, this bill aims to restructure NIH and reauthorize the agency for the first time since 1993. Among its provisions are a 5 percent increase in the budget for fiscal years 2007–09, and the creation of a common fund that would finance research projects that involve multiple institutes or centers at NIH.

NIH is a beacon of hope for millions suffering from everything from the common cold to cancer, and we cannot fail in our commitment or turn our backs on those most in need of benefits of vital research.

One of the beneficiaries is my granddaughter, Charity. As many of you know, she has been diagnosed with Pulmonary Hypertension (PH), a chronic and progressive disease. Unlike systemic hypertension or "high blood pressure", PH is typically fatal. The blood vessel walls that make up the pulmonary artery and supply the lungs get thicker and often constrict. Reducing the capacity of the blood vessels makes them unable to carry sufficient blood to the lungs. This causes pressure to build up within the heart, which works harder to pump blood. Eventually, it cannot keep up, and there is less blood circulating through the lungs to pick up necessary oxygen. While PH is characterized as a disease of the lungs, patients ultimately die of heart failure.

This is why I joined with my dear friend, Congressman KEVIN BRADY of Texas, in introducing H.R. 3005, the Pulmonary Hypertension Research Act of 2005. This bipartisan legislation is cosponsored by almost 250 Members of Congress. Mr. BRADY and I have worked very hard for the passage of this bill. Senators MIKULSKI and CORNYN have introduced a companion bill in the Senate. Its bipartisan, bicameral support highlights this body's concern for PH patients.

The Pulmonary Hypertension Research Act requires the Director of the National Heart, Lung, and Blood Institute to expand the activities of the Institute with respect to research on Pulmonary Hypertension. Furthermore, it calls for the creation of centers of excellence to conduct research on PH, including basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of the disease. The bill also establishes a data system for the collection of data derived from patient populations with Pulmonary Hypertension and an information clearinghouse to facilitate the understanding of PH by health professionals, patients, industry, and the public.

It is my hope, Chairman BARTON, that there will be report language in the NIH reauthorization bill that directly addresses the looming specter of Pulmonary Hypertension. We need to deal with this disease during the 109th Congress and not put off our duty until next year.

NIH, impressively led by Dr. Elias Zerhouni, and the National Heart, Lung and Blood Institute, NHLBI, under the outstanding leadership of Dr. Elizabeth Nabel, are doing their utmost to tackle this issue that is so personal to me. They also are working on thousands of other diseases, which attack both large and small populations, to ensure the well being of our Nation's most vulnerable.

I particularly would like to thank Dr. Mark Gladwin at NHLBI for his tireless efforts and unbreakable optimism as Chief of the Vascular Medicine Branch. He has been an incredible example of the selfless efforts of so many thousands of investigators throughout the many branches of NIH whose sole purpose is to find a cure. They set their sights on the cure for HIV/AIDS, breast cancer, or Pulmonary Hypertension and they do not waiver from their cause.

Mr. Speaker, I urge my colleagues to join me in supporting NIH. NIH needs our support. We cannot hamper scientific progress. The lives of millions of Americans depend upon this critical Institute.

Mr. VAN HOLLEN. Mr. Speaker, I rise to today to express my strong support for H.R. 6164, the National Institutes of Health Reform Act of 2006.

I commend the Energy and Commerce Committee for bringing a bipartisan bill to this floor. It is long overdue for Congress to reauthorize the NIH—the last NIH authorization was 13 years ago. This bill authorizes 5 percent increases in funding for the NIH annually through FY 2009. In addition, it will increase the effectiveness of research efforts by reducing repetitive research and maximize strategic coordination and planning. This reauthorization will improve the transparency of research activities, accountability of research dollars and coordination of research efforts at the NIH. The reforms that are proposed in this bill will allow the NIH to continue to achieve groundbreaking scientific discoveries that will benefit millions of Americans.

While this NIH reauthorization bill provides for increased funding for each fiscal year, I am extremely disappointed that Congress has not recently followed suit the last few years. After successfully doubling the NIH budget over 5 years in a bipartisan manner that ended in 2003, funding for the NIH since 2004 has failed to keep up with inflation. And funding was cut in actual dollar terms for the first time in 36 years in 2006 by $62 million. For 2007, the President and the Republican congressional leadership have proposed a freeze in

NIH funding. In addition, all 19 Institutes would receive less funding in the House version of the FY 2007 Labor-HHS-Education Appropriations bill. This is going in the wrong direction.

If Congress does not provide annual funding increases for the NIH, the reforms undertaken in the NIH Reauthorization bill will be less meaningful because we will not be able to provide the NIH and scientists the resources to discover new breakthroughs in biomedical research. Those discoveries, in turn, will lead to better ways of diagnosing and treating many diseases.

I am very proud of the fact that the National Institutes of Health has its home in my congressional district. We also have a flourishing biomedical research industry—with the help of the NIH—that is on the threshold of many new discoveries and many new cures. We have the potential for breakthroughs in so many areas. While I support the National Institutes of Health Reform Act of 2006, Congress must adequately fund the NIH at the level it deserves. Now is not the time to rest.

Mr. WAXMAN. Mr. Speaker, the NIH Reform Act of 2006 reauthorizes the authority for one of the preeminent health agencies of the Federal government, recognized for its fine work here and around the world:

This is not an agency that is broken or in need of fundamental reform. The single most important thing we could do to improve its function is to provide it with sufficient appropriations to expand its research activities and fund more grants. Instead, over the recent years of this Congress, we have consistently provided appropriations which are not sufficient to cover inflationary increases in research costs, let alone continue expansion of the work of this agency. In 2006, in fact, the budget was cut in actual dollar terms—the first time this has occurred in 36 years.

While I recognize Chairman BARTON is signaling with this legislation his belief that the growth in appropriations needs to be higher, it is clear that what most needs to be done is to change the fiscal policies of this Administration and Congress, and the budgets they establish, so that indeed more funds can be directed to this valuable institution. Voting for higher authorizations, if in fact votes for higher appropriations do not follow, means little.

This bill establishes a ceiling in the authorization, and provides that half of all increased appropriations would go into a Common Fund in the Office of the Director. If we followed this combination, it would mean 3 more years where appropriations for the institutes won't cover inflation. I regret that our dismal record of recent years of failing to provide sufficient appropriations for the NIH has made the authorization levels in this bill seem generous. They are not.

Certainly, there are proposals in this legislation that are worthy of support, and I will support this bill moving forward. Mr. BARTON has worked hard to moderate his original proposal, and he has secured support from the community as a result of his efforts.

I do urge the Senate, however, as they consider this bill, to pay particular attention to provisions which allow the Administration to abolish institutes and offices established by law without the consent of the Congress. The bill also establishes a Scientific Management Review Board, with similar powers to change the organization of the NIH with no Congressional involvement. Although I recognize that the Secretary has authority to make these kinds of changes under current law, no Secretary has ever used it. So these provisions breathe life into an authority that has long lain dormant. In my view, it is not a wise move for the Congress to affirm and expand the authority of the Administration to undo the actions of the Congress. We should not put the Office of Women's Health, or the Office of AIDS Research, or the Office of Rare Diseases, at risk. These were established by the Congress because the Executive Branch did not recognize their need.

I will support the bill moving forward. And I look forward to its continued improvement.

Mrs. CHRISTENSEN. Mr. Speaker, I want to join my colleagues in applauding Chairman BARTON and Ranking Member DINGELL for their leadership on health matters and for ensuring that we could pass the reauthorization of NIH before we go home. I also commend my CBC colleague and friend, BOBBY RUSH, for leading the effort to preserve the integrity of the National Center for Minority Health Disparity Research.

I am pleased that the reauthorization of NIH will allow the nation's premiere research centers and institutes to continue to play a critically important role advancing efforts to beat HIV/AIDS, diabetes, and cancer, as well as racial and ethnic health disparities among men, women and children in this country.

As a physician, I know—first hand—how critically important and valuable sound research is to the medical and health care community. As the Chair of the CBC Health Braintrust, I know that racial and ethnic health disparities have and continue to leave millions of Americans in poorer health and more likely to die from preventable conditions.

Mr. Speaker, I also know that strategies to reduce and ultimately eliminate racial and ethnic disparities in chronic and acute conditions will never be successful without strong biomedical and bio-behavioral research—the very research the Center was created to lead, coordinate support and assess at NIH.

This center is the product of the hard work of many individuals in and out of Congress and embodies the promise of modern and future medicine to close the gaps in health care experienced by people of color and improve the health of all Americans as we also contribute to resolving some of the world's pressing health challenges.

It is my hope that as we reform the NIH and place more authority in the office of Director that the integrity of the scientific process will continue to be respected and protected from political and ideological interference. I urge my colleagues to support the adoption of H.R. 6164.

Mr. MEEHAN. Mr. Speaker, I rise today to urge this Congress to redouble its efforts in the fight against cancer.

Over 33,000 people in my home state of Massachusetts will be diagnosed with some form of cancer this year.

I recently met with a number of constituents about the importance of increased funding for cancer research. One of my constituents, Judith Hurley, shared her cancer story with me. After extreme weight loss and extensive testing, Judith was diagnosed with stage 4 metastatic breast cancer, which had spread to her bones. Judith endured a variety of treatments, and made one thing clear to her doctors: she was not through raising her children.

Mr. Speaker, I am happy to report that in July, Judith became a 5-year cancer survivor.

Another one of my constituents, Sue Tereshko is a two-time breast cancer survivor.

Mr. Speaker, constituents like Judith and Sue are the beneficiaries of advances in cancer treatment.

Congress must do more to fund cancer research and treatment programs.

First, we should pass the National Institutes of Health Reform Act of 2006, which authorizes a 5% increase in funding for the National Institutes of Health (NIH). Congress must also appropriate a 5% increase for the NIH in the FY 2007 Labor-HHS Appropriations bill. A 5% increase over last year's levels would give an additional $240 million to the National Cancer Institute alone. This funding would allow the Institute to further fund the basic research necessary to determine the root causes of cancer and improve care.

However, a 5% increase in NIH funding will only maintain pace with rising costs and inflation. It is essentially flat-funding for the NIH. Therefore, I challenge this House to support a 5% increase in NIH funding in addition to any increase to cover the cost of inflation, which Democrats have previously proposed.

Second, Congress should pass the Breast Cancer and Environmental Research Act and the Breast Cancer Patient Protection Act.

Next week will begin National Breast Cancer Awareness Month. While important advances have been made, we still do not know what causes this disease, or how to prevent it.

Breast cancer remains the second leading cause of cancer death among women. The American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime—this risk was 1 in 11 in 1975.

Congress has failed to act on the Breast Cancer and Environmental Research Act, a bill with the overwhelming bipartisan support of 255 members. The Breast Cancer and Environmental Research Act will further our understanding of the impact that environmental factors have on breast cancer. For the 3 million women living with breast cancer and their families, we should pass this important legislation.

Congress should also pass the Breast Cancer Patient Protection Act.

My constituent Donna Carbone was lucky to have her surgeon override a hospital's decision to send her home less than 24 hours after her mastectomy in 1998. We must ensure that Donna's experience is no longer the exception to the rule, but instead becomes the standard quality of care.

The Breast Cancer Patient Protection Act, which has the bipartisan support of 180 members, would prohibit an insurer from limiting impatient care following a mastectomy to less than 48 hours.

On the eve of Breast Cancer Awareness Month, let's recommit ourselves to finding the root causes of breast cancer and improving patient care. Let's not offer just false hope, let us fight a real war on cancer by investing in the tools necessary to eradicate this disease.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the NIH Reform Act and congratulate Chairman BARTON on his hard work to develop the consensus product before us today. Without a doubt, the work performed at the NIH is invaluable. The groundbreaking research supported by NIH has provided a lifeline of hope to countless Americans living with diabetes, cancer, HIV/AIDS and many other illnesses.

Congress has not reauthorized the National Institutes of Health in more than a decade. Since its last reauthorization, the NIH has seen its funding double—a testament to the high priority that Congress places on the important research being performed at NIH. This reauthorization is an extension of our commitment to ensure that the NIH has the resources and proper management structures to conduct the kind of research that will ease the burden of disease in this country.

These days, Americans live with chronic conditions that cannot be remedied by studying one particular organ, or one part of the body. Obesity and diabetes, for example, affect virtually the entire body, and we need to facilitate increased cooperation among the NIH's Institutes and Centers to achieve real progress on these pervasive conditions. The bill before us would do just that by creating a Common Fund, through which the Director of the NIH could support the important research that involves several institutes and centers at the NIH.

While the Common Fund is an innovative approach toward trans-NIH research, Chairman BARTON also worked to ensure that this new fund did not overshadow the important research being performed at the individual institutes and centers. To strike this balance, the bill stipulates that only 50 percent of funding increases appropriated by Congress each year can be dedicated to the Common Fund. I would like to see an authorization level high enough to ensure adequate funding for the Common Fund and individual institutes and centers; however, in this tight budget environment, this provision is an important assurance that institutes and centers don't find themselves in a zero-sum game with the Common Fund.

As a member of the Energy and Commerce Committee, I was proud to vote for this bill during our committee markup last week. My hometown of Houston is home to the world-class Texas Medical Center, which houses many facilities that conduct groundbreaking NIH research. The Baylor College of Medicine and Texas Children's Hospital conduct more NIH pediatric research than any other NIH grantee. The University of Texas's MD Anderson Cancer Center also conducts critical NIH research and is frequently recognized as the top cancer center in the country.

This bill will ensure that the NIH research performed at the Texas Medical Center—and other impressive research facilities across the nation—will yield continued contributions to our understanding of disease and the development of effective treatments to improve the health and well-being of all Americans. I encourage my colleagues to join me in support of this important legislation.

Mr. BURGESS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 6164.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BURGESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–688) on the resolution (H. Res. 1042) providing for consideration of the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: motion to suspend on H. Res. 989, by the yeas and nays; motion to suspend on H. Res. 1017, by the yeas and nays; motion to suspend on H.R. 6164, by the yeas and nays; conference report on H.R. 5631, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 2-minute votes.

COMMENDING UNITED KINGDOM FOR ITS EFFORTS IN THE WAR ON TERROR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 989, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. POE) that the House suspend the rules and agree to the resolution, H. Res. 989, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 3, not voting 17, as follows:

[Roll No. 483]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes

Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Hinchey
Kucinich
McKinney

NOT VOTING—17

Boehlert
Castle
Costa
Davis (FL)
Evans
Feeney
Granger
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Pastor
Pombo
Strickland
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 2131

Mr. HINCHEY and Ms. McKINNEY changed their vote from "yea" to "nay."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. COSTA. Mr. Speaker, on rollcall No. 483, had I been present, I would have voted "yea."

AFFIRMING SUPPORT FOR THE SOVEREIGNTY AND SECURITY OF LEBANON AND THE LEBANESE PEOPLE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 1017, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and agree to the resolution, H. Res. 1017, as amended, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 5, not voting 16, as follows:

[Roll No. 484]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Hinchey
Kaptur
Kucinich
McDermott
Paul

NOT VOTING—16

Boehlert
Castle
Davis (FL)
Evans
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Pastor
Peterson (PA)
Pombo
Schakowsky
Strickland
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there is 1 minute remaining in this vote.

□ 2136

Mr. ABERCROMBIE changed his vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL INSTITUTES OF HEALTH REFORM ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6164.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 6164, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 16, as follows:

[Roll No. 485]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Jackson (IL)
Markey

NOT VOTING—16

Boehlert
Castle
Davis (FL)
Evans
Istook
Jefferson
Lewis (GA)
Meehan
Millender-McDonald
Ney
Pastor
Paul
Pombo
Strickland
Sullivan
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there is 1 minute remaining in this vote.

☐ 2142

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 484 I was inadvertently detained. Had I been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 5631, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

The SPEAKER pro tempore. The pending business is the question of adoption of the conference report on the bill, H.R. 5631.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 22, not voting 16, as follows:

[Roll No. 486]

YEAS—394

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)

Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—22

Baldwin
Conyers
Duncan
Filner
Frank (MA)
Jackson-Lee (TX)
Kucinich
Lee
McDermott
McKinney
Michaud
Moore (WI)
Owens
Paul
Payne
Rangel
Schakowsky
Stark
Velázquez
Waters
Watt
Woolsey

NOT VOTING—16

Boehlert
Castle
Davis (FL)
Evans
Istook
Jefferson
Lewis (GA)
McCrery
Meehan
Millender-McDonald
Ney
Pastor
Pombo
Strickland
Thomas
Waxman

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there is 1 minute remaining in this vote.

☐ 2146

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. McCRERY. Mr. Speaker, on rollcall No. 486 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. JEFFERSON. Mr. Speaker, I am in favor of the conference report and I thank the Defense appropriations subcommittee for its hard work. Had I been present for the vote, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

VETERANS IDENTITY AND CREDIT SECURITY ACT OF 2006

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5835) to amend title 38, United States Code, to improve information management within the Department of Veterans Affairs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Identity and Credit Security Act of 2006".

SEC. 2. FEDERAL AGENCY DATA BREACH NOTIFICATION REQUIREMENTS.

(a) AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET TO ESTABLISH DATA BREACH POLICIES.—Section 3543(a) of title 44, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period and inserting "; and" at the end of paragraph (8); and

(3) by adding at the end the following:

"(9) establishing policies, procedures, and standards for agencies to follow in the event of a breach of data security involving the disclosure of sensitive personal information and for which harm to an individual could reasonably be expected to result, specifically including—

"(A) a requirement for timely notice to be provided to those individuals whose sensitive personal information could be compromised as a result of such breach, except no notice shall be required if the breach does not create a reasonable risk of identity theft, fraud, or other unlawful conduct regarding such individual;

"(B) guidance on determining how timely notice is to be provided; and

"(C) guidance regarding whether additional special actions are necessary and appropriate, including data breach analysis, fraud resolution services, identity theft insurance, and credit protection or monitoring services.".

(b) AUTHORITY OF CHIEF INFORMATION OFFICER TO ENFORCE DATA BREACH POLICIES AND DEVELOP AND MAINTAIN INVENTORIES.—Section 3544(a)(3) of title 44, United States Code, is amended—

(1) by inserting after "authority to ensure compliance with" the following: "and, to the extent determined necessary and explicitly authorized by the head of the agency, to enforce";

(2) by striking "and" at the end of subparagraph (D);

(3) by inserting "and" at the end of subparagraph (E); and

(4) by adding at the end the following:

"(F) developing and maintaining an inventory of all personal computers, laptops, or any other hardware containing sensitive personal information;".

(c) INCLUSION OF DATA BREACH NOTIFICATION IN AGENCY INFORMATION SECURITY PROGRAMS.—Section 3544(b) of title 44, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period and inserting "; and" at the end of paragraph (8); and

(3) by adding at the end the following:

"(9) procedures for notifying individuals whose sensitive personal information is compromised consistent with policies, procedures, and standards established under section 3543(a)(9) of this title.".

(d) AUTHORITY OF AGENCY CHIEF HUMAN CAPITAL OFFICERS TO ASSESS FEDERAL PERSONAL PROPERTY.—Section 1402(a) of title 5, United States Code, is amended—

(1) by striking ", and" at the end of paragraph (5) and inserting a semicolon;

(2) by striking the period and inserting "; and" at the end of paragraph (6); and

(3) by adding at the end the following:

"(7) prescribing policies and procedures for exit interviews of employees, including a full accounting of all Federal personal property that was assigned to the employee during the course of employment.".

(e) SENSITIVE PERSONAL INFORMATION DEFINITION.—Section 3542(b) of title 44, United States Code, is amended by adding at the end the following new paragraph:

"(4) The term 'sensitive personal information', with respect to an individual, means any information about the individual maintained by an agency, including—

"(A) education, financial transactions, medical history, and criminal or employment history;

"(B) information that can be used to distinguish or trace the individual's identity, including name, social security number, date and place of birth, mother's maiden name, or biometric records; or

"(C) any other personal information that is linked or linkable to the individual.".

SEC. 3. UNDER SECRETARY FOR INFORMATION SERVICES.

(a) UNDER SECRETARY.—Chapter 3 of title 38, United States Code, is amended by inserting after section 307 the following new section:

"§ 307A. Under Secretary for Information Services

"(a) UNDER SECRETARY.—There is in the Department an Under Secretary for Information Services, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be the head of the Office of Information Services and shall perform such functions as the Secretary shall prescribe.

"(b) SERVICE AS CHIEF INFORMATION OFFICER.—Notwithstanding any other provision of law, the Under Secretary for Information Services shall serve as the Chief Information Officer of the Department under section 310 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 307 the following new item:

"307A. Under Secretary for Information Services.".

(c) CONFORMING AMENDMENT.—Section 308(b) of such title is amended by striking paragraph (5) and redesignating paragraphs (6) through (11) as paragraphs (5) through (10), respectively.

SEC. 4. DEPARTMENT OF VETERANS AFFAIRS INFORMATION SECURITY.

(a) INFORMATION SECURITY.—Chapter 57 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—INFORMATION SECURITY

"§ 5721. Definitions

"For the purposes of this subchapter:

"(1) The term 'sensitive personal information', with respect to an individual, means any information about the individual maintained by an agency, including—

"(A) education, financial transactions, medical history, and criminal or employment history;

"(B) information that can be used to distinguish or trace the individual's identity, including name, social security number, date and place of birth, mother's maiden name, or biometric records; or

"(C) any other personal information that is linked or linkable to the individual.

"(2) The term 'data breach' means the loss, theft, or other unauthorized access to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data.

"(3) The term 'data breach analysis' means the identification of any misuse of sensitive personal information involved in a data breach.

"(4) The term 'fraud resolution services' means services to assist an individual in the process of recovering and rehabilitating the credit of the individual after the individual experiences identity theft.

"(5) The term 'identity theft' has the meaning given such term under section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

"(6) The term 'identity theft insurance' means any insurance policy that pays benefits for costs, including travel costs, notary fees, and postage costs, lost wages, and legal fees and expenses associated with the identity theft of the insured individual.

"(7) The term 'principal credit reporting agency' means a consumer reporting agency as described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

"§ 5722. Office of the Under Secretary for Information Services

"(a) DEPUTY UNDER SECRETARIES.—The Office of the Under Secretary for Information Services shall consist of the following:

"(1) The Deputy Under Secretary for Information Services for Security, who shall serve as the Senior Information Security Officer of the Department.

"(2) The Deputy Under Secretary for Information Services for Operations and Management.

"(3) The Deputy Under Secretary for Information Services for Policy and Planning.

"(b) APPOINTMENTS.—Appointments under subsection (a) shall be made by the Secretary, notwithstanding the limitations of section 709 of this title.

"(c) QUALIFICATIONS.—At least one of positions established and filled under subsection (a) shall be filled by an individual who has at least five years of continuous service in the Federal civil service in the executive branch immediately preceding the appointment of the individual as a Deputy Under Secretary. For purposes of determining such continuous service of an individual, there shall be excluded any service by such individual in a position—

"(1) of a confidential, policy-determining, policy-making, or policy-advocating character;

"(2) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5; or

"(3) to which such individual was appointed by the President.

"§ 5723. Information security management

"(a) RESPONSIBILITIES OF CHIEF INFORMATION OFFICER.—To support the economical, efficient, and effective execution of subtitle III of chapter 35 of title 44, and policies and plans of the Department, the Secretary shall ensure that the Chief Information Officer of the Department has the authority and control necessary to develop, approve, implement, integrate, and oversee the policies, procedures, processes, activities, and systems of the Department relating to that subtitle, including the management of all related mission applications, information resources, personnel, and infrastructure.

"(b) ANNUAL COMPLIANCE REPORT.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, a report on the Department's compliance with subtitle III of chapter 35 of title 44. The information in such report shall be displayed in the aggregate and separately for each Administration, office, and facility of the Department.

"(c) REPORTS TO SECRETARY OF COMPLIANCE DEFICIENCIES.—(1) At least once every month, the Chief Information Officer shall report to the Secretary any deficiency in the compliance with subtitle III of chapter 35 of title 44 of the Department or any Administration, office, or facility of the Department.

"(2) The Chief Information Officer shall immediately report to the Secretary any significant deficiency in such compliance.

"(d) DATA BREACHES.—(1) The Chief Information Officer shall immediately provide notice to the Secretary of any data breach.

"(2) Immediately after receiving notice of a data breach under paragraph (1), the Secretary shall provide notice of such breach to the Director of the Office of Management and Budget, the Inspector General of the Department, and, if appropriate, the Federal Trade Commission and the United States Secret Service.

"(e) BUDGETARY MATTERS.—When the budget for any fiscal year is submitted by the President to Congress under section 1105 of title 31, the Secretary shall submit to Congress a report that identifies amounts requested for Department implementation and remediation of and compliance with this subchapter and subtitle III of chapter 35 of title 44. The report shall set forth those amounts both for each Administration within the Department and for the Department in the aggregate and shall identify, for each such amount, how that amount is aligned with and supports such implementation and compliance.

"§ 5724. Congressional reporting and notification of data breaches

"(a) QUARTERLY REPORTS.—(1) Not later than 30 days after the last day of a fiscal quarter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any data breach with respect to sensitive personal information processed or maintained by the Department that occurred during that quarter.

"(2) Each report submitted under paragraph (1) shall identify, for each data breach covered by the report, the Administration and facility of the Department responsible for processing or maintaining the sensitive personal information involved in the data breach.

"(b) NOTIFICATION OF SIGNIFICANT DATA BREACHES.—(1) In the event of a data breach with respect to sensitive personal information processed or maintained by the Secretary that the Secretary determines is significant, the Secretary shall provide notice of such breach to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) Notice under paragraph (1) shall be provided promptly following the discovery of such a data breach and the implementation of any measures necessary to determine the scope of the breach, prevent any further breach or unauthorized disclosures, and reasonably restore the integrity of the data system.

"§ 5725. Data breaches

"(a) INDEPENDENT RISK ANALYSIS.—(1) In the event of a data breach with respect to sensitive personal information that is processed or maintained by the Secretary, the Secretary shall ensure that, as soon as possible after the data breach, a non-Department entity conducts an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach.

"(2) If the Secretary determines, based on the findings of a risk analysis conducted under paragraph (1), that a reasonable risk exists for the potential misuse of sensitive information involved in a data breach, the Secretary shall provide credit protection services in accordance with section 5726 of this title.

"(b) NOTIFICATION.—(1) In the event of a data breach with respect to sensitive personal information that is processed or maintained by the Secretary, the Secretary shall provide to an individual whose sensitive personal information is involved in that breach notice of the data breach—

"(A) in writing; or

"(B) by email, if—

"(i) the Department's primary method of communication with the individual is by email; and

"(ii) the individual has consented to receive such notification.

"(2) Notice provided under paragraph (1) shall—

"(A) describe the circumstances of the data breach and the risk that the breach could lead to misuse, including identity theft, involving the sensitive personal information of the individual;

"(B) describe the specific types of sensitive personal information that was compromised as a part of the data breach;

"(C) describe the actions the Department is taking to remedy the data breach;

"(D) inform the individual that the individual may request a fraud alert and credit security freeze under this section;

"(E) clearly explain the advantages and disadvantages to the individual of receiving fraud alerts and credit security freezes under this section; and

"(F) includes such other information as the Secretary determines is appropriate.

"(3) The notice required under paragraph (1) shall be provided promptly following the discovery of a data breach and the implementation of any measures necessary to determine the scope of the breach, prevent any further breach or unauthorized disclosures, and reasonably restore the integrity of the data system.

"(c) REPORT.—For each data breach with respect to sensitive personal information processed or maintained by the Secretary, the Secretary shall promptly submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the findings of any independent risk analysis conducted under subsection (a)(1), any determination of the Secretary under subsection (a)(2), and a description of any credit protection services provided under section 5726 of this title.

"(d) FINAL DETERMINATION.—Notwithstanding sections 511 and 7104(a) of this title, any determination of the Secretary under subsection (a)(2) with respect to the reasonable risk for the potential misuse of sensitive information involved in a data breach is final and conclusive and may not be reviewed by any other official, administrative body, or court, whether by an action in the nature of mandamus or otherwise.

"(e) FRAUD ALERTS.—(1) In the event of a data breach with respect to sensitive personal information that is processed or maintained by the Secretary, the Secretary shall arrange, upon the request of an individual whose sensitive personal information is involved in the breach to a principal credit reporting agency with which the Secretary has entered into a contract under section 5726(d) and at no cost to the individual, for the principal credit reporting agency to provide fraud alert services for that individual for a period of not less than one year, beginning on the date of such request, unless the individual requests that such fraud alert be removed before the end of such period, and the agency receives appropriate proof of the identity of the individual for such purpose.

"(2) The Secretary shall arrange for each principal credit reporting agency referred to in paragraph (1) to provide any alert requested under such subsection in the file of the individual along with any credit score generated in using that file, for a period of not less than one year, beginning on the date of such request, unless the individual requests that such fraud alert be removed before the end of such period, and the agency receives appropriate proof of the identity of the individual for such purpose.

"(f) CREDIT SECURITY FREEZE.—(1) In the event of a data breach with respect to sensitive personal information that is processed or maintained by the Secretary, the Secretary shall arrange, upon the request of an individual whose sensitive personal information is involved in the breach and at no cost to the individual, for each principal credit reporting agency to apply a security freeze to the file of that individual for a period of not less than one year, beginning on the date of such request, unless the individual requests that such security freeze be removed before the end of such period, and the agency receives appropriate proof of the identity of the individual for such purpose.

"(2) The Secretary shall arrange for a principal credit reporting agency applying a security freeze under paragraph (1)—

"(A) to send a written confirmation of the security freeze to the individual within five business days of applying the freeze;

"(B) to refer the information regarding the security freeze to other consumer reporting agencies;

"(C) to provide the individual with a unique personal identification number or password to be used by the individual when providing authorization for the release of the individual's credit for a specific party or period of time; and

"(D) upon the request of the individual, to temporarily lift the freeze for a period of time specified by the individual, beginning not later than three business days after the date on which the agency receives the request.

"§ 5726. Provision of credit protection services

"(a) COVERED INDIVIDUAL.—For purposes of this section, a covered individual is an individual whose sensitive personal information that is processed or maintained by the Department (or any third-party entity acting on behalf of the Department) is involved, on or after August 1, 2005, in a data breach for which the Secretary determines a reasonable risk exists for the potential misuse of sensitive personal information under section 5725(a)(2) of this title.

"(b) NOTIFICATION.—(1) In addition to any notice required under subsection 5725(b) of this title, the Secretary shall provide to a covered individual notice in writing that—

"(A) the individual may request credit protection services under this section;

"(B) clearly explains the advantages and disadvantages to the individual of receiving credit protection services under this section;

"(E) includes a notice of which principal credit reporting agency the Secretary has entered into a contract with under subsection (d), and information about requesting services through that agency;

"(C) describes actions the individual can or should take to reduce the risk of identity theft; and

"(D) includes such other information as the Secretary determines is appropriate.

"(2) The notice required under paragraph (1) shall be made as promptly as possible and without unreasonable delay following the discovery of a data breach for which the Secretary determines a reasonable risk exists for the potential misuse of sensitive personal information under section 5725(a)(2) of this title and the implementation of any measures necessary to determine the scope of the breach, prevent any further breach or unauthorized disclosures, and reasonably restore the integrity of the data system.

"(3) The Secretary shall ensure that each notification under paragraph (1) includes a form or other means for readily requesting the credit protection services under this section. Such form or other means may include a telephone number, email address, or Internet website address.

"(c) AVAILABILITY OF SERVICES THROUGH OTHER GOVERNMENT AGENCIES.—If a service required to be provided under this section is available to a covered individual through another department or agency of the Government, the Secretary and the head of that department or agency may enter into an agreement under which the head of that department or agency agrees to provide that service to the covered individual.

"(d) CONTRACT WITH CREDIT REPORTING AGENCY.—Subject to the availability of appropriations and notwithstanding any other provision of law, the Secretary shall enter into contracts or other agreements as necessary with one or more principal credit reporting agencies in order to ensure, in advance, the provision of credit protection services under this section and fraud alerts and security freezes under section 5725 of this title. Any such contract or agreement may include provisions for the Secretary to pay the expenses of such a credit reporting agency for the provision of such services.

"(e) DATA BREACH ANALYSIS.—The Secretary shall arrange, upon the request of a covered individual and at no cost to the individual, to provide data breach analysis for the individual for a period of not less than one year, beginning on the date of such request.

"(f) PROVISION OF CREDIT MONITORING SERVICES AND IDENTITY THEFT INSURANCE.—During the one-year period beginning on the date on which the Secretary notifies a covered individual that the individual's sensitive personal information is involved in a data breach, the Secretary shall arrange, upon the request of the individual and without charge to the individual, for the provision of credit monitoring services to the individual. Credit monitoring services under this subsection shall include each of the following:

"(1) One copy of the credit report of the individual every three months.

"(2) Fraud resolution services for the individual.

"(3) Identity theft insurance in a coverage amount that does not exceed $30,000 in aggregate liability for the insured.

"§ 5727. Contracts for data processing or maintenance

"(a) CONTRACT REQUIREMENTS.—If the Secretary enters into a contract for the performance of any Department function that requires access to sensitive personal information, the Secretary shall require as a condition of the contract that—

"(1) the contractor shall not, directly or through an affiliate of the contractor, disclose such information to any other person unless the disclosure is lawful and is expressly permitted under the contract;

"(2) the contractor, or any subcontractor for a subcontract of the contract, shall promptly notify the Secretary of any data breach that occurs with respect to such information.

"(b) LIQUIDATED DAMAGES.—Each contract subject to the requirements of subsection (a) shall provide for liquidated damages to be paid by the contractor to the Secretary in the event of a data breach with respect to any sensitive personal information processed or maintained by the contractor or any subcontractor under that contract.

"(c) PROVISION OF CREDIT PROTECTION SERVICES.—Any amount collected by the Secretary under subsection (b) shall be deposited in or credited to the Department account from which the contractor was paid and shall remain available for obligation without fiscal year limitation exclusively for the purpose of providing credit protection services in accordance with section 5726 of this title.

"§ 5728. Authorization of appropriations

"There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for each fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER III—INFORMATION SECURITY

"5721. Definitions.
"5722. Office of the Under Secretary for Information Services.
"5723. Information security management.
"5724. Congressional reporting and notification of data breaches.
"5725. Data breaches.
"5726. Provision of credit protection services.
"5727. Contracts for data processing or maintenance.
"5728. Authorization of appropriations.".

(c) DEADLINE FOR REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall publish regulations to carry out subchapter III of chapter 57 of title 38, United States Code, as added by subsection (a).

SEC. 5. REPORT ON FEASIBILITY OF USING PERSONAL IDENTIFICATION NUMBERS FOR IDENTIFICATION.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a report containing the assessment of the Secretary with respect to the feasibility of using personal identification numbers instead of Social Security numbers for the purpose of identifying individuals whose sensitive personal information (as that term is defined in section 5721 of title 38, United States Code, as added by section 4) is processed or maintained by the Secretary.

SEC. 6. DEADLINE FOR APPOINTMENTS.

(a) DEADLINE.—Not later than 180 days after the date of the enactment of this Act—

(1) the President shall nominate an individual to serve as the Under Secretary of Veterans Affairs for Information Services under section 307A of title 38, United States Code, as added by section 3; and

(2) the Secretary of Veterans Affairs shall appoint an individual to serve as each of the Deputy Under Secretaries of Veterans Affairs for Information Services under section 5722 of such title, as added by section 4.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter until the appointments described in subsection (a) are made, the Secretary of Veterans Affairs shall submit to Congress a report describing the progress of such appointments.

SEC. 7. INFORMATION SECURITY EDUCATION ASSISTANCE PROGRAM.

(a) PROGRAM REQUIRED.—Title 38, United States Code, is amended by inserting after chapter 78 the following new chapter:

"CHAPTER 79—INFORMATION SECURITY EDUCATION ASSISTANCE PROGRAM

"Sec.
"7901. Programs; purpose.
"7902. Scholarship program.
"7903. Education debt reduction program.
"7904. Preferences in awarding financial assistance.
"7905. Requirement of honorable discharge for veterans receiving assistance.
"7906. Regulations.
"7907. Termination.

"§ 7901. Programs; purpose

"(a) IN GENERAL.—To encourage the recruitment and retention of Department personnel who have the information security skills necessary to meet Department requirements, the Secretary shall carry out programs in accordance with this chapter to provide financial support for education in computer science and electrical and computer engineering at accredited institutions of higher education.

"(b) TYPES OF PROGRAMS.—The programs authorized under this chapter are as follows:

"(1) Scholarships for pursuit of doctoral degrees in computer science and electrical and computer engineering at accredited institutions of higher education.

"(2) Education debt reduction for Department personnel who hold doctoral degrees in computer science and electrical and computer engineering at accredited institutions of higher education.

"§ 7902. Scholarship program

"(a) AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary shall establish a scholarship program under which the Secretary shall, subject to subsection (d), provide financial assistance in accordance with this section to a qualified person—

"(A) who is pursuing a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education; and

"(B) who enters into an agreement with the Secretary as described in subsection (b).

"(2)(A) Except as provided under subparagraph (B), the Secretary may provide financial assistance under this section to an individual for up to five years.

"(B) The Secretary may waive the limitation under subparagraph (A) if the Secretary determines that such a waiver is appropriate.

"(3)(A) The Secretary may award up to five scholarships for any academic year to individuals who did not receive assistance under this section for the preceding academic year.

"(B) Not more than one scholarship awarded under subparagraph (A) may be awarded to an individual who is an employee of the Department when the scholarship is awarded.

"(b) SERVICE AGREEMENT FOR SCHOLARSHIP RECIPIENTS.—(1) To receive financial assistance under this section an individual shall enter into an agreement to accept and continue employment in the Department for the period of obligated service determined under paragraph (2).

"(2) For the purposes of this subsection, the period of obligated service for a recipient of financial assistance under this section shall be the period determined by the Secretary as being appropriate to obtain adequate service in exchange for the financial assistance and otherwise to achieve the goals set forth in section 7901(a) of this title. In no event may the period of service required of a recipient be less than the period equal to two times the total period of pursuit of a degree for which the Secretary agrees to provide the recipient with financial assistance under this section. The period of obligated service is in addition to any other period for which the recipient is obligated to serve on active duty or in the civil service, as the case may be.

"(3) An agreement entered into under this section by a person pursuing an doctoral degree shall include terms that provide the following:

"(A) That the period of obligated service begins on a date after the award of the degree that is determined under the regulations prescribed under section 7906 of this title.

"(B) That the individual will maintain satisfactory academic progress, as determined in accordance with those regulations, and that failure to maintain such progress constitutes grounds for termination of the financial assistance for the individual under this section.

"(C) Any other terms and conditions that the Secretary determines appropriate for carrying out this section.

"(c) AMOUNT OF ASSISTANCE.—(1) The amount of the financial assistance provided for an individual under this section shall be the amount determined by the Secretary as being necessary to pay—

"(A) the tuition and fees of the individual; and

"(B) $1500 to the individual each month (including a month between academic semesters or terms leading to the degree for which such assistance is provided or during which the individual is not enrolled in a course of education but is pursuing independent research leading to such degree) for books, laboratory expenses, and expenses of room and board.

"(2) In no case may the amount of assistance provided for an individual under this section for an academic year exceed $50,000.

"(3) In no case may the total amount of assistance provided for an individual under this section exceed $200,000.

"(4) Notwithstanding any other provision of law, financial assistance paid an individual under this section shall not be considered as income or resources in determining eligibility for, or the amount of benefits under, any Federal or federally assisted program.

"(d) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) An individual who receives financial assistance under this section shall repay to the Secretary an amount equal to the unearned portion of the financial assistance if the individual fails to satisfy the requirements of the service agreement entered into under subsection (b), except in certain circumstances authorized by the Secretary.

"(2) The Secretary may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted.

"(3) An obligation to repay the Secretary under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after the date of the termination of the agreement or contract on which the debt is based.

"(e) WAIVER OR SUSPENSION OF COMPLIANCE.—The Secretary shall prescribe regulations providing for the waiver or suspension of any obligation of a individual for service or payment under this section (or an agreement under this section) whenever noncompliance by the individual is due to circumstances beyond the control of the individual or whenever the Secretary determines that the waiver or suspension of compliance is in the best interest of the United States.

"(f) INTERNSHIPS.—(1) The Secretary may offer a compensated internship to an individual for whom financial assistance is provided under this section during a period between academic semesters or terms leading to the degree for which such assistance is provided. Compensation provided for such an internship shall be in addition to the financial assistance provided under this section.

"(2) An internship under this subsection shall not be counted toward satisfying a period of obligated service under this section.

"(g) INELIGIBILITY OF INDIVIDUALS RECEIVING MONTGOMERY GI BILL EDUCATION ASSISTANCE PAYMENTS.—An individual who receives a payment of educational assistance under chapter 30, 31, 32, 34, or 35 of this title or chapter 1606 or 1607 of title 10 for a month in which the individual is enrolled in a course of education leading to a doctoral degree in information security is not eligible to receive financial assistance under this section for that month.

"§ 7903. Education debt reduction program

"(a) AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary shall establish an education debt reduction program under which the Secretary shall make education debt reduction payments under this section to qualified individuals eligible under subsection (b) for the purpose of reimbursing such individuals for payments by such individuals of principal and interest on loans described in paragraph (2) of that subsection.

"(2)(A) For each fiscal year, the Secretary may accept up to five individuals into the program established under paragraph (1)who did not receive such a payment during the preceding fiscal year.

"(B) Not more than one individual accepted into the program for a fiscal year under subsection (A) shall be a Department employee as of the date on which the individual is accepted into the program.

"(b) ELIGIBILITY.—An individual is eligible to participate in the program under this section if the individual—

"(1) has completed a doctoral degree a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education during the five-year period preceding the date on which the individual is hired;

"(2) is an employee of the Department who serves in a position related to information security (as determined by the Secretary); and

"(3) owes any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a doctoral degree in computer science or electrical or computer engineering at an accredited institution of higher education.

"(c) AMOUNT OF ASSISTANCE.—(1) Subject to paragraph (2), the amount of education debt reduction payments made to an individual under this section may not exceed $82,500 over a total of five years, of which not more than $16,500 of such payments may be made in each year.

"(2) The total amount payable to an individual under this section for any year may not exceed the amount of the principal and interest on loans referred to in subsection (b)(3) that is paid by the individual during such year.

"(d) PAYMENTS.—(1) The Secretary shall make education debt reduction payments under this section on an annual basis.

"(2) The Secretary shall make such a payment—

"(A) on the last day of the one-year period beginning on the date on which the individual is accepted into the program established under subsection (a); or

"(B) in the case of an individual who received a payment under this section for the preceding fiscal year, on the last day of the one-year period beginning on the date on which the individual last received such a payment.

"(3) Notwithstanding any other provision of law, education debt reduction payments under this section shall not be considered as income or resources in determining eligibility for, or the amount of benefits under, any Federal or federally assisted program.

"(e) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to an individual under this section for a year only if the Secretary determines that the individual maintained an acceptable level of performance in the position, or positions served by the individual during the year.

"(f) NOTIFICATION OF TERMS OF PROVISION OF PAYMENTS.—The Secretary shall provide to an individual who receives a payment under this section notice in writing of the terms and conditions that apply to such a payment.

"(g) COVERED COSTS.—For purposes of subsection (b)(3), costs relating to a course of education or training include—

"(1)) tuition expenses; and

"(2) all other reasonable educational expenses, including fees, books, and laboratory expenses;

"§ 7904. Preferences in awarding financial assistance

"In awarding financial assistance under this chapter, the Secretary shall give a preference to qualified individuals who are otherwise eligible to receive the financial assistance in the following order of priority:

"(1) Veterans with service-connected disabilities.

"(2) Veterans.

"(3) Persons described in section 4215(a)(B) of this title.

"(4) Individuals who received or are pursuing degrees at institutions designated by the National Security Agency as Centers of Academic Excellence in Information Assurance Education.

"(5) Citizens of the United States.

"§ 7905. Requirement of honorable discharge for veterans receiving assistance

"No veteran shall receive financial assistance under this chapter unless the veteran was discharged from the Armed Forces under honorable conditions.

"§ 7906. Regulations

"The Secretary shall prescribe regulations for the administration of this chapter.

"§ 7907. Termination

"The authority of the Secretary to make a payment under this chapter shall terminate on July 31, 2017.".

(b) GAO REPORT.—Not later than three years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the scholarship and education debt reduction programs under chapter 79 of title 38, United States Code, as added by subsection (a).

(c) APPLICABILITY OF SCHOLARSHIPS.—Section 7902 of title 38, United States Code, as added by subsection (a), shall apply with respect to financial assistance provided for an academic semester or term that begins on or after August 1, 2007.

(d) CLERICAL AMENDMENT.—The tables of chapters at the beginning of such title, and at the beginning of part V of such title, are amended by inserting after the item relating to chapter 78 the following new item:

"79. Information Security Education
Assistance Program .... 7901".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, as chairman of the Committee on Veterans' Affairs, I rise in strong support of H.R. 5835, and I yield myself such time as I may consume.

Mr. Speaker, having moved H.R. 5835, as amended, the Veterans Identity Credit Security Act of 2006, I, along with Ranking Member LANE EVANS and Acting Ranking Member BOB FILNER, Chairman DAVIS, and Ranking Member WAXMAN of the Committee on Government Reform, Chairman WALSH and Ranking Member EDWARDS on the Appropriations Subcommittee on Military Quality of Life and Veterans Affairs, and other members of this body introduced this legislation on July 19, 2006.

Since 2000, the Veterans' Affairs Committee and our subcommittees have held 16 hearings on information technology at the Department of Veterans Affairs, and as a subset, information security issues. These hearings have covered a variety of IT issues, including the budget, organization, authorities, actions VA has taken regarding its IT programs, and of course information security.

Last year, the House passed H.R. 4061 to address problems in IT at the VA. The Senate and the administration can best be described as having stiff-armed us in our proposals to centralize the IT architecture at the VA, opting for more of what they call now a federated model, or what I will also refer to as an incremental approach. That is how they wanted to proceed. Then bad things happened.

This summer, we held 8 hearings in response to the May 3 theft of a loaned lap-top belonging to the VA that held the sensitive personal data of 26.5 million veterans and 2.2 million Guard and Reserve component servicemembers and families. We heard from 23 witnesses during our hearings. These witnesses included the VA's Secretary, the Inspector General, the General Counsel, as well as others from academia, the Government Accountability Office, and experts in data security, information technology management, and identity theft.

Mr. Speaker, I applaud Secretary of Veterans Affairs Jim Nicholson for his stated commitment to making the VA the gold standard in information security. H.R. 5835, as amended, will provide the Secretary with some of the tools needed to make the VA that gold standard and set an example for the Federal Government.

H.R. 5835, as amended, provides the chief information officer the authority to enforce information security in the Department. It also requires a monthly briefing to the Secretary on VA's compliance with the Information Security Management Act of 2002, which we refer to as FISMA.

Mr. Speaker, Chairman TOM DAVIS of the Committee on Government Reform and I have worked together cooperatively, and our staffs, on a provision in the bill, and the Committee on Government Reform has waived consideration of H.R. 5835. Included in this bill is a part of Chairman DAVIS' work product, and I want to thank him for his cooperation, along with Mr. WAXMAN.

I would, in addition, also like to thank Chairman MIKE OXLEY of the Committee on Financial Services, who has waived consideration on this bill, and the committee will continue to work with these two committees on this legislation as we move forward with the Senate.

Mr. Speaker, the letters that I have here in my hand between the two committees and the Veterans' Affairs Committee regarding H.R. 5835, in which they have waived jurisdiction, are submitted as follows for the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, September 12, 2006.
Hon. TOM DAVIS,
Chairman, House Committee on Government Reform, Washington, DC.

DEAR CHAIRMAN DAVIS: I am writing regarding your committee's jurisdictional interest in H.R. 5835, the Veterans Identity and Credit Security Act of 2006, and would appreciate your cooperation in waiving consideration of the bill by the Committee on Government Reform in order to allow expedited consideration of the legislation next week under suspension of the rules.

I acknowledge your committee's jurisdictional interest in section 2 of H.R. 5835, as ordered reported by the Committee on Veterans' Affairs. Any decision by the Committee on Government Reform to forego further action on the bill will not prejudice the Committee on Government Reform with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of this letter and your response in the Congressional Record when the legislation is considered by the House.

Thank you for your assistance.

Sincerely,

STEVE BUYER,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 12, 2006.
Hon. STEVE BUYER,
Chairman, House Committee on Veterans Affairs, Washington, DC.

DEAR STEVE:, On July 20, 2006, the House Veterans' Affairs Committee reported H.R. 5835, the "Veterans Identity and Credit Security Act of 2006." As you know, the bill includes provisions within the jurisdiction of the Committee on Government Reform including Section 2 of the bill regarding federal agency data breach notification amendments under the Federal Information Security Management Act (FISMA).

In the interest of moving this important legislation forward, I agreed to waive sequential consideration of this bill by the Committee on Government Reform. However, I do so only with the understanding that this procedural route would not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or any other similar legislation. I understand this will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar bill be considered in a conference with the Senate. Finally, I request that you include this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM DAVIS.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, September 26, 2006.
Hon. STEVE BUYER,
Committee on Veterans Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN, I am writing to confirm our mutual understanding with respect to the consideration of H.R. 5835, the Veterans Identity and Credit Security Act of 2006. This bill was introduced on July 19, 2006, and referred to the Committees on Veterans Affairs and Government Reform. I understand that committee action has already taken place on the bill and that floor consideration is likely in the near future.

Portions of section 4 of the bill as reported involve remedies for breaches in data security. Some of these remedies, such as a credit security freeze, fall within the jurisdiction of this Committee and could have caused the referral of this bill to the Committee on Financial Services. However, given the importance and timeliness of this bill, and your willingness to work with us regarding these issues as the legislative process continues, proceedings on this bill in this Committee will not be necessary. However, I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Congressional Record during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, September 26, 2006.
Hon. MICHAEL G. OXLEY,
Chairman, House Committee on Financial Services, Washington, DC.

DEAR CHAIRMAN OXLEY. Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 5835, the Veterans Identity and Credit Security Act of 2006. I appreciate all of your efforts to expedite consideration of this important legislation.

I acknowledge your committee's jurisdictional interest in portions of section 4 of the bill as ordered reported by the Committee on Veterans' Affairs, which involve remedies for breaches in data security. I further acknowledge that some of these remedies, such as a credit security freeze, fall within the jurisdiction of your committee, and could have been referred to the Committee on Financial Services. I appreciate your cooperation in allowing speedy consideration of the legislation. We will continue to work with your Committee regarding these issues as the legislative process continues.

I agree that your decision to forego further action on the bill will not prejudice the Committee on Financial Services with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in the Congressional Record when the legislation is considered by the House. Thank you for your assistance.

Sincerely,

STEVE BUYER,
Chairman.

Mr. Speaker, H.R. 5835, as amended, requires notification to Congress and individuals in the event of a data breach. The bill would require the VA to conduct a data breach analysis, and if the Secretary deems necessary, to provide credit protection at the request of affected individuals. This protection may include a credit freeze, identity theft insurance and/or credit monitoring.

The bill also requires a report on the feasibility of using an independent number for identification in lieu of the Social Security Number.

This bill also includes a scholarship and loan repayment program to provide the Secretary with a recruitment and retention tool to attract qualified people in the area of information technology and information security to work at the VA.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

As Chairman BUYER stated, a near catastrophe occurred in early May of this year when a lap-top containing 26 million names and data, Social Security data and some medical data, was stolen from a VA employee's home. Now, this theft of data was not just human error, it was not just an accident, it was not just bad luck. As Mr. BUYER had been pointing out for many years, this was a systemic problem, a problem of incredibly bad management of cyberinformation at the VA, a lack of cybersecurity, a lack of centralization of responsibility for cybersecurity, and it could have resulted in identity theft for millions of our Nation's veterans.

We were lucky. Apparently, the laptop was recovered before the names were stolen. Although I don't have 100 percent confidence in that judgment, that is what we think right now. But the Committee on Veterans' Affairs, under the leadership of Chairman BUYER, saw this as a wake-up call, a time to change failed policies, a time to change directions. Under the leadership of Chairman BUYER, the Committee on Veterans' Affairs took this wake-up call as an opportunity to change the way things were going, to change a backward culture, and to bring the VA into the 21st century.

Now, Mr. BUYER had been saying such things about the need for cybersecurity and the need for centralization for many years. I have to say, Mr. BUYER, that I admire your persistence and your lack of discouragement when people did not pay attention. We should have. But we are now, and we thank you for doing all that work at a time when people did not pay much attention.

I think you have, you have set up a model here in the bill that other Departments in the government should be looking at. You have set up a model where we can in fact say to the people who our government is serving, we are protecting your identity, we are protecting your data, we are making sure that if there is any breach of that, we will take these steps to make sure you don't have any losses, either material or psychological. And that was a real problem in the VA which you recognized.

When this data was stolen, there was incredible fear throughout the country, because the VA did not have the steps ready to take to assure the veterans that they would not suffer any material or other loss. So, Mr. BUYER, I thank you for working not only in a bipartisan manner, but bicameral and bicommittee. You brought everybody into the process.

The committee held hours and hours of hearings. We checked out all the expertise in the country. Our chairman, Mr. BUYER, brought expertise from all around the Nation. I think we took the role of oversight that is appropriate for every committee in this Congress, that is, we had a problem with the executive branch, we went to work to make sure that we had the knowledge, we had the information, we had the attention of the executive branch; and this bill is a result of that effort.

I think Mr. BUYER described what was in the bill. I just want to point out that it establishes data breach notification requirements, it makes substantive changes to how the VA addresses information technology, and it clarifies how the VA is to comply with the Federal Information Security Management Act of 2002.

□ 2200

Most importantly, it provides veterans with the tools that they can use immediately to protect themselves in the case of future data breaches. If a veteran's data is compromised, they can immediately request that a fraud alert be placed on their credit files for a period of 1 year, as well as a credit security freeze.

It also mandates that the VA undertake an independent analysis of any data breach, and if it is determined that a reasonable risk of misuse exists, then the VA will provide a range of remediation services, including making available data breach analysis, credit reports, credit monitoring services, and identity theft insurance.

Finally, and again, Mr. BUYER, your creativity here was very important, knowing that an agency like the VA, which does not have the background or information or expertise, you said let's create a scholarship fund so we can train people in this area and that the VA can fund and then draw on that new expertise to improve its services in the cybersecurity area.

So, again, I think this is a model for other agencies to look at, the way you looked at a problem and not only tried to solve it, but moved us forward with a real creative program of scholarship and loan forgiveness that I think will help students in our Nation and, of course, help our Federal Government.

The VA Secretary, Mr. Nicholson, has stated that the goal now is to make the VA the gold standard in data security. I hope he takes advantage of this bill to allow him to reach that goal.

I thank Chairman BUYER for the way he undertook the oversight, the bipartisan way we approached this bill, the drawing on all the Members for their ideas and their expertise, and I urge us all to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will cherish the sincerity of the compliment from Mr. FILNER. I do not question his commitment nor his motive to the service of veterans in this country. I think members of the committee over the last 14 years have recognized that Mr. FILNER and I have had some real battles, but at the same time, when it comes to this particular issue on IT, there is no difference. We walk together in lockstep.

It is not just Mr. FILNER and I. It is the entire committee over the years we have taken this on, even when I chaired the oversight investigations. So I appreciate the commitment on both sides on improving the IT infrastructure.

I also want to compliment the Government Reform Committee, because they have taken this issue on over the years.

Mr Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Government Reform Committee, and thank him for his cooperation in working with our committee. He introduced his own bill on notification provisions. He worked with us and waived jurisdiction. We incorporated that in our bill.

Mr. TOM DAVIS of Virginia. Chairman BUYER, I thank you and Mr. FILNER for your leadership on this.

Secure information is the lifeblood of effective government policy and management, yet Federal agencies continue to hemorrhage vital data. Recent losses of personal information compel us to ask, what is being done to protect the sensitive digital identities of millions of Americans, and how can we limit the damage when personal data goes astray?

As we all now know, a Department of Veterans Affairs employee reported the theft of computer equipment from his home, equipment that stored more than 26 million records containing personal information. VA leadership delayed acting on the report for almost 2 weeks while millions were at risk of serious harm from identity theft and the agency struggled to determine the exact extent of the breach.

But this is only one in a long string of personal information breaches in the public and private sectors, including financial institutions, data brokerage companies, and academic institutions. Just last week, we learned the Census Bureau cannot account for 1,100 laptops issued to employees. These breaches illustrate how far we have to go to reach the goal of strong, uniform government-wide information security policies and procedures.

On our committee, we focused on government-wide information management security for a long time. The Privacy Act and the E-Government Act of 2002 outline the parameters for the protection of personal information. These recent incidents highlight the importance of establishing and following security standards for safeguarding personal information. They also highlight the need for the proactive security breach notification requirements for organizations, including Federal agencies, that deal with sensitive personal information.

Congress has been working on requirements for the private sector, but Federal agencies present unique requirements and challenges, and these incidents demonstrate that we need to strengthen laws and rules protecting personal information held by Federal agencies.

Given the VA incident, and in order to get a more complete picture of the problems before pursuing legislation, our Committee sent a request to every Cabinet agency seeking information about data breaches.

The results are in, and they are troubling. We have learned there has been a wide range of incidents involving data loss or theft, privacy breaches and security incidents. In almost all of these cases, Congress and the public would not have learned of such events unless we had requested the information. This history of withholding incidents has to stop.

Our committee bill, which has been incorporated as a manager's amendment in section 2, requires that timely notice be provided to individuals whose sensitive personal information could be compromised by a breach of data security at a Federal agency.

Despite the volume of sensitive information held by agencies, until now there has been no requirement that people be notified if their information is compromised. Under this legislation, the administration must establish practices, procedures, and standards for the agencies to follow if sensitive personal information is lost or stolen and there is reasonable risk of harm to an individual; and we provide a clear definition of the type of sensitive information we are trying to protect. We also give the agency CIOs the authority when appropriate and authorized to ensure that agency personnel comply with the information security laws that are already on the books.

Finally, we ensure that costly equipment containing potentially sensitive information is accounted for and secure. Half of the lost Census Bureau computers simply weren't returned by departing or terminated employees. The agency did not track computer equipment, nor were employees held accountable for failing to return it. This is taxpayer-funded equipment containing sensitive information, and we have to know who has it at all times.

Each year our committee releases information security score cards. This year the VA earned an F, the second consecutive year and fourth time in the past 5 years the Department received a failing grade, and the government overall got a D-plus.

Our Federal Government has sensitive personal information on every citizen; health records, tax returns, military records. If our government can't secure this information, who can? We need to ensure the public knows when its sensitive personal information has been lost or compromised in some way.

I again want to commend my colleagues, Chairman BUYER, Ms. PRYCE, Mr. SWEENEY, Mr. FILNER, all who recognize the importance of securing personal information held by agencies. I appreciate their work in supporting this issue. The provisions we have included in this bill are a great first step. If new policies and procedures are not forthcoming quickly or if they fail to have the teeth to get the job done, we will revisit the matter.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, to have the chairman of another committee testify to working together is really I think a good model. So thank you again, Mr. Chairman.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from South Dakota (Ms. HERSETH), the ranking member of our Economic Opportunities Subcommittee of the VA committee, a lady who has left much of her fingerprints on this bill. We thank you for your expertise, your real ability to stick to the issues here.

Ms. HERSETH. Mr. Speaker, I want to thank Mr. FILNER for yielding. I would like to congratulate both Chairman BUYER and Ranking Member Filner for their hard work in bringing this urgently needed bill to the House floor. I appreciated working with them both in the many oversight hearings to review the VA's information technology management system.

The Veterans Identity and Credit Security Act is the result of judicious bipartisan work by members and staff of the House Veterans' Affairs Committee, working closely with those on the Government Reform Committee; and it is an important step towards safeguarding the personal information of our Nation's veterans.

Now, I share the frustration of my colleagues regarding the repeated failures of the VA's information technology management and the theft in May of the personal data of as many as 26.5 million veterans and servicemembers from a VA employee's home.

While we are all relieved the laptop containing this data has been recovered and authorities have found no evidence that the data has been accessed, the data breach raised serious concerns about the VA's information security. It is clear that we dodged a bullet.

Perhaps the most frustrating aspect of the security breach was the previous recommendations and warnings by the General Accounting Office and the VA's Inspector General were not given adequate consideration. The Department's inexcusable and unacceptable inaction was disrespectful to the brave men and women who serve the country.

As my colleagues have outlined, the Veterans Identity and Credit Security Act would require the VA to report to Congress after any data theft and to provide credit monitoring and fraud remediation services to affected individuals. The bill creates an Under Secretary for Information Services, sets conditions of contracting with the VA for work dealing with sensitive personal information, and establishes a scholarship program for students pursuing doctorates in information technology, security or computer engineering.

I believe these important changes to the VA's information technology management structure are essential to better protecting the personal information of our Nation's veterans and their families. While there is no perfect solution, given the magnitude of this problem, not only for the VA but so many other Federal agencies, as the gentleman from Virginia just described, this legislation is an important step in the right direction.

I encourage my colleagues to support it.

Mr. BUYER. Mr. Speaker, the gentleman from South Carolina has requested 2 minutes of me, and I have great fear that the slowest talking man from the First District of South Carolina may not make the mark. But let's see how he does.

I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN), the chairman of the Health Subcommittee of the Committee on Veterans' Affairs.

Mr. BROWN of South Carolina. Mr. Speaker, I thank my friend, the chairman, for yielding me this time; and I hope I can make it in 2 minutes.

This is an important issue, one which the committee has addressed not only by this legislation, but also through hearings and meetings of members of the committees, officials from the VA, and representatives of our Nation's veterans organizations.

As chairman of the Committee's Subcommittee on Health, I led the committee's effort to understand the health-related impact of the recent loss of computers by the Veterans Administration. While this summer's computer loss regrettably saw the theft of VA data, this incident did not see the security of veterans health records compromised.

Indeed, recent events, such as the VA's response to Katrina, have shown the value of electronic medical records. During the aftermath of that disaster, VA doctors and nurses were able to treat without interruption patients transferred from VA facilities in New Orleans because of the VA's reliance on electronic medical records. All patient records were backed up, secured, transported and were back online and available almost immediately.

That said, we should not let the benefits of portable electronic records of any kind conflict with the need to keep them secure. Medical records contain a great deal of confidential personal information; and if those records get in the hands of the wrong people, it would pose a real problem and even in some cases, perhaps a national security risk.

For that reason, Congress needs to remain vigilant in order to ensure against the loss of all information by the VA. The VA itself needs to be proactive in maintaining the integrity of the health records. Lastly, our soldiers and their families need to continue to feel secure with VA having guardianship over those records.

In closing, I thank the chairman and the ranking member for their leadership on this issue and for introducing this important legislation. I urge all Members to support H.R. 5835.

Mr. FILNER. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I am so proud of my friend from South Carolina for delivering those remarks within the limits of time.

Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Chairman, I want to congratulate you for your leadership and really appreciate all the hard work. This has been a difficult thing to get to the floor. Also I want to thank Mr. FILNER and Ms. HERSETH and again the staffs on both sides that have worked so very, very hard to, like I say, get this thing done.

I rise in strong support of H.R. 5835, and I would like to highlight section 7 of the bill. This section would create a scholarship and debt reduction program at VA to encourage recruitment of new personnel with Ph.D.s in information security, computer engineering or electrical engineering from an accredited institution of higher learning. This is so we can attract and secure the best talent possible at the VA's IT department.

This section would allow the Secretary to award scholarships or repayment of education debts to future VA employees. The scholarships would not exceed $200,000, or $50,000 per year, per person. Debt reduction payments would not exceed $82,500 over a total of 5 years of participation, or $16,500 per year in the program. The recipients would also be required to agree to a period of obligated service at the Department of not less than 2 years for every 1 year of tuition paid.

This is a great way to attract talented people at the VA. I urge my colleagues to support H.R. 5835.

□ 2215

Mr. BUYER. I appreciate the chairman's contribution to the bill. He chairs the Economic Opportunity Subcommittee on Veterans Affairs.

At this time, I yield 2 minutes to Mr. MURPHY of Pennsylvania, who also worked with us on the bill. He had his own bill, H.R. 6109, dealing with encryption; and we worked with the gentleman. We have three legacy platforms which are basically older operating systems. We were not able to achieve everything the gentleman has been seeking, but I want to appreciate the gentleman's sincerity and his effort and want to continue to work with the gentleman.

Mr. MURPHY. Mr. Speaker, I am in support of H.R. 5835 and commend the distinguished chairman for his hard work for veterans.

We all know veterans deserve the best from the Federal Government following their service. Unfortunately, on two separate occasions there were some major breaches which raised the risk of identity theft and fraud. In May, the VA announced a laptop computer containing personal information of 26 million veterans and spouses had been stolen; and, in August, a desktop with personal and health information of 38,000 veterans was stolen from a subcontractor performing insurance collections for VA medical centers in Pittsburgh and Philadelphia.

These losses are totally unacceptable. Identity theft touches the lives of more than 10 million Americans per year, and our veterans deserve better protection of their records. The bill before us would provide better protections, and these are important steps, and we should support the underlying bill.

In addition to H.R. 5835, I introduced last week H.R. 6109, the Stop Endangering the Records of Veterans, or the SERV Act. This bill would require the VA to physically secure and encrypt all veterans' personal records held by the Department. The VA announced in August that it will add enhanced encryption systems to all the Department's laptop and desktop computers. Today may not be the day for Congress to pass the requirements of H.R. 6109, since a great deal of technical work is currently taking place to define how these encryptions should take place with the system, but I look forward to joining Chairman BUYER and my colleagues in energetic oversight of the VA's implementation of encryption standards on this data.

Mr. Speaker, America's veterans have given blood, sweat, and tears for our Nation from the world wars to the current operations in Iraq and Afghanistan. They have earned peace of mind when it comes to their critical personal information. Today, the House is helping to ensure the mistakes of this year will not happen again.

Again, I commend the leadership of Chairman BUYER and all the members of the Veterans Committee, and I urge my colleagues to support H.R. 5835.

Mr. BUYER. At this time, I would like to yield 1 minute to the gentleman from San Diego, California (Mr. BILBRAY), who helped us work on the provisions of the bill.

Mr. BILBRAY. Mr. Speaker, I rise in support of the bill and would like to thank the chairman of the committee for this legislation, and I would like to thank the ranking member, my old friend, Mr. FILNER from San Diego.

Let me just say, sincerely, I think this is what America wants, this is what our veterans need. I think it is a great bipartisan cooperative effort.

The fact is that there are challenges under today's new technology opportunities we have that can be used or abused, and hopefully this bill will be able to tighten up the procedures to make sure we reflect those new realities.

Mr. Speaker, I in no little way want to praise both sides of the aisle for doing what is right for our veterans. Hopefully, we have been able to avoid a major problem in the past and with this legislation will make sure that no major problem occurs.

The identity and the personal records of our veterans are cherished possessions that we hold in the Federal Government, and we want to maintain those for the veterans and not allow it to leak out.

I thank very much both the ranking member but, most importantly, the chairman of the full committee.

Mr. BUYER. Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, again, I think this is an incredibly good bill. It shows the way we ought to work as a Congress and as a committee. Again, I thank one more time Mr. BUYER for his leadership and urge passage of the bill.

I yield back the balance of my time.

Mr. BUYER. Mr. Speaker, I want to thank you for allotting the time for us to bring this bill to the floor. This is bipartisan legislation. It reflects proposals introduced in this Chamber over the past months. I thank the Members and staff who contributed to this legislation. I am especially grateful for the support of LANE EVANS and BOB FILNER in moving this bill through the committee and to the floor.

I want to thank Chairman DAVIS and Ranking Member WAXMAN of the Government Reform Committee in our work on the FISMA component of the bill. I also would like to thank Chairman OXLEY and Ranking Member FRANK of the Financial Services Committee for their assistance in moving this bill to the floor, as well as the Appropriations Subcommittee on Military Quality of Life and Veterans Affairs Chairman WALSH and Ranking Member EDWARDS, and to recognize again that information security is crucial to our veterans and have provided valuable support for this legislation.

I also commend Mr. BILIRAKIS and Mr. STRICKLAND, the chairman and ranking member of the Subcommittee on Oversight and Investigations, for their oversight of IT at the VA. I am indebted to the chairmen and ranking members of the committee's Subcommittees on Health, Disability Assistance and Memorial Affairs and Economic Opportunity for their help in reviewing the VA's data security and coming up with this legislation.

Mr. Speaker, several Members introduced legislation after the May 3 loss, including Representatives HOOLEY, SALAZAR, and BILBRAY from the Committee on Veterans Affairs. Representatives BLACKBURN, ANDREWS, DRAKE, CAPITO, and GRANGER also introduced legislation, and all of this legislation was taken into account to create this product that has come to the floor. So this is a pretty good work product, to also include that of the gentleman from Pennsylvania.

I also want to thank the Subcommittee on Oversight and Investigations; the staff director, Art Wu; and minority staff director, Lynn Sistek, for their work on this legislation.

Mr. Speaker, I urge my colleagues to support our veterans by passing H.R. 5835, the Veterans Identity and Credit Security Act of 2006. This legislation will safeguard the sensitive personal information of veterans, and help lay the groundwork for a national solution

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 5835, the Veterans Identity and Credit Security Act.

Earlier this year, millions of veterans saw their economic security threatened when several VA computers were stolen from a Veterans Administration (VA) employee's home. While it appears that no veteran was a victim of ID theft, the VA was ill-prepared to deal with the lost of this highly personal and confidential information.

While I am pleased to support this bill, which will help safeguard veterans' personal information in the future, I urge this Congress to immediately pass legislation that will protect all Americans from ID theft, not just our veterans. The threat of ID theft is too important to ignore any longer.

Data security is an issue that we have labored over for months, and while this will protect America's veterans from breaches of data security, the American public wants Congress to act to protect its private information as well.

As many of my colleagues have outlined during the debate today, this bill takes several steps to empower the VA to combat ID theft. It creates a new Office of the Under Secretary for Information Services within the Department. The bill also requires the VA to notify affected individuals when sensitive, personal information held by VA is lost, stolen, or otherwise compromised. In addition, the bill requires the VA to provide services to alleviate any loss those individuals might suffer, if the Secretary of VA determines there is a risk that the compromised information could be used in a criminal manner. Another important provision in the bill requires contractors to pay damages to VA if the compromised information was under the contractors' control. The combination of these provisions represents a well thought through piece of legislation.

Mr. Speaker, having ones identity stolen can unleash a lifetime of problems for its victims. It can impair buying a home, applying for jobs and loans as well as a host of other problems.

I am pleased to support this bill to help protect our veterans from these personal and economic pitfalls. I urge my colleagues to support this bill.

Mr. STEARNS. Mr. Speaker, I rise to support H.R. 5835, the Veterans Identity and Credit Security Act of 2006. I was deeply concerned that nearly 27 million veterans may have been affected by a data security breach of record proportions, that could have compromised sensitive, personal information. Twenty-six-and-a-half million veterans, and 2.2 million Guards, Reservists, and active duty servicemembers, were at risk. Fortunately, we recovered the stolen laptop and forensic analysis revealed the data was uncompromised. While it turned out that no veterans' information was jeopardized, it was a lesson in carelessness that cannot be repeated. We have learned from this incident what steps we must take to (a) change the organizational structure and requirements at the VA, and (b) design a meaningful package of action items we will deliver for veterans should a breach ever occur again. Now we must implement them.

Unfortunately, data breaches like this highlight the need for legislation I have authored: H.R. 4127, the Data Accountability and Trust Act (DATA). This bill, which the Energy and Commerce Committee has passed, goes to the heart of this problem of the critical need to protect consumers' personal information. Let's fix this.

I thought, and Chairman BUYER agreed, that while we are instructing the VA when they must notify veterans, let's not limit ourselves to notification by "snail mail". I appreciate the Chairman's incorporating my language into H.R. 5835. The standard of business practice is—if a consumer or veteran in this case prefers—to communicate in writing by e-mail, because it is immediate and portable. What if a veteran is now in the Florida National Guard, serving in Iraq, and suffers a breach? We would not want him or her to wait for a hard copy letter to make its way. Secondary to providing better service to the veteran, this would save tremendous money to the VA, money better spent on veterans health care and services: I understand the May 2006 notification mailing cost the VA about $7 million.

Through both of my Committee seats, I will continue to take an active role in ensuring that veterans, and all consumers, feel confident and secure about their financial and personal information. And, thank you, Chairman BUYER, for your steadfast leadership on this issue for years.

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise in strong support of H.R. 5835, the Veterans Identity and Credit Security Act of 2006, as amended, and thank Chairman BUYER for his leadership in bringing this legislation to the floor. I also want to thank my colleagues from other Committees and across the aisle for the bipartisan effort that brought this bill to the floor. This is an important piece of legislation that aims to improve information security at the Department of Veterans Affairs (VA), and may set VA as an example for other federal departments and agencies.

H.R. 5835, as amended, provides the tools for VA to improve information security and strengthens the role of the Chief Information Officer (CIO). The legislation, requires the Secretary to provide the CIO with the authority over VA information technology (IT) to include information security, personnel, resources, and infrastructure. These authorities include oversight of the activities, policies, processes, and systems of VA IT.

Last October, as Chairman of the Subcommittee on Oversight and Investigations, I joined Chairman BUYER, Ranking Member EVANS, Subcommittee on Oversight and Investigations Ranking Member STRICKLAND and other distinguished Members to introduce H.R. 4061, the Department of Veterans Affairs Information Technology Management Improvement Act, to centralize the authority of the CIO. Last November, the House unanimously passed H.R. 4061 with a vote of 408–0. I remember Chairman BUYER standing on this floor, sharing the failures of VA IT projects and the millions of dollars spent on major IT programs that have failed to assist in making the delivery of benefits to veterans faster, safer, and more efficient. I stand here today because of another VA failure in IT, with another piece of legislation to reform VA IT and ask members to unite and show support for our veterans by passing H.R. 5835, as amended.

Since 2000, there have been 16 hearings of the House Committee on Veterans' Affairs and its Subcommittees on VA IT. This summer alone the Committee on Veterans' Affairs held eight hearings on IT and information security, two of which were at the Subcommittee level. The House Committee on Veterans Affairs has been anything but lax in its review of VA IT, and I am confident that oversight of VA IT will continue following my retirement.

It has been an honor to serve in this body and as a member of the House Committee on Veterans' Affairs for the past 24 years, and passing H.R. 5835, would be another way for me to honor and protect the veterans I have served during my time in Congress. I urge my colleagues to vote in favor of H.R. 5835, as amended.

Mr. MICHAUD. Mr. Speaker, I rise today in strong support of H.R. 5835, the Veterans Identity and Credit Security Act.

Earlier this year, VA experienced a major breach in the data security of millions of veterans. Their very identities and financial lives were put at risk. Thanks to the efforts of law enforcement, and a great deal of luck, this breach did not turn into a disaster.

While for many, this breach came as a surprise, the reality is that VA leadership has been warned repeatedly that VA's information security program is weak and could be compromised. The Veterans Affairs Committee has been calling on the VA to make changes. The VA's Inspector General and the GAO have issued report after report raising significant concerns about weaknesses in the security of VA's data and information systems. The sad reality is that this data breach, while larger than any other, was not unique.

We do a disservice to the men and women who have served our Nation and their families if we allow VA's information security policies and practices to continue as the status quo.

H.R. 5835 moves the VA toward greater IT security. It will create a clear line of responsibility through the Office of the Under Secretary for Information Security. It will put in place policies to improve IT security, notification and remediation. In cases of identity theft, this bill will help veterans recover their identities and their lives.

I also believe that the provisions in this bill supporting further education in IT security are innovative and extremely important for addressing this challenge in the future.

I want to congratulate the members of the Veterans Affairs Committee, especially Chairman BUYER and Mr. FILNER, for working quickly to move this important legislation forward.

I urge my colleagues to support this bill.

Mr. SWEENEY. Mr. Speaker, I rise in strong support of the Managers Amendment to H.R. 5835, the Veterans Identity and Credit Security Act of 2006.

Over the past 5 months, data security incidents at the Department of Veterans Affairs, State Department and Census Bureau have raised concern over the use of secure data at these and other Federal agencies.

The VA learned that an employee took home electronic records of 26.5 million veterans and 2.2 active-duty soldiers from the VA, which he was not authorized to do.

A hacker at the State Department gave thieves access to a finite amount of information, access to data and passwords.

The census bureau lost track of over 1,000 laptops, some of which contained sensitive personal information.

Americans secure information was put at extreme risk and raised concerns about data security in the Federal Government to a whole new level.

GAO reports released in July 2005 and again in March of 2006, revealed despite progress in implementing Federal requirements to protect information and systems, the 24 major Federal agencies' experienced continued pervasive weaknesses in information security policies and practices. Their flaws put Federal operations, citizens personal financial data and assets at risk of fraud, misuse, disclosure and destruction.

That is why I introduced H.R. 5820, the Federal Agency Data Privacy Protection Act, legislation that adds security measures to all Federal agencies data usage and administration. This manager's amendment includes a number of provisions included in my legislation.

It is important that we protect the sensitive information Americans provide to us so that we can assist them and we must provide the best possible responses to personal information being placed at risk. It is critical that we provide proper protections to individuals who may be affected by these thefts.

This amendment also extends the definition of what constitutes secure data so that we can provide the best protection for all personal information used by Federal agencies.

Americans place their trust in the Federal Government to protect the information they provide. In this age of technology, we have an obligation to protect that information and serve the people of this Nation. I urge my colleagues support on this amendment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support H.R. 5835, to amend Title 38, United States Code 106–348, to improve information management within the Department of Veterans Affairs, and for other purposes.

In June, the Defense Department revealed that the personal information of about 2.2 million National Guard and Reserve troops was stolen from a government employee's house. In August of this year, the Department of Veterans Affairs reported that a subcontractor's missing laptop contained personal information of some 16,000 veterans and their families who were treated in VA medical centers in Pittsburgh and Philadelphia.

Even more astonishing is the fact that earlier this month, the Commerce Department reported that 1,100 of its laptops were missing from the last five years, some containing personal data from the U.S. Census Bureau.

These incidences of missing sensitive personal data are no small matters of concern. All of us as citizens of this great country expect to enjoy the privilege of privacy when it comes to our often sensitive personal data. As we are all well aware, such information can be easily mishandled and misused to the detriment of anyone who becomes so-victimized.

This reason alone is why it is crucial to provide sufficient safeguards to prevent or at the very least minimize the degree to which the privacy of sensitive personal data of our veterans as well as all the citizens of this country may become compromised.

H.R. 5835 provides safeguards to: Amend FISMA (Federal Information Security Management Act) to authorize the Director of OMB to establish data breach policies for agencies to follow in the event of a breach of data security involving the disclosure of sensitive personal information and which harm to an individual could reasonably be expected to result; Amend FISMA to clarify authority of Chief Information Officer to enforce data breach policies and develop and maintain IT inventories; Amend FISMA to define sensitive personal information as "any information about an individual maintained by an agency, including: education, financial transactions, medical history, criminal or employment history; information that can be used to distinguish or trace the individual's identity, including name, Social Security number, date and place of birth, mother's maiden name, or biometric records; or any other personal information that is linked or linkable to the individual;

Create the position of Under Secretary for Information Services in the VA and mandates that this individual serve as the VA's CIO;

Mandate that the office of the Under Secretary for Information Services shall consist of the three Deputy Under Secretaries (at least one of whom is to be a career employee);

Call for the VA to ensure that the CIO has the authority and control necessary to execute responsibilities under FISMA and requires an annual FISMA compliance report to be submitted to the Committees on Veterans' Affairs of the House and Senate, the House Government Reform Committee, and the Senate Homeland Security and Governmental Affairs Committee; it also requires a monthly report from the VA CIO to the VA Secretary regarding compliance deficiencies; and to require immediate notification by the CIO to the VA Secretary of any data breach, and notice by the VA to the Director of OMB, VA IG, and if appropriate, to the FTC and Secret Service;

Require quarterly reports from the VA to the Committees on Veterans' Affairs of the House and Senate on any data breach that occurred in the previous quarter and to also require prompt notice in the event of a significant data breach;

Require the VA to undertake, as soon as possible after a data breach, an independent risk analysis (conducted by a non-VA entity). The Secretary shall then make a determination, based upon this analysis, if there exists a reasonable risk for potential misuse of the compromised data. If the Secretary does determine that this potential exists, then the VA is required to provide credit protection services. In the event of any data breach, the VA shall notify all affected individuals of the breach and inform them that they may request, at no charge, a fraud alert and a credit security freeze for a period of one year. The notification is to clearly spell out the advantages and disadvantages to requesting these actions;

Require the VA to provide credit protection services, including data breach analysis, credit monitoring services and identity theft insurance, to covered individuals (defined as individuals whose sensitive personal information is involved in a data breach, on or after August 1, 2005 for which the Secretary determines a reasonable risk exists for the potential misuse of the sensitive personal information). Authorizes the VA to contract with other government agencies and credit reporting agencies to provide these services;

Require that when the VA enters into a contract that the contractor shall not compromise any sensitive personal information. In the event of a breach, the contractor shall pay liquidated damages (which will then be used by the VA to provide credit protection services);

Require the VA to submit a report not later than 180 days after enactment concerning the feasibility of using Personal Identification Numbers for identification purposes in lieu of Social Security numbers;

Require the President to nominate the Under Secretary for Information Services and the VA to appoint the Deputy Under Secretaries within 180 days of enactment. Requires a report on the progress of the nomination and appointments every 30 days.

All of these measures are essential pieces to ensuring that the privacy of personal sensitive data of all of our citizens is not compromised. We are far behind in taking action to ensure that integrity of information in this nation. This bill is an important first step.

I urge my colleagues to support this resolution.

Mr. WAXMAN. Mr. Speaker, I support the goal of H.R. 5835 to strengthen security of personal data held by the Government, but believe that more should be done. For the Department of Veterans Affairs, this bill provides more training for employees on privacy issues, independent risk analysis of data breaches, credit freezes for persons whose data has been compromised, and more. This is an important step in light of recent data losses at the VA.

But the detailed requirements in this bill only apply to the Department of Veterans Affairs. For the rest of the Government, none of this is required, even though our committee's inquiries have uncovered serious breaches in other Federal agencies. For example, the Department of Commerce recently reported the loss of more than 1,000 laptop computers, some containing census information. To protect the privacy of personal information, we should require increased training, accountability, and reporting in all Federal agencies, not just the VA.

I am also concerned about the procedures under which this bill has come to the floor. Although primarily a VA bill, this bill also includes amendments to the Federal Information

Security Management Act, FISMA, a government-wide law, in the jurisdiction of the Committee on Government Reform. Some of these provisions were in the reported version of this bill, and some were just added by amendment today from a bill introduced yesterday. None of these government-wide provisions were considered in the Committee of Government Reform.

H.R. 5835 now includes 2 different definitions of "sensitive personal information"—one applying to the entire government under FISMA, and another applying to the Department of Veterans Affairs. Had this bill proceeded through the regular committee process, inconsistencies like this could have been resolved and a clearer, more comprehensive bill reported to the floor. I hope that Congress will consider additional legislation to clarify the patchwork of laws and regulations currently in place and extend stronger data security requirements to the entire Federal Government.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, although the Rules of the House of Representatives do not allow me to co-sponsor H.R. 5835, the Veterans Identity and Security Act of 2006, I wish to express my full support for this bill. My district is home to tens of thousands of veterans from every branch of the military, and this legislation will be extremely helpful to my constituents. The recent loss of data affecting over 26.5 million current and former service members was extremely unfortunate, and it became clear that the Department's data security and notification practices needed an overhaul. I believe this legislation will enable the Department of Veterans Affairs to better protect the personal identification data of those who have served and are serving our country, and I am pleased that we are taking steps to prevent these incidents in the future.

As our country increasingly relies on electronic information storage and communication, it is imperative that our Government amend our information security laws accordingly. This legislation will help in this effort, and I am wholeheartedly supportive.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time and urge all Members to support this legislation.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 5835, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 5835.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ENCOURAGING ALL OFFICES OF THE HOUSE OF REPRESENTATIVES TO HIRE DISABLED VETERANS

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1016) encouraging all offices of the House of Representatives to hire disabled veterans.

The Clerk read as follows:

H. RES. 1016

Whereas the men and women of our armed forces play a central role in preserving our Nation's freedom;

Whereas disabled veterans have sacrificed greatly for their country;

Whereas one way for our Nation to repay its debt to those disabled veterans is to help disabled veterans return to their previous lifestyle;

Whereas Congress relies on knowledgeable staff to help formulate policy;

Whereas disabled veterans provide unique perspectives on a range of issues, especially regarding national security;

Whereas Members who are veterans or reservists have played a leading role throughout the history of Congress; and

Whereas Congress wishes to give disabled veterans the opportunity to work in their government as a benefit to those disabled veterans as well the members of Congress on whose staffs they will serve: Now, therefore, be it

Resolved, That the House of Representatives encourages the Members, committees, and all other offices of the House to hire disabled veterans, and to use the resources that the Committee on House Administration will direct the Chief Administrative Officer to provide to find qualified disabled veterans to fill positions in these offices.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Pennsylvania (Mr. BRADY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also thank the gentleman from California (Mr. ROHRABACHER) for introducing this fine resolution.

I rise in support of H. Res. 1016, which encourages all offices of the House of Representatives to hire disabled veterans, and I ask all my colleagues to support this important bill.

Throughout history, our Nation has depended on the brave men and women of the military to secure our freedom, frequently at their own peril. Millions of those who fight valiantly for our country will return with injuries that threatened their livelihood and that of their families.

After completing their service to our country, our Nation's disabled veterans often return to face another challenge: diminished prospects for employment due to the injuries they suffered in battle.

By recruiting these exceptional individuals for employment in the House, we are both rewarding these heroes for their sacrifices they have made for their country and securing experienced, dedicated employees to work in House offices. By providing a congressional career path to disabled veterans, we are offering these courageous individuals an opportunity to serve the public in a new capacity.

I ask the Members to honor our Nation's veterans both by supporting this important resolution and by hiring disabled veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the chairman in support of this resolution introduced this week by the gentleman from California (Mr. ROHRABACHER), encouraging all Members, committees, and offices of the House to hire disabled veterans. This Congress absolutely should give preference to disabled veterans as long as there are disabled veterans.

First, this resolution reminds all Members and other House employees that this Congress has a moral and ethical obligation to support American disabled veterans. Unfortunately, we know too well that the ranks of America's disabled veterans are growing every day. One way for the House to fulfill its obligation is to help disabled veterans return to their pre-war lifestyles. Their former jobs may be gone or their disabilities may preclude them from performing that function again.

I am sure there are many disabled veterans whose knowledge, skills, and abilities could help Members better serve their constituencies. This would allow disabled veterans to continue their service to their country as civilians, while providing for themselves and their families. This could take place anywhere in the country since a large percentage of congressional staff positions are located in districts throughout America. There are also opportunities here on Capitol Hill as well.

Second, the resolution states that the Committee on House Administration will facilitate employment opportunities for disabled veterans by directing the House Chief Administration Officer to provide resources to guide qualified disabled veterans to potential positions. A suitable Web site, for example, could enable disabled veterans to employment opportunities in the House.

Whatever the committee may decide, I am pleased that this resolution apprises all Members of the need of our disabled veterans and the rest of the community to take action. Mr. Speaker, I urge all Members to support this resolution. The ranks of American disabled veterans are growing every day, and the end of the current conflict is not in sight. The House should do everything possible to help our disabled veterans to rebuild their lives.

If qualified disabled veterans are interested in working here, we should encourage Members, our committees, and our support offices to embrace these brave men and women who have served in Iraq and elsewhere around the world and who have sacrificed their futures for our country. I urge an "aye" vote

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, it is with great pleasure that I yield 4 minutes to the gentleman from California (Mr. ROHRABACHER), who is in every way a true patriot and also the author of this wonderful resolution.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of my resolution, H. Res. 1016. I would like to thank Mr. EHLERS for his help in support of this bill, as well as Mr. BRADY and Members on both sides of the aisle. It has taken considerable time and effort to get this bill to the floor, and I appreciate their help in bringing this matter tonight and making sure we get this done before the end of the session.

Mr. Speaker, the war in Iraq and Afghanistan is being fought by American military personnel; and, as we know, many of them have been killed or wounded. In fact, there have been 21,263 wounded American military personnel during this conflict in Afghanistan and Iraq. That includes 468 amputees.

To better illustrate that point, imagine every Member of this House plus 33 others have been wounded in Iraq or Afghanistan and that the wounds were serious enough to require amputation, and sometimes that meant amputating more than one limb. It is hard to comprehend the level of sacrifice and the recovery from such a loss.

These brave warriors and their families must learn an entirely new way of life. Sometimes readjusting, finding one's place is as traumatic and as hurtful as the wound itself. Many of them worry about how they will work and what kind of life they can provide for themselves and for their families.

My resolution, H. Res. 1016, will enable us, Members of the United States Congress, to help disabled veterans directly. We should serve as an example to other government agencies and to private-sector employers. We need to send an unmistakable message that every disabled veteran should have the opportunity to work at a decent-paying job and that they can this way adjust and bring themselves back into this community as they heal and come home.

This resolution coordinates the House Administration Committee and the CAO to find qualified disabled veterans to fill open positions in our House offices.

Congress has two important obligations when sending America's defenders into harm's way.

□ 2230

The first is to ensure that those soldiers have the necessary training, equipment and resources to get the job done and come home safely.

The second is to ensure that when these heroes come home, especially if they have been severely wounded, that their wounds are cared for and once they are healed, there are adequate avenues available to ensure them a decent life, especially the personal and professional satisfaction of a real job.

I would challenge my colleagues to achieve the following goal: by the end of the next year, every congressional office should employ at least one disabled veteran. Not only would these veterans benefit from these jobs, but we would benefit greatly from the unique perspective that these heroes would bring to our offices.

Mr. Speaker, I want to thank Mr. Clifford Heinz for bringing to my attention disturbing news stories regarding returning veterans. I also thank the majority whip, Mr. BLUNT, for his hard work in helping to move this resolution to the floor for the vote.

We must ensure that the returning veterans from this war are treated with the dignity and honor, that it is the dignity and honor that they have earned and deserve. This resolution is an important first step in what I know will be a continued effort by this Congress to say thank you to the disabled veterans who have paid a price beyond the call of duty and never fully repaid.

Mr. Speaker, I ask my colleagues to support this resolution and to take seriously the challenge of personally hiring a disabled veteran for their office. I ask them to support H. Res. 1016.

Mr. BRADY of Pennsylvania. Mr. Speaker, it is my pleasure to yield to Mr. FATTAH from the great State of Pennsylvania for such time as he may consume.

Mr. FATTAH. Mr. Speaker, I thank the gentleman from Pennsylvania, and also the chairman of my former committee, the House Administration Committee, for their fine work in bringing this resolution to the floor.

On Sunday I spoke at the VFW post in my district, the Charles Young Post, as they celebrated 76 years of providing a service to veterans, returning veterans from a host of wars and conflicts, in Philadelphia.

I have been over to Walter Reed visiting with soldiers who have been wounded in the Iraqi war, and it is true that they are receiving great medical care, but they do need employment. And I thank the gentleman who is the prime sponsor of this who I have also served with for many years, for fighting for this to come to the floor because it is something that is tangible that we can do.

I just wanted to rise in support of it. House Administration is a committee where these issues are dealt with, and I think the committee should be commended for bringing this to the floor. And I hope all Members heed what I think is a reasonable challenge, that each of us should reach out to returning veterans.

Many have disabilities that are visible, and others have other challenges. We do know, as has been stated by a former President, Ronald Reagan, that one of the best things that could ever happen in terms of addressing some of the social challenges that people face is a good job. So providing a good job for veterans who return, many of whom are disabled, I think is a rightful thing for this House to consider, in all of its various offices both here on the Hill and at home in our district offices.

I thank the gentleman for yielding me this time, and I thank the chairman for the great guidance he has given to my former committee.

Mr. EHLERS. Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Mr. Speaker, I thank Mr. ROHRABACHER for the resolution and the chairman of our committee. It is a pleasure working with you.

Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

I once again reiterate the requests that various individuals have made here, that every Member of this Congress take this resolution seriously, that they vote for it; and, furthermore, that they act on it and hire a disabled veteran to work in their offices.

I thank the gentleman from California for bringing this to our attention. I urge support by every Member of the House for this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support H. Res. 1016 to encourage all offices of the House of Representatives to hire disabled veterans.

The men and women of our Armed Forces play a central role in preserving our Nation's freedom. In this role, these men and women gain very valuable skills, and knowledge which is crucial to the successful operations and functions of our military. The vast array of valuable skills that disabled veterans possess include those in intelligence, medicine, law and beyond. Such knowledge is not to be undervalued.

There are over 3 million living disabled veterans in this country, a number which unfortunately continues to rise as we remain engaged in the Iraq and Afghanistan conflicts. Let us respect and honor the invaluable service of all past and future disabled veterans by ensuring that they may continue to use their unique talents, knowledge and skills.

Congress relies on knowledgeable staff to help formulate policy. Disabled veterans provide unique perspectives on a range of issues, especially regarding national security.

Disabled veterans have sacrificed greatly for this country. It is indeed no sacrifice at all for us to take advantage of the unique education and experience that our veterans will bring as administrative, legislative and support staff to the House offices.

This Nation can repay its debt to those disabled veterans by helping disabled veterans continue to support the many important functions of our government, as well as continue to serve their country. Such a partnership is a win-win situation, and yet I am inclined to think that it is we who will benefit most from the contributions.

Mr. Speaker, we must ensure that when our veterans become disabled as a result of their military service, their service and skills do not dry up like a raisin in the sun but continue to bear fruit that can serve this great Nation well. By employing disabled veterans, we show that we have confidence in and value their skills.

We all know that it is exceedingly difficult to gain employment as a disabled individual, let alone as a veteran adjusting to civilian life. This is simply one step we can make as a legislative body to ease the transition and assist a population in need.

I am virtually certain that we all value the time and service of all of our veterans who have faithfully served to protect the interests of this great Nation and its citizens. We certainly would like to express that sentiment here today by passage of H.R. 1016 to encourage all offices of the House of Representatives to hire disabled veterans.

I urge my colleagues to support this resolution.

Mr. EHLERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and agree to the resolution, H. Res. 1016.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GREEN CHEMISTRY RESEARCH AND DEVELOPMENT ACT OF 2005

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1215) to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Green Chemistry Research and Development Act of 2005".

SEC. 2. DEFINITIONS.

In this Act—

(1) the term "green chemistry" means chemistry and chemical engineering to design chemical products and processes that reduce or eliminate the use or generation of hazardous substances while producing high quality products through safe and efficient manufacturing processes;

(2) the term "Interagency Working Group" means the interagency working group established under section 3(c); and

(3) the term "Program" means the Green Chemistry Research and Development Program described in section 3.

SEC. 3. GREEN CHEMISTRY RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The President shall establish a Green Chemistry Research and Development Program to promote and coordinate Federal green chemistry research, development, demonstration, education, and technology transfer activities.

(b) PROGRAM ACTIVITIES.—The activities of the Program shall be designed to—

(1) provide sustained support for green chemistry research, development, demonstration, education, and technology transfer through—

(A) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research and development;

(B) grants to fund collaborative research and development partnerships among universities, industry, and nonprofit organizations;

(C) green chemistry research, development, demonstration, and technology transfer conducted at Federal laboratories; and

(D) to the extent practicable, encouragement of consideration of green chemistry in—

(i) the conduct of Federal chemical science and engineering research and development; and

(ii) the solicitation and evaluation of all proposals for chemical science and engineering research and development;

(2) examine methods by which the Federal Government can create incentives for consideration and use of green chemistry processes and products;

(3) facilitate the adoption of green chemistry innovations;

(4) expand education and training of undergraduate and graduate students, and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering;

(5) collect and disseminate information on green chemistry research, development, and technology transfer, including information on—

(A) incentives and impediments to development and commercialization;

(B) accomplishments;

(C) best practices; and

(D) costs and benefits;

(6) provide venues for outreach and dissemination of green chemistry advances such as symposia, forums, conferences, and written materials in collaboration with, as appropriate, industry, academia, scientific and professional societies, and other relevant groups;

(7) support economic, legal, and other appropriate social science research to identify barriers to commercialization and methods to advance commercialization of green chemistry; and

(8) provide for public input and outreach to be integrated into the Program by the convening of public discussions, through mechanisms such as citizen panels, consensus conferences, and educational events, as appropriate.

(c) INTERAGENCY WORKING GROUP.—The President shall establish an Interagency Working Group, which shall include representatives from the National Science Foundation, the National Institute of Standards and Technology, the Department of Energy, the Environmental Protection Agency, and any other agency that the President may designate. The Director of the National Science Foundation and the Assistant Administrator for Research and Development of the Environmental Protection Agency shall serve as co-chairs of the Interagency Working Group. The Interagency Working Group shall oversee the planning, management, and coordination of the Program. The Interagency Working Group shall—

(1) establish goals and priorities for the Program, to the extent practicable in consultation with green chemistry researchers and potential end-users of green chemistry products and processes; and

(2) provide for interagency coordination, including budget coordination, of activities under the Program.

(d) AGENCY BUDGET REQUESTS.—Each Federal agency and department participating in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office of Management and Budget which identifies its activities that contribute directly to the Program and states the portion of its request for appropriations that is allocated to those activities. The President shall include in his annual budget request to Congress a statement of the portion of each agency's or department's annual budget request allocated to its activities undertaken pursuant to the Program.

(e) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Interagency Working Group shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. This report shall include—

(1) a summary of federally funded green chemistry research, development, demonstration, education, and technology transfer activities, including the green chemistry budget for each of these activities; and

(2) an analysis of the progress made toward achieving the goals and priorities for the Program, and recommendations for future program activities.

SEC. 4. MANUFACTURING EXTENSION CENTER GREEN SUPPLIERS NETWORK GRANT PROGRAM.

Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the enabling of supply chain manufacturers to continuously improve products and processes, increase energy efficiency, identify cost-saving opportunities, and optimize resources and technologies with the aim of reducing or eliminating the use or generation of hazardous substances.".

SEC. 5. UNDERGRADUATE EDUCATION IN CHEMISTRY AND CHEMICAL ENGINEERING.

(a) PROGRAM AUTHORIZED.—(1) As part of the Program activities under section 3(b)(1), the Director of the National Science Foundation shall carry out a program to award grants to institutions of higher education to support efforts by such institutions to revise their undergraduate curriculum in chemistry and chemical engineering to incorporate green chemistry concepts and strategies.

(2) Grants shall be awarded under this section on a competitive, merit-reviewed basis and shall require cost sharing in cash from non-Federal sources, to match the Federal funding.

(b) SELECTION PROCESS.—(1) An institution of higher education seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may

require. The application shall include at a minimum—

(A) a description of the content and schedule for adoption of the proposed curricular revisions to the courses of study offered by the applicant in chemistry and chemical engineering; and

(B) a description of the source and amount of cost sharing to be provided.

(2) In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the level of commitment demonstrated by the applicant in carrying out and sustaining lasting curriculum changes in accordance with subsection (a)(1); and

(B) the amount of cost sharing to be provided.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 8, from sums otherwise authorized to be appropriated by the National Science Foundation Authorization Act of 2002, there are authorized to be appropriated to the National Science Foundation for carrying out this section $7,000,000 for fiscal year 2006, $7,500,000 for fiscal year 2007, and $8,000,000 for fiscal year 2008.

SEC. 6. STUDY ON COMMERCIALIZATION OF GREEN CHEMISTRY.

(a) STUDY.—The Director of the National Science Foundation shall enter into an arrangement with the National Research Council to conduct a study of the factors that constitute barriers to the successful commercial application of promising results from green chemistry research and development.

(b) CONTENTS.—The study shall—

(1) examine successful and unsuccessful attempts at commercialization of green chemistry in the United States and abroad; and

(2) recommend research areas and priorities and public policy options that would help to overcome identified barriers to commercialization.

(c) REPORT.—The Director shall submit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings and recommendations of the study within 18 months after the date of enactment of this Act.

SEC. 7. PARTNERSHIPS IN GREEN CHEMISTRY.

(a) PROGRAM AUTHORIZED.—(1) The agencies participating in the Program shall carry out a joint, coordinated program to award grants to institutions of higher education to establish partnerships with companies in the chemical industry to retrain chemists and chemical engineers in the use of green chemistry concepts and strategies.

(2) Grants shall be awarded under this section on a competitive, merit-reviewed basis and shall require cost sharing from non-Federal sources by members of the partnerships.

(3) In order to be eligible to receive a grant under this section, an institution of higher education shall enter into a partnership with two or more companies in the chemical industry. Such partnerships may also include other institutions of higher education and professional associations.

(4) Grants awarded under this section shall be used for activities to provide retraining for chemists or chemical engineers in green chemistry, including—

(A) the development of curricular materials and the designing of undergraduate and graduate level courses; and

(B) publicizing the availability of professional development courses of study in green chemistry and recruiting graduate scientists and engineers to pursue such courses.

Grants may provide stipends for individuals enrolled in courses developed by the partnership.

(b) SELECTION PROCESS.—(1) An institution of higher education seeking funding under this section shall submit an application at such time, in such manner, and containing such information as shall be specified by the Interagency Working Group and published in a proposal solicitation for the Program. The application shall include at a minimum—

(A) a description of the partnership and the role each member will play in implementing the proposal;

(B) a description of the courses of study that will be provided;

(C) a description of the number and size of stipends, if offered;

(D) a description of the source and amount of cost sharing to be provided; and

(E) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) The evaluation of the applications submitted under paragraph (1) shall be carried out in accordance with procedures developed by the Interagency Working Group and shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed activities;

(B) the degree to which such activities are likely to prepare chemists and chemical engineers sufficiently to be competent to apply green chemistry concepts and strategies in their work; and

(C) the amount of cost sharing to be provided.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—(1) From sums otherwise authorized to be appropriated by the National Science Foundation Authorization Act of 2002, there are authorized to be appropriated to the National Science Foundation for carrying out this Act—

(A) $7,000,000 for fiscal year 2006;
(B) $7,500,000 for fiscal year 2007; and
(C) $8,000,000 for fiscal year 2008.

(2) The sums authorized by paragraph (1) are in addition to any funds the National Science Foundation is spending on green chemistry through its ongoing chemistry and chemical engineering programs.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this Act—

(1) $5,000,000 for fiscal year 2006;
(2) $5,500,000 for fiscal year 2007; and
(3) $6,000,000 for fiscal year 2008.

(c) DEPARTMENT OF ENERGY.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Energy for carrying out this Act—

(1) $7,000,000 for fiscal year 2006;
(2) $7,500,000 for fiscal year 2007; and
(3) $8,000,000 for fiscal year 2008.

(d) ENVIRONMENTAL PROTECTION AGENCY.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for carrying out this Act—

(1) $7,000,000 for fiscal year 2006;
(2) $7,500,000 for fiscal year 2007; and
(3) $8,000,000 for fiscal year 2008.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Oregon (Mr. WU) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 1215, the Green Chemistry Research and Development Act. I would like to thank the gentleman from Georgia (Mr. GINGREY) for his leadership on this important legislation which passed the House in the 108th Congress by an overwhelming vote of 402–14. In fact, I appreciate it so much I am sorry I didn't think of introducing the bill myself.

When I was a college student studying science, the only green chemistry I ever saw was the mold that grew on the neglected food in our dorm refrigerator. Today, we know that green chemistry is about doing chemistry cleaner and smarter in an environmentally sound way.

When businesses innovate by using green chemical processes, they cannot only save money, but also avoid the cost of cleaning up toxic pollutants, providing a safer work environment for their employees, and providing safer products to consumers. Everyone wins.

However, the adoption of green chemistry by the traditional chemical industry has been slow because there are only a few widely accepted processes and a shortage of trained experts in green chemistry. And for too long, the Federal investments in green chemistry research and development have been too small and two unfocused.

To provide that much-needed focus, H.R. 1215, the Green Chemistry Research and Development Act, will establish a research and development program to promote and coordinate Federal green chemistry, research, development, demonstration, education and technology transfer activities within the National Science Foundation, the Environmental Protection Agency, the National Institute of Standards and Technology, and the Department of Energy.

The program will support research and development grants including grants for university-industry-nonprofit partnerships, support green chemistry research at Federal labs, promote education through curricula development and fellowships, and serve as a green chemistry information resource.

H.R. 1215 does not authorize the expenditure of new money. Instead, the bill obtains funding for the program from sums already authorized to be appropriated at the four agencies involved.

H.R. 1215 is an important first step in focusing Federal support for green chemistry. It expands green chemistry education, develops more green chemistry processes, and modestly and responsibly increases the Federal investment in green chemistry.

The emphasis on both training the next generation of chemical professionals and retraining conventional chemists and chemical engineers is critical to innovation in the traditional chemical manufacturing sector.

I am pleased to support the Green Chemistry Research and Development Act. Again, I thank Mr. GINGREY for his hard work on this important piece of legislation, and I urge my colleagues to support H.R. 1215.

Mr. Speaker, I reserve the balance of my time.

Mr. WU. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 1215, the Green Chemistry Research and Development Act. This legislation codifies the ongoing efforts throughout the Federal Government to encourage the development of products and manufacturing processes that are safer, contain fewer toxic compounds, and make better use of recycled materials. I am especially pleased that the bill includes my amendment to authorize a training program at the National Science Foundation. This new program creates partnerships between companies in the chemical industry and colleges and universities to provide professional development training to practicing chemists and chemical engineers in the use of green chemistry concepts and strategies.

During our committee's hearing on last year's version of this bill, it became clear that too few professionals in these fields are exposed to green chemistry in their undergraduate and graduate courses. This lack of training becomes an important barrier to the adoption and use of green chemistry in industrial products and processes.

The partnerships between the academic community and industry that this bill promotes will ensure the courses of study that are put in place are relevant to industry and are designed to provide practicing chemists and chemical engineers with the skills and knowledge they will need to employ green chemistry concepts in their work.

The requirement for cost sharing helps to reinforce the engagement and commitment of companies to the program.

H.R. 1215 provides a good starting point for a Federal effort to promote green chemistry. I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, at this time I am pleased to yield 5 minutes to the gentleman from Georgia, the author of the bill, Mr. GINGREY.

Mr. GINGREY. Mr. Speaker, I rise today to support H.R. 1215, a bill that provides for the implementation of a Green Chemistry Research and Development program.

First, I want to take this opportunity to thank Dr. EHLERS, Mr. WU, Chairman BOEHLERT, Ranking Member GORDON, and all of the Science Committee members and staff who worked hard to bring this important bipartisan legislation through committee and to the House floor today.

Mr. Speaker, chemists can design chemicals to be safe just like they can design them to have other properties, like color and texture. As chemists design products and the processes by which those products are manufactured, they can and should factor in the possible creation of any hazardous by-products.

This technique of considering not only the process in which products are produced but also the environment in which they are created is the basic definition of green chemistry. It is a method of designing chemical products and processes that at the very least reduce the use or generation of hazardous substances.

Green chemistry represents an ever-growing field of science that is demonstrating much promise. This legislation gives Congress the opportunity to support these important efforts by encouraging additional research and enhanced collaboration.

I want to take a moment to outline several reasons why I believe my colleagues should support this legislation. The first is the simple fact that preventing pollution and waste from the start of a design process is often cheaper than cleaning it up later.

Developing new products and processes are an integral component of a variety of industries.

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Industries that span fabrics to fuel cells and the innovation created by this enhanced research will subsequently spur economic growth.

Mr. Speaker, since the heart of green chemistry is design processes that utilize as many benign materials as possible as well as designing them to be conducted at or near room temperature and pressure, working conditions and safety for our employees can be vastly improved.

Unfortunately, despite all the promise of green chemistry, the Federal Government invests very little in this area. This legislation allows coordination of Federal green chemistry research and development within several Federal agencies such as the National Science Foundation, the Environmental Protection Agency, the National Institute of Standards and Technology, and the Department of Energy.

H.R. 1215 will encourage universities and academic institutions, as Mr. WU just mentioned, to train future workers in this exciting technology. This coordinated program will support research and development grants for partnerships between universities, industry and nonprofits. It will also promote education through curriculum development and fellowships that will collect and disseminate information about green chemistry.

Finally and most importantly, Mr. Speaker, H.R. 1215 is a fiscally responsible piece of legislation in step with the current reality of our budgetary constraints. This legislation funds these programs by obtaining sums already authorized to the above-mentioned agencies. It does not authorize the expenditure of any new money. Let me say that again. This legislation does not appropriate new funds but rather refocuses the budget of these agencies.

Chemical companies, pharmaceutical corporations, carpet and rug manufacturers and biotechnology businesses have endorsed H.R. 1215, showing a broad range of support for the merits of this legislation. All of these companies and corporations realize the advancement of green chemistry is a positive not only for their businesses but also our country's environment, our economy, and our Nation's health.

Mr. Speaker, I encourage my colleagues to vote for this innovative, insightful, and responsible piece of legislation that will show the American public that Congress and the business community are committed to preserving our Nation's environment.

Mr. WU. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself the balance of my time.

I am very proud of our system of free enterprise in America. It has led to a considerable amount of innovation in every area. But I find, surprisingly, once in a while tradition trumps innovation, and that is the situation that we have here with green chemistry.

I commend the gentleman from Georgia for offering this bill because, frankly, we have to wake up the chemical industry to this promising new field and overcome the tradition and take up the ideas of green chemistry.

In all the experience I have in viewing the cases where it has been used, we have had better products, less pollution, and the manufacturers make more money. There is no reason not to do it. It is just that we simply have to use innovation to break tradition.

So, Mr. Speaker, while the full potential of green chemistry has yet to be realized, H.R. 1215 will place us on the right path to reaching that potential.

I urge all my colleagues to support the Green Chemistry Research and Development Act.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the Green Chemistry Research and Development Program is intended to promote and coordinate Federal green chemistry research, development, demonstration, education, and technology transfer activities.

1. Prevent waste: Design chemical syntheses to prevent waste, leaving no waste to treat or clean up.

2. Design safer chemicals and products: Design chemical products to be fully effective, yet have little or no toxicity.

3. Design less hazardous chemical syntheses: Design syntheses to use and generate substances with little or no toxicity to humans and the environment.

4. Use renewable feedstocks: Use raw materials and feedstocks that are renewable rather than depleting. Renewable feedstocks are often made from agricultural products or are the wastes of other processes; depleting feedstocks are made from fossil fuels (petroleum, natural gas, or coal) or are mined.

5. Use catalysts, not stoichiometric reagents: Minimize waste by using catalytic reactions. Catalysts are used in small amounts and can carry out a single reaction many times. They are preferable to stoichiometric reagents, which are used in excess and work only once.

6. Avoid chemical derivatives: Avoid using blocking or protecting groups or any temporary modifications if possible. Derivatives use additional reagents and generate waste.

7. Maximize atom economy: Design syntheses so that the final product contains the maximum proportion of the starting materials. There should be few, if any, wasted atoms.

8. Use safer solvents and reaction conditions: Avoid using solvents, separation agents, or other auxiliary chemicals. If these chemicals are necessary, use innocuous chemicals.

9. Increase energy efficiency: Run chemical reactions at ambient temperature and pressure whenever possible.

10. Design chemicals and products to degrade after use: Design chemical products to break down to innocuous substances after use so that they do not accumulate in the environment.

11. Analyze in real time to prevent pollution: Include in-process real-time monitoring and control during syntheses to minimize or eliminate the formation of byproducts.

12. Minimize the potential for accidents: Design chemicals and their forms (solid, liquid, or gas) to minimize the potential for chemical accidents including explosions, fires, and releases to the environment.

This bill provides for sustained support for green chemistry research, development, demonstration, education, and technology transfer through merit-reviewed competitive grants to individual investigators and teams of investigators, including young investigators.

The legislation includes grants to fund collaborative research and development partnerships among universities, industry, and nonprofit organizations. Additionally, provisions provide for green chemistry research, development, demonstration, and technology transfer conducted at Federal laboratories.

H.R. 1215 will establish an Interagency Working Group, which will include representatives from the National Science Foundation, the National Institute of Standards and Technology, the Department of Energy, the Environmental Protection Agency, and any other agency that the President designates. The Director of the National Science Foundation and the Assistant Administrator for Research and Development of the Environmental Protection Agency will serve as co-chairs of the Interagency Working Group. The Interagency Working Group shall oversee the planning, management, and coordination of the Program.

As part of the Program activities under Section 3, the Director of the National Science Foundation shall carry out a program to award grants to institutions of higher education to support efforts by such institutions to revise their undergraduate curriculum in chemistry and chemical engineering to incorporate green chemistry concepts and strategies.

It is important to encourage sustainable and environmentally sound research goals, and I encourage my colleagues to support this measure.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 1215, and I want to congratulate our colleague, Dr. GINGREY, for having introduced it. Dr. GINGREY was one of the most active and effective members of the Science Committee during the 108th Congress, and, while he is no longer with the committee, we continue to work closely with him on a variety of issues, including this green chemistry R&D legislation before us today.

There's really only one unfortunate thing about the green chemistry bill—and that is that none of us thought of doing this before. Green chemistry is such an obvious area on which to focus that it should be clear to anyone—and everyone—that more needs to be done in this field.

The majority of environmental protection laws passed by Congress focus on command and control activities—limiting the spread of pollutants, cleaning up waste, or assessing fines to polluters. These are all necessary approaches to environmental challenges. But I believe in the old adage—"an ounce of prevention is worth a pound of cure." If we reduce to ounces the quantity of toxic chemicals we use and produce in the first place, then we won't have to worry as much about cleaning up pounds of toxics downstream.

But while the environmental benefits of applying this approach to our industrial processes are clear, green chemistry innovations provide more than just environmental benefits—they can save companies money and give them a competitive edge as well. With the right ideas applied in the right areas, green chemistry is truly a win-win strategy.

A good example is the work of Pfizer, which won a 2002 Presidential Green Chemistry Challenge Award for redesigning the manufacturing processes used to produce the anti-depression drug "Zoloft." By applying green chemistry principles to the manufacture of Zoloft, Pfizer was able to eliminate 730 metric tons of toxic chemicals from the production process. The result: improved worker and environmental safety, reduced energy and water use, and a doubling of overall product yield that contributed significantly to the economic bottom line.

This is just one example. There are dozens of other creative and exciting environmental solutions that are being driven by the application of green chemistry principles. Companies like Dow, DuPont, and Kodak are leading industry into a new era of the way it thinks about chemical and manufacturing processes. And with a relatively small amount of Federal effort, we can leverage industry efforts and significantly accelerate development and application of green chemistry solutions.

This bill does just that. It takes a sensible, targeted approach to putting some Federal dollars behind green chemistry pollution prevention efforts. It builds on existing programs at a number of Federal agencies to transform those small and scattered efforts into a focused, coordinated, and enhanced national program.

The result of that program should be the generation and dissemination of new ideas and new people, leading to the adoption of more green chemistry practices and the creation of more green chemistry products, by industry.

Now I know some would like this bill to go further. And there's no doubt that there are additional barriers to green chemistry that the government action could help attack. But those government actions are complex and controversial and should be taken up in other bills.

For now, let's take care of first things first. Let's make sure that the government is doing everything possible to ensure that green chemistry research and development is getting the attention it deserves, to ensure that education programs are designed to teach more students and practicing chemists and chemical engineers about green chemistry, and to ensure that new ideas are broadly disseminated.

This is a thoughtful and effective piece of legislation that takes a step we should have taken long ago—making sure that government R&D and education programs promote the kind of chemistry that is in the national interest.

I urge everyone to support Dr. GINGREY's bill.

Mr. EHLERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and pass the bill, H.R. 1215, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL INTEGRATED DROUGHT INFORMATION SYSTEM ACT OF 2006

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5136) to establish a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration to improve drought monitoring and forecasting capabilities, as amended.

The Clerk read as follows:

H.R. 5136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Integrated Drought Information System Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) DROUGHT.—The term "drought" means a deficiency in precipitation—

(A) that leads to a deficiency in surface or subsurface water supplies (including rivers, streams, wetlands, ground water, soil moisture, reservoir supplies, lake levels, and snow pack); and

(B) that causes or may cause—

(i) substantial economic or social impacts; or

(ii) substantial physical damage or injury to individuals, property, or the environment.

(2) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 3. NIDIS PROGRAM.

(a) IN GENERAL.—The Under Secretary, through the National Weather Service and other appropriate weather and climate programs in the National Oceanic and Atmospheric Administration, shall establish a National Integrated Drought Information System.

(b) SYSTEM FUNCTIONS.—The National Integrated Drought Information System shall—

(1) provide an effective drought early warning system that—

(A) is a comprehensive system that collects and integrates information on the key indicators of drought in order to make usable, reliable, and timely drought forecasts and assessments of drought, including assessments of the severity of drought conditions and impacts;

(B) communicates drought forecasts, drought conditions, and drought impacts on an ongoing basis to—

(i) decisionmakers at the Federal, regional, State, tribal, and local levels of government;

(ii) the private sector; and

(iii) the public,

in order to engender better informed and more timely decisions thereby leading to reduced impacts and costs; and

(C) includes timely (where possible real-time) data, information, and products that reflect local, regional, and State differences in drought conditions;

(2) coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and

(3) build upon existing forecasting and assessment programs and partnerships.

(c) CONSULTATION.—The Under Secretary shall consult with relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector in the development of the National Integrated Drought Information System.

(d) COOPERATION FROM OTHER FEDERAL AGENCIES.—Each Federal agency shall cooperate as appropriate with the Under Secretary in carrying out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $11,000,000 for fiscal year 2007;

(2) $12,000,000 for fiscal year 2008;

(3) $13,000,000 for fiscal year 2009;

(4) $14,000,000 for fiscal year 2010;

(5) $15,000,000 for fiscal year 2011; and

(6) $16,000,000 for fiscal year 2012.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 5136, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Today, I rise in support of H.R. 5136, the National Integrated Drought Information System Act. I would like to thank Mr. HALL and Mr. UDALL for their leadership on this important legislation. It is truly a bipartisan bill in every way.

Drought is a pernicious disaster. It can creep up on you in the form of pleasantly cloudless days. But once it has arrived it can destroy livelihoods, damage valuable ecosystems, and even threaten human health. The National Oceanic and Atmospheric Administration, better known as NOAA, estimates that we lose approximately $7 billion each year to this slowly emergent but devastating natural disaster. In 2002, drought killed over three-quarters of all of the Christmas tree saplings in my home State of Michigan. In 2005 and 2006, drought left 60 Michigan counties eligible for the U.S. Department of Agriculture relief programs. And my State got off easy.

Since we cannot manufacture more water, our best defense against this creeping threat is knowledge. We must provide clear and accurate warnings of coming droughts so that we can seek appropriate solutions and take appropriate action. Drought information should include enough details to make it useful to the people who work so hard to manage water resources and minimize the effects of drought on our daily lives. The National Integrated Drought Information System Act seeks to provide just that kind of information.

This bill authorizes the National Integrated Drought Information System, or NIDIS, in NOAA. The system would include a comprehensive drought forecasting and monitoring system and the research and development programs to support it. The bill requires NIDIS to build upon existing forecast and monitoring efforts and to do so in broad consultation with relevant Federal, State, tribal, and local agencies, as well as public and private organizations. H.R. 5136 emphasizes the importance of timely, preferably real-time, drought-related information that reflects local and regional differences in drought conditions.

In summary, this bill gives farmers, utilities, forest managers, waterway operators, tourism companies, reservoir managers, and the general public the tools they need to make thoughtful and informed choices about how to limit the impact of drought on our economy, our environment, and our quality of life.

I am pleased to support H.R. 5136, the National Integrated Drought Information System Act. Again, I commend Mr. HALL and Mr. UDALL for this important and bipartisan legislation; and I urge all my colleagues to support H.R. 5136.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to support H.R. 5136 with my colleague from Texas, Judge Hall. H.R. 5136 authorizes NOAA to establish a National Integrated Drought Information System to provide an early warning system to enable State and local governments to take steps to mitigate the effects of drought.

Drought is as devastating to our lives and our economy as other severe weather events. In recent years, the western United States has experienced severe drought conditions. The impacts of drought are costly in both lives and dollars. Drought conditions set the stage for wildfires, crop failures, decline in recreation and tourist activities, impacts on hydropower production, and other harmful effects.

And unlike other severe weather events, Mr. Speaker, drought conditions emerge over a long period of time. Reduced rain and snowfall deplete moisture in the soil, reduce the level of reservoirs, and reduce the flow in rivers. NOAA's current Drought Monitor and drought prediction efforts have provided information to assist with drought planning and mitigation, but I believe we can and should do more.

We need a more refined information system on a seasonal and long-term basis about the severity and persistence of drought conditions to better tailor drought mitigation plans at the regional and local levels. H.R. 5136 will also facilitate the consolidation of drought-related information in one location, providing the public and decision makers at all levels a single point of access for information on drought.

I want to thank Chairman BOEHLERT and Chairman EHLERS for their support of this legislation. In particular, again, I want to mention my good friend, the senior member from Texas, Judge HALL, for his leadership; and I would urge all Members to support this effort to improve our ability to deal with the impacts of drought.

Mr. Speaker, I reserve the balance of my time.

Mr. EHLERS. Mr. Speaker, I am very pleased to yield 4 minutes to the gentleman from Texas, the cosponsor of this bill, Mr. HALL.

Mr. HALL. Mr. Speaker, I rise today, of course, in support of the bill to create a National Integrated Drought Information System, and I thank Mr. EHLERS for his very capable handling of the bill. And I thank Mr. UDALL, anybody by the name of Udall stands for honor to me and has for many, many years, for his cosponsorship of the bill.

I am very pleased that the House has agreed to vote on this legislation, because it is important to nearly every State in our union. In our home State of Texas, drought is absolutely decimating crops and the economy. The total direct losses from drought in Texas are now at $4.1 billion for the year, and the broader economic damages from this drought bring the price tag to over $8 billion. My own home district in northeast Texas is experiencing the most severe damage statewide from the drought. In Missouri, farm ponds have been drying up in record numbers; and in Oklahoma the wheat crop rated 58 percent poor to very poor. It is undeniable that droughts have devastating impacts on our society.

While we cannot stop nature, we can do a better job, I think, of predicting, monitoring, and mitigating the problem. Currently, the drought system we have only provides limited help to local water managers and others concerned with drought, because the information is not sufficiently accurate, it is not thorough, or it is not up to date. Our Nation approaches droughts through crisis management, rather than through proactive solutions to manage the problem. The resources that are available to monitor droughts are very general in nature and only offer regional-scale data. Moreover, the data is not circulated in a way that is accessible on the local level by farmers and other interested parties.

The bill before us today addresses these shortcomings. By creating a comprehensive drought information system, we enable our local, State, and national leaders to be more proactive in their approach to droughts. This bill establishes an integrated system and designates NOAA as the lead agency. NOAA will coordinate with local, State, and Federal entities to create a comprehensive network of drought information and provide decision makers with the best tools to manage our resources. NOAA will do this by building a national drought monitoring and forecasting system, create a drought early warning system, provide an interactive drought information delivery system, and designate mechanisms for improved interaction with the public.

The NIDIS initiative will hopefully improve our analysis of conditions, provide us with more accurate seasonal forecasts, and equip us with a better understanding of climate interactions that produce droughts. I am pleased that organizations like the Farm Bureau, the Western States Water Council, and the Western Governors Association have supported this legislation.

Please join me in supporting this vital and important initiative.

Mr. BOEHLERT. Mr. Speaker, today I rise in support of H.R. 5136, the National Integrated Drought Information System Act. Drought may seem like something that is easy to detect but hard to do anything about. But that turns out to be wrong on both counts. It's tricky to figure out when a drought is developing; but if one knows a drought is on its way, one can take thoughtful steps to change water use to mitigate drought's often severe economic—and environmental—consequences. So we need to pay more attention to this costly phenomenon, and Mr. HALL's bill, building on existing Federal efforts, will enable us to improve drought forecasting and monitoring, which will save billions of dollars. While apple growers in my State are doing well today, they faced expensive and debilitating drought just 4 years ago, and will face it again in the future. In fact, in the last 5 years, every State in our Nation has faced drought. This bill will give all of our States the tools they need to reduce the impacts of future droughts.

I am pleased to support H.R. 5136, the National Integrated Drought Information System Act. I commend Mr. HALL and Mr. UDALL for this important and bipartisan legislation, and I urge my colleagues to support H.R. 5136.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 5136, the National Integrated Drought Information System Act of 2006.

The National Integrated Drought Information System within the National Oceanic and Atmospheric Administration is intended to improve drought monitoring and forecasting capabilities.

Droughts can lead to a deficiency in surface or subsurface water supplies, including rivers, streams, wetlands, ground water, soil moisture, economic or social impact, as well as substantial physical damage or injury to individuals, property, or the environment.

A drought is defined as "a period of abnormally dry weather sufficiently prolonged for the lack of water to cause serious hydrologic imbalance in the affected area." The worst drought in 50 years affected at least 35 States during the long hot summer of 1988. In some areas the lack of rainfall dated back to 1984. In 1988, rainfall totals over the Midwest, Northern Plains, and the Rockies were 50–85 percent below normal. Crops and livestock died and some areas became desert. The economic and environmental impact is clear, and this legislation addresses a direct need.

This legislation establishes the National Integrated Drought Information System in order to provide an effective drought early warning system that acts as a comprehensive system that collects and integrates information on the key indicators of drought. The goal is to make usable, reliable, and timely drought forecasts and assessments of drought, including assessments of the severity of drought conditions and impacts.

Ideally, this information network would communicate drought forecasts, drought conditions, and drought impacts on an ongoing basis to decisionmakers at the Federal, regional, State, tribal, and local levels of government, as well as to the private sector and the public.

I urge my colleagues to support this measure.

□ 2300

Mr. UDALL of Colorado. Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I am very pleased to urge all of my colleagues to support the National Integrated Drought Information System Act. I urge them to vote for it, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHWARZ of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. HALL) that the House suspend the rules and pass the bill, H.R. 5136, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECOGNIZING THE DEDICATION OF THE EMPLOYEES AT THE STENNIS SPACE CENTER

Mr. HALL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 948) recognizing the dedication of the employees at the National Aeronautics and Space Administration's Stennis Space Center who, during and after Hurricane Katrina's assault on Mississippi, provided shelter and medical care to storm evacuees and logistical support for storm recovery efforts, while effectively maintaining critical facilities at the Center.

The Clerk read as follows:

H. RES. 948

Whereas, during Hurricane Katrina, some 3,700 persons (including employees, their immediate and extended families, and members of the general public), sought shelter at the Stennis Space Center;

Whereas the Stennis cafeteria, which normally serves about 175 breakfasts and 600 lunches each day, served 3,000 meals 3 times a day to evacuees, for a period of a week following the storm;

Whereas before, during, and in the immediate aftermath of the storm, the small staff of the Stennis Medical Clinic provided medical care to all who needed it among the evacuees onsite, including some 20 special needs patients, and soon after the storm, the Stennis clinic staff was complemented by medical personnel airlifted from other National Aeronautics and Space Administration Centers;

Whereas, although commercial electrical power was not available to Stennis for 10 days following the storm, electrical power was maintained to all essential buildings through the extensive use of diesel-powered generators and the around the clock efforts of a team of individuals who mechanically maintained those generators and kept them fueled, also enabling the pumps on Stennis' deep-water wells to provide a continuous supply of potable water for drinking, cooking, and sanitation to support the 3,700 people onsite;

Whereas a team of employees in the Stennis rocket propulsion test complex protected the health of all test infrastructure, employing innovative methods to ensure an uninterrupted supply of purge gases to all required facility infrastructure and test hardware, failure of which would have resulted in untold millions of dollars of new costs to clean, purge, and recertify these facilities for Space

Shuttle Main Engine and other propulsion system testing;

Whereas for 10 days following the storm, logistical support (including food, water, medical supplies, and personnel exchange) of the National Aeronautics and Space Administration Michoud Assembly Facility in New Orleans was provided via helicopters operating from the Stennis Space Center, along with helicopters, and flight crew and security personnel, from the Marshall Space Flight and Kennedy Space Centers; and

Whereas, immediately following the storm, Stennis Space Center facilitated the use of its property as the site of the Federal Emergency Management Agency's Incident Command Center serving a 6-county area along the Mississippi Gulf Coast, and Stennis served as the central distribution hub for disaster response supplies to those same counties, including, during the nearly 2-months of Federal Emergency Management Agency relief operations at Stennis, distributing more than 7,600,000 gallons of water, 41,000,000 pounds of ice, and 3,500,000 MREs (meals-ready-to-eat) to devastated areas via the Stennis Space Center hub: Now, therefore, be it

Resolved, That the House of Representatives commends the dedication of the employees who stayed behind at the National Aeronautics and Space Administration's Stennis Space Center, who, during and after Hurricane Katrina's assault on Mississippi, provided shelter and medical care to storm evacuees and logistical support for storm recovery efforts, while effectively maintaining critical facilities at the Center, including Cheryl Bennett, James Bevis, Terry Bordelon, Steve Brettel, Vicki Brown, Bill Brumfield, Kirt Bush, Paul Byrd, Ethan Calder, Marla Carpenter, David Carstens, Jonathan Clemens, Eric Crawford, Cheri Cuevas, John Davenport, David Del Santo, Isaac DeLancey, Jim Freeman, Greg Garrett, Dave Geiger, Stan Gill, Don Griffith, Haynes Haselmaier, Coby Holloway, Gay Irby, Manning "JJ" Jones, Catriona Ladner, David Ladner, Richard Ladner, Stanley Lee, Michelle Logan, Ron Magee, Sharlene Majors, Steve McCord, Pat McCullough, Michael McDaniel, Mike McKinion, Kirk Miller, John Mitchell, Ron Moore, David R. Oakes, Kevin A. Oliver, Alan Phillips, John Nick Pitalo, Allen Price, Porter Pryor, Margaret Roberts, Miguel Rodriguez, Jason Saucier, Dale Sewell, Donald Seymore, Kathy Slade, Sue Smith, David Throckmorton, Karen Vander, John Waquespack, Rodney Wilkinson, Robert Williams, and Michael J. Witt.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. HALL) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H. Res. 948, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 948, a resolution recognizing the stalwart NASA employees who performed beyond their day-to-day duties to establish the Stennis Space Center as a logistical emergency center for a large region of the southern Mississippi coast leading up to, during, and in the aftermath of Hurricane Katrina.

The Stennis Space Center's runway, which served all of southern Mississippi, as well as the New Orleans area, was cleared within a day. This alone allowed flights with food stuffs, generators and medical supplies to land and also allowed for the medical evacuation of storm survivors.

Nearly 3,700 persons, including employees and their families, as well as the local public sought refuge at the Stennis facility for weeks following the disaster. Despite this overwhelming tragedy, the employees at the Stennis factory were back to work and excited about their upcoming role in the Vision For Space Exploration.

Excitement about their work and about the future shows the drive and ingenuity of the American people at its best. I want to join in expressing my admiration for those exceptional people who showed the strength and the spirit of America.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

I want to speak in strong support of this resolution, 948, which is a resolution that honors the dedication of the employees of the National Aeronautics and Space Administration's Stennis Space Center, who stayed at their posts during Hurricane Katrina and protected critical space program assets.

In addition, they provided shelter and medical care to storm evacuees, and they provided logistical support for storm recovery efforts.

Mr. Speaker, as you may recall during late August of last year, Hurricane Katrina severely assaulted southeast Louisiana and the Mississippi coast, resulting in massive damage and the evacuation of large numbers of citizens.

Yet, in the midst of the storm there were countless examples of heroism. One example is the way in which employees of the Stennis Space Center stayed and protected the facility instead of fleeing the area.

These great Americans deserve our thanks and praise for their dedication to working to preserve Stennis during Hurricane Katrina's passage through the region.

Among their accomplishments was the protection of critical test infrastructure at the rocket propulsion text complex. The Stennis Space Center plays an important role in the United States space program. By risking their own lives, these brave individuals ensured that the Center was preserved as a viable facility in spite of the devastation wrought by this Hurricane.

But these individuals are also worthy of recognition for their efforts to assist their fellow citizens who were affected by the storm. During the hurricane, almost 3,700 people took refuge at the center. The employees who remained helped feed, provide medical care and maintain electrical power for all of those on site. The space center also served as the site of the Federal Emergency Management Agency's incident command center for the parts of the Gulf Coast impacted by Katrina.

In short, without the dedication of the employees listed in the resolution before us today, the consequences of Katrina's passage through the region would have been far worse. Mr. Speaker, it is only fitting and proper that we honor those brave individuals for their heroic deeds. I strongly urge the passage of House Resolution 948.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL. Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield such time as he may consume to my good friend, Congressman TAYLOR, from the coast of Mississippi who firsthand experienced the effects of Hurricane Katrina, and who himself is a hero for the way he stood tall and was there on the ground helping people who were affected by the Hurricane.

I think it is only suitable and only proper that Congressman TAYLOR shares his point of view with us.

Mr. TAYLOR of Mississippi. Mr. Speaker, let me being by thanking my colleagues in the Mississippi and Louisiana delegations for cosponsoring this.

Mr. Speaker, I could spend the remainder of this year's session naming south Mississippians who on an individual basis rose to the occasion and performed heroic deeds. Tonight we want to thank the employees of the Stennis Space Center for the phenomenal job they did in Hancock County, a county that 90 percent of the homes were either destroyed outright or severely damaged, a county where the vast majority of it was underwater for at least a substantial portion of the day.

Mr. Speaker, one of the interesting sidelights, my colleague and friend, Congressman HALL mentioned, the Stennis Space Center runway, a 10,000 runway that was open the next day after the storm in order to bring in vital supplies.

What the Congressman probably would never guess is that the person who opened that runway was the 13-year-old son of the airport manager, a young man by the name of Billy Cotter. His family had lost their home in Bay St. Louis. Knowing that the home was gone, they had gone out to the

Stennis Space Center, moved into the dad's office. The dad's office had taken about waist-deep water, had about 6 inches of mud on the floor.

And realizing that that runway was the vital link in a county that almost all of the bridges coming to and from it had been destroyed, 13-year-old Billy Cotter hops on the street sweeper, gets out there, and the next day cleared the runway of, I am told, snakes, branches, trees, and had the runway up and running by Tuesday afternoon, which is absolutely remarkable for anyone, but in particular a young boy.

A reporter passes through the next day, and in trying a write a good news story of Katrina, looks over and notices that the helicopter that he was traveling in was being refueled by this little kid. And thinking it is pretty remarkable, goes up and hands the kid a $20 bill. The kid runs over to the refueling truck, opens the door and his pet dog is sitting in the driver's seat.

The kid is so thrilled to get the $20 bill, he shows the 20 to the dog. And of course OSHA and every other agency of occupational safety in America probably would have gone berserk.

But again here is Billy Cotter, 13 years old, running the street sweeper, refueling helicopters that are bringing in the life-saving goods. Billy really epitomizes the work that was going on out there, and the people pitching in doing what had to be done.

Mr. Speaker, the other person I want to mention also, in addition to great work of Stennis employees, on the day after Easter, a convoy of the 155th Mississippi National Guard was attacked in Iraq.

One of the drivers, a young Mississippi State student who had been activated for the war, a fellow by the name of William Brooks was severely wounded, lost both legs. He spends a lot of time at Walter Reed.

In the course of that, I had asked the folks at Mississippi State University if William was up to it, if he would do an internship, would they give him credit for his studies. For whatever reason, William chose not to take me up on that offer until the day after the storm.

The day after the storm, after many months of recuperating at Walter Reed Hospital, William finds some money for a cab fare, has the cab bring him to Capitol Hill, shows up at my office, says something to my staff that is kind of overwhelmed at this point, and says: "I figured you all could use some help."

And for the next couple of weeks, since the phones are down in Mississippi, and when a Mississippian can finally get to a phone and make a call looking for some assistance, almost all of those calls came to the Washington office.

Young William Brooks, who had been severely wounded in Iraq, was there answering the phone helping people. Again, I know the hour is late and I could tell 8,000 stories like that. But tonight we want to talk about the great work of the Stennis Space Center, so many of whom had lost their own homes, so many of whom retreated to the Space Center.

First thing, here is a place to take care of their families, but then pitching in and taking care of approximately 4,000 other south Mississippians who found themselves in the same predicament. So we want to commend the staff at the Stennis Space Center, Admiral Donaldson, who was in charge of leading the space center at that time, and all of the people out there for doing a phenomenal job of taking care of themselves, their families and the people who had retreated to the Stennis Space Center looking for hope in the aftermath of the storm.

What is really remarkable about my fellow south Mississippians is that the extremely high percentage of people who had lost their own homes, be their firemen, policemen, civil servants, the airport manager, fill-in-the blank, but who kept going to work, taking care of others, knowing that there really was not much that they could do for themselves, but they were in a position to help someone else.

That is the kind of spirit that has gotten Mississippi going back in the right direction. We still have a heck of a lot of work to do, but because of the good work done by the folks at the Stennis Space Center, William Brooks, Billy Cotter and so many others in south Mississippi, we are at least heading in the right direction.

I thank you very much for bringing this bill to the floor.

Mr. HALL. Mr. Speaker, I just want to say that it hurts my heart to hear the story that Mr. TAYLOR has told us. And from the very first day he hit this Congress, I intercepted him, and he has been one of my dearest friends. Never knowing that he would go through the vicissitudes of nature and the hardships that they have undergone, we need still to have and invoke the power of prayer for those people and for the Taylor family. God bless you, GENE. Thank you for your testimony.

Mr. Speaker, we yield back the balance of our time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to associate myself with the comments of my good friend, Representative HALL. And I think I speak for him and every other Member of this body when I express the opinion that there is nobody that is more respected than Congressman TAYLOR.

And we are all in a sense examples of the people in our district. And when we watch and work with Congressman TAYLOR, we know that there are thousands of other people in his district that have integrity, that have a work ethic that makes us proud. And it is his leadership and his courage, I think Judge Hall would agree that have helped the Congress continue to do the right thing, although we have much more to do for the people of Louisiana and Mississippi to put things to right after this terrible natural disaster.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Res. 948, recognizing the dedication of the employees at the National Aeronautics and Space Administration's Stennis Space Center.

I cannot honor and commend these employees enough for their heroism during and after Hurricane Katrina's assault on Mississippi. The Stennis Space Center employees provided shelter and medical care to storm evacuees and logistical support for storm recovery efforts, while effectively maintaining critical facilities at the center.

During Hurricane Katrina, some 3,700 persons, including employees, their immediate and extended families, and members of the general public, sought shelter at the Stennis Space Center.

The Stennis cafeteria, which normally serves about 175 breakfasts and 600 lunches each day, served 3,000 meals 3 times a day to evacuees, for a period of a week following the storm.

Before, during, and in the immediate aftermath of the storm, the small staff of the Stennis Medical Clinic provided medical care to all who needed it among the evacuees onsite. This included some 20 special needs patients, and soon after the storm, the Stennis clinic staff was complemented by medical personnel airlifted from other National Aeronautics and Space Administration Centers.

Although commercial electrical power was not available to Stennis for 10 days following the storm, electrical power was maintained to all essential buildings through the extensive use of diesel-powered generators and the around the clock efforts of a team of individuals who mechanically maintained those generators and kept them fueled. This also enabled the pumps on Stennis's deep-water wells to provide a continuous supply of potable water for drinking, cooking, and sanitation to support the 3,700 people onsite.

These brave individuals include: Cheryl Bennett, James Bevis, Terry Bordelon, Steve Brettel, Vicki Brown, Bill Brumfield, Kirt Bush, Paul Byrd, Ethan Calder, Marla Carpenter, David Carstens, Jonathan Clemens, Eric Crawford, Cheri Cuevas, John Davenport, David Del Santo, Isaac DeLancey, Jim Freeman, Greg Garrett, Dave Geiger, Stan Gill, Don Griffith, Haynes Haselmaier, Coby Holloway, Gay Irby, Manning "JJ" Jones, Catriona Ladner, David Ladner, Richard Ladner, Stanley Lee, Michelle Logan, Ron Magee, Sharlene Majors, Steve McCord, Pat McCullough, Michael McDaniel, Mike McKinion, Kirk Miller, John Mitchell, Ron Moore, David R. Oakes, Kevin A. Oliver, Alan Phillips, John Nick Pitalo, Allen Price, Porter Pryor, Margaret Roberts, Miguel Rodriguez, Jason Saucier, Dale Sewell, Donald Seymore, Kathy Slade, Sue Smith, David Throckmorton, Karen Vander, John Waquespack, Rodney

Wilkinson, Robert Williams, and Michael J. Witt.

Thank you, to all of these employees, for their selfless and honorable actions. I urge my colleagues to support this measure.

Mr. UDALL of Colorado. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. HALL) that the House suspend the rules and agree to the resolution, H. Res. 948.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

TO EXTEND TEMPORARILY CERTAIN AUTHORITIES OF THE SMALL BUSINESS ADMINISTRATION

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6159) to extend temporarily certain authorities of the Small Business Administration.

The Clerk read as follows:

H.R. 6159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION.

Any program, authority, or provision, including any pilot program, authorized under the Small Business Act (15 U.S.C. 631 et seq.) or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) as of September 30, 2006, that is scheduled to expire on or after September 30, 2006 and before February 2, 2007, shall remain authorized through February 2, 2007, under the same terms and conditions in effect on September 30, 2006.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois.

GENERAL LEAVE

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill simply extends all of the programs, including pilot programs, the authorities or provisions of the Small Business Act, the Small Business Investment Act, until February 2 of 2007.

□ 2315

Currently, the programs and authorities of the SBA expire in September on Saturday, September 30. Passage of this bill will continue to give the committee the time necessary to work on a more comprehensive SBA reauthorization during the rest of this session.

Many of the programs of the SBA do not operate under a direct appropriation. This includes the 7(a) general business loan guarantee program; the Certified Development Company program; and the Small Business Investment Company program. Passage of this bill will make it absolutely certain that there is no legal ambiguity as to whether or not the Federal Government can continue to guarantee these critical loans and debenture programs during the period of time covered by a continuing resolution.

In addition, this bill would extend the authority of the SBA to operate several smaller programs including grants to Small Business Development Centers to participate in the Drug-Free Workplace program; sustainability funding for Women Business Centers; a pre-disaster mitigation pilot program; the New Markets Venture Capital program; and BusinessLinc. It would also extend SBA's cosponsorship and gift authority, which enables the SBA to accept private donations to help put on events or print publications, thus saving the taxpayers precious dollars.

Mr. Speaker, this bill is quite simple. It contains the exact same language, with only the dates changed, that was signed into law four times in the 108th Congress when this House confronted the same problem 2 years ago in attempting to pass a comprehensive SBA reauthorization bill into law. Unfortunately, we are at an impasse today for nearly the same reasons.

I urge my colleagues to support H.R. 6159 so that our Nation's small businesses will see no interruption of service from the SBA over the next 4 months while Congress completes its work for the year.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, the legislation being offered today will extend the authorization of the Small Business Administration and most of its programs. While these initiatives would have been extended with any the continuing resolution that the House will pass this week, this bill will extend the authorization to February of 2007.

It is unfortunate that after 2 years, and nearly 50 hearings in the committee, that the only legislation to address the issues at the SBA consists of eight lines of text. While this extension may not include any program changes, it in no way should reflect that the agency is without its problems.

In fact, over the past 2 years, many of the issues at the SBA have been exacerbated by a combination of budget cuts, mismanagement and the inability to adequately respond to the needs of small businesses.

In the last few years, SBA loan programs have grown more expensive to borrowers because of an increase in fees that are being paid by small businesses. We have also seen the problems in our Federal contracting system grow worse for small firms. This year alone, $12 billion in Federal contracts that should have gone to small businesses went to large corporations.

The situation in the gulf coast also revealed that the SBA has serious structural and management problems related to its disaster loan program. Over a year after Hurricane Katrina, just over $2 billion of the $10 billion in approved disaster loans for Katrina victims had been disbursed.

At a time when small businesses are faced with an economic environment that is less than certain, I believe that we should be doing more to help these entrepreneurs. The SBA has a role in improving the climate for small businesses, and Congress has a duty to give them the tools to do just that.

While this legislation will ensure that many of the successful programs can continue to operate, it does fail to extend key provisions that serve veterans and low-income populations. We should be extending all of the initiatives, not picking and choosing.

I am disappointed that Congress will not improve the operations at the SBA, and it is my hope that the committee in the next Congress will act quickly to rectify this

Mr. Speaker, I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I have no further people that are going to be speaking, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 6159.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REAPPOINTMENT OF MEMBER TO BOARD OF VISITORS TO UNITED STATES AIR FORCE ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C. 9355(a), amended by Public Law 108-375, and the order of the House of December 18, 2005, the Chair announces the Speaker's reappointment of the following Member of the House to the Board of Visitors to the United States Air Force Academy:

Ms. KILPATRICK, Michigan.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SRI LANKA CONFLICT SURGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, we are on the verge of a full-scale war in Sri Lanka. The 2002 cease-fire agreement, and the peace process in Sri Lanka between the government and the Liberation Tigers of Tamil Ealam, LTTE, is essentially nonexistent. The violence is escalating and thousands of Sri Lankan civilians are suffering.

These past few months have resulted in nearly 2,000 deaths with more than 200,000 displaced persons. The fighting has also blocked access to essential supplies for many parts of the northeastern province, cutting off more than 60,000 Sinhalese, Muslims and Tamils from water.

This sinister cycle of war, cease-fire and then more war is not effective. Each side blames the other side and the situation is only getting worse.

Hostilities must end and violence must not be the means for resolving ethnic conflict. All efforts must be focused on restoring and sustaining peace, and both parties must swallow their pride for the sake of their Nation.

Norway and the co-chairs of the Tokyo Donors' Conference, which includes the United States, have called for a return to unconditional negotiations in October. This return to the negotiating table is critical, and I am fully supportive of this effort. Both parties must guarantee the safety of its citizens, aid workers and peace monitors. Meanwhile, the LTTE must denounce terrorism as a means to its political aspirations.

Mr. Speaker, I strongly believe the majority of people in Sri Lanka would be in favor of a democratic solution to the conflict. The political challenges cannot be resolved through war, and that is clear.

In June, U.S. Assistant Secretary of State for South and Central Asian Affairs, Richard Boucher stated "though we reject the methods that the Tamil Tigers have used, there are legitimate issues raised by the Tamil community and they have a legitimate desire to control their own lives, to rule their own destinies, and to govern themselves in their homeland."

I echo this sentiment and support a solution that retains Sri Lanka's unity. Yet, it should grant a level of autonomy to ethnic minorities like the Tamils. We have seen very similar successful situations throughout the world. Places like Quebec in Canada, Wales and Scotland in Great Britain are all part of their Federal Nations but have significant autonomy.

Mr. Speaker, the situation in Sri Lanka is certainly not getting any better. As we have seen over the past few months, international monitors are leaving the country, scared for their well-being. The United Nations has threatened to revoke its international aid. If this pattern of violence continues without pursuit of a political solution, the international community may completely rescind its support.

Mr. Speaker, I strongly urge both sides to recommit to the process of sustaining peace in Sri Lanka. The devastating effect this is having on the civilian population of the country is not just. It is up to both parties to find a way to ensure the safety and security of all the people of Sri Lanka

TRIBUTE TO GOLF LEGEND BYRON NELSON

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to speak out of order and address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURGESS. Mr. Speaker, today north Texas and indeed the country lost a great, great man, the legendary golfer and humanitarian Byron Nelson. He passed away at the age of 94 at his home in Roanoke, Texas, where he lived with his wife Peggy on 11 Straight Lane, a road that was named for his year of 1945 when he won 11 straight golf tournaments.

Like all Americans, I am saddened by the news of the death of Byron Nelson. He was indeed the best of men and he was a gentleman to all. His strength of character and generosity to others set him apart.

Mr. Nelson's accomplishment as a professional golfer are as impressive as his golf swing. There is a reason why he is the only PGA professional golfer that has a PGA tour named in his honor, the EDS Byron Nelson Championship.

Mr. Nelson won 54 career victories, including winning two Masters, two PGA championships and the U.S. Open in 1939. He is one of only two golfers to be named Male Athlete of the Year twice by the Associated Press, and the World Golf Hall of Fame honored Mr. Byron Nelson in 2004 by featuring an exhibit entitled, "Byron Nelson: A Champion . . . A Gentleman."

While Lord Byron has obtained the status as a world class athlete, it is his humanitarian efforts that are truly first class, Mr. Speaker. He is a champion for the underprivileged and has given his time, his talents and his funds to make this a better world for those who are not as well off.

Byron Nelson and the EDS Byron Nelson Championship have raised well over $100 million for the Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services for more than 2,700 children and their families in the greater Dallas area.

Additionally, the Byron and Louise Nelson Golf Endowment Fund has provided over $1.5 million in endowment funds to Abilene Christian University in Abilene, Texas.

Another example of his service is his dedication to the Metroport Meals on Wheels which provides daily, home-delivered, hot lunches for the frail, elderly and chronically ill residents in his area around Roanoke, Texas, where he lived with his wife Peggy. Byron Nelson has been an active honorary chairman of that group since 1992.

Some of our local papers in the north Texas area talked about Byron Nelson in their on-line editions for tomorrow. The Fort Worth Star-Telegram quoted Byron Nelson, "I have not ever said that I want to live to this age or that age," he said. "I don't believe in doing that. I'm going to try and maintain myself in a way that I'm up and able to move about and participate in things going on in my life. My heart is good. My cholesterol's good."

Earlier this year, many Members of this House will remember that we carried a bill to honor Byron Nelson with a Congressional Gold Medal. It is ironic that today I learned that the medal bill which passed the House last May had indeed received the requisite 67 cosponsors on the Senate side and may well be acted upon soon. I am very fortunate to have spoke with Mr. Nelson as recently as late last week and informed him of the fact that we did indeed seem to have the Senate cosponsorships necessary to get the Congressional Gold Medal bill done for him. He was very humbled by that, and in fact, he asked, "Well, Congressman, what can I do to help you?" And I said, "Mr. Nelson, you just stay strong for me."

Well, unfortunately, it did not occur that Mr. Nelson was still alive when he got that gold medal, but I do believe in his heart he knew that this Congress was indeed going to honor him.

Dallas Morning News, in their lead editorial for tomorrow morning, "Lord Byron: He was a rare golfer and humanitarian," leads off with the comment: "What was remarkable about Byron Nelson's life was that the late golfer remains a household name, especially in north Texas, six decades after retiring from an active career on the PGA tour."

Mr. Speaker, Mr. Nelson retired in the early 1950s. Indeed, Mr. Nelson was not my sports hero; he was my mother's sports hero. He truly transcended generation after generation of north Texans, and he and his wife, Peggy, have given back so much to the citizens in our area.

☐ 2330

The Channel 8 news this evening, in their evening broadcast, had a small clip of Byron Nelson in his famous chair there at his home and ranch in Roanoke, Texas, saying, "I just wanted to live my life good enough that one day I could get into heaven." Dale Hansen, the sportscaster who was monitoring the broadcast, finished up with, "Mr. Nelson, you did and you will."

I believe him to be correct. Mr. Nelson, we honor your life and your service. Godspeed. We will see you at the top.

GLOBAL TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, President George Bush, in creating fear about terrorists in the American people rather than understanding, often says, "If we don't fight terrorists over there, we will have to fight them right here." He never bothers to explain in detail who the terrorists are or what motivates them or how his policies are creating more of them. The President's explanations are too simplistic, and they are wrong.

The President tried to convince us if we got Saddam Hussein and brought him to justice the battle for peace in the Middle East would take a favorable turn. Indeed, the opposite has happened as Iraq descends into chaos. Indeed, despite the military firmness and bravery of our soldiers, the Iraq war has actually failed politically by failing to win the hearts and minds of the people.

Equally bad, the Iraq war has strengthened Iran and those loyal to it. By removing Saddam Hussein as a counterweight to Iran, President Bush has left a vacuum now being filled by increasingly radicalized Shia populations and disillusioned Sunnis. The Shia and Kurd factions inside Iraq and the outnumbered Sunnis are now at one another's throats. Great instability is being created in a region where rising religious fundamentalism, unleashed by Saddam's ouster, is the glue that is binding a rising revolution of expectations by formerly suppressed populations.

The President's own White House was forced this week to declassify an intelligence report that I am going to put in the RECORD. This is a summary, called "Trends in Global Terrorism, a National Intelligence Estimate," and this report says the Iraq war is shaping a new generation of terrorists.

Anyone who knows anything about what is causing rising levels of hatred against the United States in the Middle East would have anticipated this eventuality. The key question the President and we must address and face is, why do his policies yield more and more terrorists who want to harm us, and harm us in many places beyond the boundaries of Iraq and Afghanistan?

The complete story will show terrorists will continue to plot ways to harm America because more than wanting to come here, although some of them are capable of doing that, they want America and American influence out of their countries and regions. They want us out of there more than they want to come here.

Rather than striking fear in the American people, the President ought to do more to explain the forces creating this anti-American and anti-Western sentiment across those troubled regions. Which American interests have caused this antagonism to our Nation? An important question to answer. In what countries has this hatred been fomented? Another important question to answer. And what is the face there of America that is hated more and more?

Let me suggest part of that face involves U.S. oil alliances in cahoots with some of the most repressive and brutal regimes and leaders who hold down the potential of their own people. There is not a democracy over there, and we are totally reliant on all of those oil kingdoms.

Let me suggest that the presence of U.S. military bases that ensure the status quo of those repressive regimes doesn't help.

Let me suggest America is hated more because we are not viewed as being evenhanded at arriving at fair and just peace settlements between Israel and the Palestinians and their neighbors. We need to do a better job of cultivating evenhanded diplomacy in the region.

Let me suggest our U.S. popular culture and many of its excesses are regarded as abhorrent to the fundamentalist legions that have gained even greater ascendancy after the disgusting and outrageous behavior by Americans at Abu Ghraib.

Let me suggest the U.S. now is being viewed by the multitudes of Muslims as fighting a religious war against Islam. President Bush made a huge blunder at the start of the Iraqi war by calling it a Crusade hearkening back to the Christian wars. His battle cry gaffe echoed across the Muslim world and became a rallying point for the opposition. How tragic and inappropriate.

Let me quote from a wise American voice who tries to enlighten about the roots of terrorism, rather than strike fear in our people:

Robert Baer, author of best selling book See No Evil, is a decorated CIA agent who put his life on the line for our Nation for three decades. He tries to build understanding about the conditions giving rise to terrorism. He defines our problem as larger than just a few men—like Bin Laden and Hussein—and their followers. He argues the reason animosity is growing against the U.S. is the result of much larger forces spanning several decades. To name but one element of the challenge we face—he discusses the Muslim Brotherhood.

The Muslim Brotherhood was an amorphous, dangerous, unpredictable movement that shook every government in the Middle East to its bones. Founded by an Egyptian, Hasan Al-Banna, in 1929 it was dedicated to bringing the Kingdom of God to earth. The Egyptian Muslim Brothers had unsuccessfully tried to kill Egyptian President Abdul Nasser. The Syrian branch had tried to kill Syrian President Hafiz al-Asad a couple of times. In 1982, its followers seized Hama, a historic city in central Syria, provoking Asad into shelling them and Hama into the next life.

The Muslim Brothers are also distant cousins of the Wahabis of Saudia Arabia, the most puritanical sect in Islam. Underwritten by the Saudi royal family, the Wahabis spawned Osama bin Laden. They also served as the inspiration for the Taliban in Afghanistan and other radical Sunni movements. Many Muslims consider the Wahabis dangerous because they adopted the beliefs of Ibn Taymiyah, a 14th century Islamic scholar who condoned political assassination. Al-Jihad, the Egyptian fundamentalist who murdered Egyptian President Anwar Sadat relied on Ibn Taymiyah as justification for what they did.

Understanding the forces that generate terrorism is fundamental for solving it. The National Intelligence Report summarizes some of the essential steps our Nation must take to broaden our understanding of what it will take to break our dependence on oil regimes, resolve peace settlements that have been let languish, and form alliances that are broadly representative and democratic in their focus. The world needs more understanding, not fear, to counter terrorism.

Mr. Speaker, I am very sorry that my time is out. I will continue tomorrow with an additional statement including complementary remarks about the book "See No Evil" by Robert Baer that gets the picture right.

The NIE report I referred to earlier is as follows:

NATIONAL INTELLIGENCE ESTIMATE—TRENDS IN GLOBAL TERRORISM: IMPLICATIONS FOR THE UNITED STATES

DECLASSIFIED KEY JUDGMENTS OF THE NATIONAL INTELLIGENCE ESTIMATE "TRENDS IN GLOBAL TERRORISM: IMPLICATIONS FOR THE UNITED STATES" DATED APRIL 2006

Key Judgments: United States-led counterterrorism efforts have seriously damaged the leadership of al-Qa'ida and disrupted its operations; however, we judge that al-Qa'ida will continue to pose the greatest threat to the Homeland and U.S. interests abroad by a single terrorist organization. We also assess that the global jihadist movement—which includes al-Qa'ida, affiliated and independent terrorist groups, and emerging networks and cells—is spreading and adapting to counterterrorism efforts.

Although we cannot measure the extent of the spread with precision, a large body of all-source reporting indicates that activists identifying themselves as jihadists, although a small percentage of Muslims, are increasing in both number and geographic dispersion.

If this trend continues, threats to U.S. interests at home and abroad will become more diverse, leading to increasing attacks worldwide.

Greater pluralism and more responsive political systems in Muslim majority nations would alleviate some of the grievances jihadists exploit. Over time, such progress, together with sustained, multifaceted programs targeting the vulnerabilities of the jihadist movement and continued pressure on al-Qa'ida, could erode support for the jihadists.

We assess that the global jihadist movement is decentralized, lacks a coherent global strategy, and is becoming more diffuse. New jihadist networks and cells, with anti-American agendas, are increasingly likely to emerge. The confluence of shared purpose and dispersed actors will make it harder to find and undermine jihadist groups.

We assess that the operational threat from self-radicalized cells will grow in importance to U.S. counterterrorism efforts, particularly abroad but also in the Homeland.

The jihadists regard Europe as an important venue for attacking Western interests. Extremist networks inside the extensive Muslim diasporas in Europe facilitate recruitment and staging for urban attacks, as illustrated by the 2004 Madrid and 2005 London bombings.

We assess that the Iraq jihad is shaping a new generation of terrorist leaders and operatives; perceived jihadist success there would inspire more fighters to continue the struggle elsewhere.

The Iraq conflict has become the "cause celebre" for jihadists, breeding a deep resentment of U.S. involvement in the Muslim world and cultivating supporters for the global jihadist movement. Should jihadists leaving Iraq perceive themselves, and be perceived, to have failed, we judge fewer fighters will be inspired to carry on the fight.

We assess that the underlying factors fueling the spread of the movement outweigh its vulnerabilities and are likely to do so for the duration of the timeframe of this Estimate.

Four underlying factors are fueling the spread of the jihadist movement: (1) Entrenched grievances, such as corruption, injustice, and fear of Western domination, leading to anger, humiliation, and a sense of powerlessness; (2) the Iraq "jihad;" (3) the slow pace of real and sustained economic, social, and political reforms in many Muslim majority nations; and (4) pervasive anti-U.S. sentiment among most Muslims—all of which jihadists exploit.

Concomitant vulnerabilities in the jihadist movement have emerged that, if fully exposed and exploited, could begin to slow the spread of the movement. They include dependence on the continuation of Muslim-related conflicts, the limited appeal of the jihadists' radical ideology, the emergence of respected voices of moderation, and criticism of the violent tactics employed against mostly Muslim citizens.

The jihadists' greatest vulnerability is that their ultimate political solution—an ultra-conservative interpretation of shari'a-based governance spanning the Muslim world—is unpopular with the vast majority of Muslims. Exposing the religious and political straitjacket that is implied by the jihadists' propaganda would help to divide them from the audiences they seek to persuade.

Recent condemnations of violence and extremist religious interpretations by a few notable Muslim clerics signal a trend that could facilitate the growth of a constructive alternative to jihadist ideology: peaceful political activism. This also could lead to the consistent and dynamic participation of broader Muslim communities in rejecting violence, reducing the ability of radicals to capitalize on passive community support. In this way, the Muslim mainstream emerges as the most powerful weapon in the war on terror.

Countering the spread of the jihadist movement will require coordinated multilateral efforts that go well beyond operations to capture or kill terrorist leaders.

If democratic reform efforts in Muslim majority nations progress over the next five years, political participation probably would drive a wedge between intransigent extremists and groups willing to use the political process to achieve their local objectives. Nonetheless, attendant reforms and potentially destabilizing transitions will create new opportunities for jihadists to exploit.

Al-Qa'ida, now merged with Abu Mus'ab al-Zarqawi's network, is exploiting the situation in Iraq to attract new recruits and donors and to maintain its leadership role.

The loss of key leaders, particularly Usama bin Ladin, Ayman al-Zawahiri, and al-Zarqawi, in rapid succession, probably would cause the group to fracture into smaller groups. Although like-minded individuals would endeavor to carry on the mission, the loss of these key leaders would exacerbate strains and disagreements. We assess that the resulting splinter groups would, at least for a time, pose a less serious threat to U.S. interests than does al-Qa'ida.

Should al-Zarqawi continue to evade capture and scale back attacks against Muslims, we assess he could broaden his popular appeal and present a global threat.

The increased role of Iraqis in managing the operations of al-Qa'ida in Iraq might lead veteran foreign jihadists to focus their efforts on external operations.

Other affiliated Sunni extremist organizations, such as Jemaah Islamiya, Ansar al-Sunnah, and several North African groups, unless countered, are likely to expand their reach and become more capable of multiple and/or mass-casualty attacks outside their traditional areas of operation.

We assess that such groups pose less of a danger to the Homeland than does al-Qa'ida but will pose varying degrees of threat to our allies and to U.S. interests abroad. The focus of their attacks is likely to ebb and flow between local regime targets and regional or global ones.

We judge that most jihadist groups—both well-known and newly formed—will use improvised explosive devices and suicide attacks focused primarily on soft targets to implement their asymmetric warfare strategy, and that they will attempt to conduct sustained terrorist attacks in urban environments. Fighters with experience in Iraq are a potential source of leadership for jihadists pursuing these tactics.

CBRN capabilities will continue to be sought by jihadist groups.

While Iran, and to a lesser extent Syria, remain the most active state sponsors of terrorism, many other states will be unable to prevent territory or resources from being exploited by terrorists.

Anti-U.S. and anti-globalization sentiment is on the rise and fueling other radical ideologies. This could prompt some leftist, nationalist, or separatist groups to adopt terrorist methods to attack U.S. interests. The radicalization process is occurring more quickly, more widely, and more anonymously in the Internet age, raising the likelihood of surprise attacks by unknown groups whose members and supporters may be difficult to pinpoint.

We judge that groups of all stripes will increasingly use the Internet to communicate, propagandize, recruit, train, and obtain logistical and financial support.

RESTORING FISCAL DISCIPLINE TO GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Arkansas (Mr. ROSS) is recognized for half the remaining minutes prior to midnight as the designee of the minority leader.

Mr. ROSS. Mr. Speaker, it is my understanding that we are going to get the rest of the minutes until midnight; that the other side did not plan to come, just a point of order, I guess, and you can tell us at the appropriate time when our time is up. We just want to thank you for the time that we have here this evening.

It is almost midnight at our Nation's Capitol in Washington, D.C., and yet, as members of the fiscally conservative Democratic Blue Dog Coalition, we are 37 members strong, and we are here on the floor of the United States House of Representatives because we believe the time has come to restore fiscal discipline and common sense to our Nation's government.

Today, the U.S. national debt is $8,538,760,336,803.43, and for every man, woman, and child in America, your share of the national debt is $28,564.23. As you walk the Halls of Congress, you will notice this poster outside the door of some Members of Congress, which signifies that they are members of the fiscally conservative Democratic Blue Dog Coalition, and each day this number, unfortunately, changes, and, unfortunately, each day this number goes up.

I am very pleased to be joined this evening by one of the founding members of the fiscally conservative Democratic Blue Dog Coalition, someone who has really been outspoken in the area of trying to restore fiscal discipline to our Nation's government and particularly been doing a lot of work in the area of accountability, being accountable for the taxpayers' dollars, and that is my friend Mr. JOHN TANNER from Tennessee. At this time I yield to the gentleman from Tennessee.

Mr. TANNER. I appreciate my colleague being here tonight, and I want to take a couple of minutes to talk about something that is not a political matter, really. It is a matter of our government: theirs, ours, Independents, Americans.

We have seen financial mismanagement of the assets of us all on a scale that really I don't remember in any history book of American history since this country was founded. Look, this is not something that is easy to talk about, because everyone who is in public office wants to give good news to people. We all have to run for elections, and one can't really run for an election talking about doom and gloom or about financial mismanagement. People want to hear uplifting things, people want to have hope, people want to hear, as I do, that things are going to get better. But, unfortunately, things are getting worse, and they are getting worse by the minute. That chart that you have has already changed. We are borrowing almost $1 million a minute, as we stand here tonight.

You know, under our system of government, we have an executive branch, we have a judicial branch, and we have a legislative branch. The legislative branch is supposed to make the law, the executive branch is supposed to execute the law, or carry it out, and the judicial branch is to interpret the law. Well, we have a breakdown. The legislative branch in the last 5½ years has abdicated completely its responsibility to oversee the money that is taken away from the citizens of this country involuntarily in the form of taxation.

The tax laws are written right here, in this room and on the other side of the Capitol in the Senate, and they are appropriated to the executive branch to be spent, hopefully on behalf of the citizens of this country. What we have seen, according to the September 6 GAO report, that is, the General Accounting Office report, is a complete abdication of any financial responsibility.

As a businessperson, one looks at the government of the United States and one sees a failing business. Not only is it failing because we continue to borrow massive amounts of money in my name and yours and everybody else's around here as a citizen of this country, but Congress, this Congress is not even asking this administration what did you do with the money. And if they asked the administration, the administration couldn't tell them.

The one thing I think that the American people ought to demand out of this Congress, or any other Congress, is what happened to the money. Tell us what you did with the money. We may not agree with it, but we want to know what happened to it. Well, they can't tell us. Sixteen of 23 Federal agencies, according to the GAO, cannot produce an audit. In other words, they can't tell you what they did with the money.

Not only that, you have a trailer picture you have shown before with all these trailers in Hope, Arkansas. The September 6 GAO report reflects that Congress has appropriated $88 billion to 23 different Federal agencies for Katrina relief, the great hurricane; but no central agency tracks the funding. So, in effect, neither Congress nor the American people have any way of knowing how the money is spent.

But we do know this: more than $10.6 billion has been awarded to private contractors for gulf coast recovery and reconstruction. Only 30 percent of all of those contracts were bid on a full and open competition. The others were just given as sole source single contracts to people for a myriad of things. FEMA, the Federal Emergency Management Agency, spent $3 million for 4,000 camp beds that were never used and $10 million to renovate a military barracks that was used as temporary housing for six people. No private company in the country could stand this kind of financial mismanagement.

□ 2345

Because of this subcontractor system that was put in place because of these sole source contracts, just given to friends I guess of the administration, taxpayers paid an average of $2,480 per roof for a repair job that should have cost under $300, according to a report from Knight-Ridder newspaper.

Credit card abuse. Credit card abuse by government employees after the storm led to the purchase of 2,000 sets of dog booties costing more than $68,000, a 63-inch plasma screen television costing $8,000, and 20 flat bottom boats, only eight of which FEMA has in its records, at twice the retail price. I wish I was making this stuff up. It comes out of the GAO report.

The Department of Homeland Security Inspector General identified 1,395 cases of reported criminal activity, including officials who accepted bribes to inflate the number of meals provided by one of these sole source government contractors and to falsify the amount of debris a company had removed.

After Katrina, FEMA purchased 24,967 manufactured homes and 1,755 modular homes at a cost of $915 million for housing and temporary offices. The Inspector General said that as of January of this year, only 4,600 manufactured homes and 100 modular homes had been used at all. You have got pictures of them sinking in the mud in Hope, Arkansas.

Mr. ROSS. FEMA at one time had 10,777. At this time, they are down, to their credit, they are now down, a year after Hurricane Katrina, to 9,778 brand new, fully furnished 16-foot wide, 60-foot long mobile homes, built-in whirlpools, built-in microwaves, fully furnished, 9,778 brand new, fully furnished manufactured homes that never got to storm victims from Hurricane Katrina or Hurricane Rita. They are simply sitting in a hay meadow in Hope, Arkansas, more than a year after Hurricane Katrina and 450 miles from the eye of the storm.

This is a symbol of what is wrong with this administration and this Republican Congress, and this is a symbol of why we need to pass the Blue Dog accountability plan, a plan that you helped write, that we wrote together to restore accountability to our government.

I yield back to the gentleman.

Mr. TANNER. Again, this is not a political statement. I can't imagine the most partisan person in the world saying that this is good government, when we have money leaving here through a fire hose and nobody asking them where it is going or what happened to it, and if they did ask them, they couldn't tell them. They can't produce an audit. They can't tell you what they did with the money. This is the grossest kind much financial mismanagement on a scale that I can ever recall in the history of this country.

We don't even get to Iraq and all the sole source contracts that have been given there and the billions of dollars that cannot be tracked or traced or even accounted for. I don't like to pay taxes any more than anybody else, but the one thing I do expect is the Congress to at least exercise its oversight authority to the extent that they hold people accountable who are spending this money.

I know in business, you ask somebody, well, what is this expenditure for? "I don't know, man. I can't tell you." Nobody would put up with that. No taxpayer would put up with it. And yet in our public life, in our public business, in the government of the United States it is happening every day, and people are tolerating it because you have a compliant Congress, a friendly administration. Nobody wants to embarrass anybody else.

So what we see here is the grossest kind of financial mismanagement on a scale that is literally breathtaking.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There being no Republican here to occupy the rest of the time before midnight, the time will continue to be occupied by the two gentlemen who hold the floor now.

Mr. TANNER. Thank you very much, Mr. Speaker. I will finish up, because what we have done is introduced a bill, it is not going anywhere, unfortunately, because we don't have the power to pass it or the votes to pass it, that basically says when the Inspector General of any agency identifies either, one, a situation where the agency can't tell you what they did with the money that was appropriated with them, or, two, they identify a high risk program, that is government talk for a program that doesn't work, then in that event Congress must hold a hearing, a public hearing, about this matter, whatever it may be, within 60 days, so that at least the citizens of this country will know that their money is being wasted or stolen or somehow mismanaged.

I think that is imminently reasonable. I can't imagine anyone saying we don't want to know what happened to the money we have taken away from people involuntary in the form of taxation and given to any administration. We simply don't want to know what happened to it. That to me is incredible and is not true.

So I hope people will demand that Congress engage in what its constitutional responsibility is, and that is to oversee what happens to the money they remove from people's pockets involuntarily. That is all we are asking in this House bill that you referred to, that they hold a hearing and find out what is going on. If they can't tell you what they did with it, as far as I am concerned, they don't get it next year.

This is a situation where we are literally mortgaging our country to people who do not have the same interest that the Americans have in world affairs, and we are not even paying attention to what we are doing.

I appreciate you doing this every Tuesday night, but I hope that we can do something about this situation, because it gets worse not by the minute now, it gets worse by the second as we continue to borrow.

We borrowed probably in the neighborhood of $20 million in the last 20 minutes. No country can survive that. We can't survive it. We used to say it is up to our children and grandchildren. But people say no, no, no, we are going to have all of these things. And who is going to pay for it? Just borrow the money, borrow the money, borrow the money.

Well, sooner or later, unless one can figure out how to repeal the laws of arithmetic, the financial mismanagement of this administration and the lack of oversight and accountability by this Congress is going to put this country literally in a deep black hole. Before it is too late, I hope that the people who care about this will rise up and say we want our government back, because that is what we are talking about.

Mr. ROSS. I thank the gentleman from Tennessee, Mr. TANNER, a founding Member of the fiscally conservative Democratic Blue Dog Coalition, for joining us this evening to talk about his bill, our Blue Dog bill accountability, to demand that this Republican Congress become accountable for how they spend our tax money.

Mr. Speaker, the total national debt from 1789 to 2000 was $5.67 trillion. But by 2010, the total national debt will have increased to $10.88 trillion. This is a doubling of the 211-year debt in just 10 years.

Interest payments on this debt are one of the fastest growing parts of the Federal budget. What we call the debt tax, D-E-B-T. You can see it here.

Today the national debt is $8,538,760,336,803 and some change. For every man woman and child, their share of the national debt, $28,564. Again, the debt tax. That is one tax that cannot be repealed, that cannot go away until we get our Nation's fiscal house in order and restore common sense in this Chamber. The current national debt, as you can see, is $8.5 trillion.

Why do deficits matter? They matter because deficits reduce economic growth. They burden our children and our grandchildren with liabilities. They are the ones that are going to have to fix this mess.

They increase our reliance on foreign lenders. Yes, I said foreign lenders, who now own about 40 percent of our Nation's debt. Foreign lenders currently hold a total of a little over $2 trillion of our public debt. Compare that to only $623 billion in foreign holdings back in 1993. Put it another way: This President, this President and this Republican Congress in the last 5½ years have borrowed more money from foreign lenders than the previous 42 presidents combined. Our Nation is borrowing money from places like Communist China to fund tax cuts for people in this country earning over $400,000 a year.

It simply does not make sense. Those are not the kind of values I learned growing up at the Midway Methodist Church outside of Prescott, Arkansas. I learned about being a good steward. And here as Members of Congress we have a duty and a responsibility to be a good steward of the taxpayers' money, and we believe this Republican Congress is failing us in that regard.

So who do we owe all this money to? Here is the top ten list, Japan, $640.1 billion; China, $321.4 billion; United Kingdom, $179.5 billion; OPEC. Imagine that, we wonder why we had $3 a gallon gasoline in August. I know it is coming down now, but I would ask you to think about this: I believe we all should be a lot more concerned about what gasoline and diesel fuel is going to cost a month after the election instead of a month before. OPEC, we owe OPEC $98 billion; Korea, $72.4 billion; Taiwan, $68.9 billion; Caribbean banking centers, $61.7 billion; Hong Kong, $46.6 billion; Germany, $46.5 billion. And all this debate about immigration reform, get a load of this. Rounding out the top 10 countries that the United States of America have borrowed money from to give tax cuts to those earning over $400,000 a year, Mexico. Our Nation has borrowed $40.1 billion from Mexico.

I yield to the gentleman.

Mr. TANNER. You are talking about OPEC and the price of gasoline. Gasoline in July was $3-plus a gallon. Can you name one thing that has changed between July and now as it relates to the world situation that would make gasoline come down? The uncertainty actually with regard to Iran and other oil producing countries is more now than it was then.

The only thing that has changed is we are closer to November 7th. No other factor has changed. And yet we see a dramatic reduction in the last couple weeks in gasoline prices. But the underlying factors are still there. All the uncertainty about the oil producing countries, whether it be Iraq or the situation in the Middle East, is the same as it was in July. It is interesting, isn't it?

Mr. ROSS. It is very interesting. Let me say as a member of the House Energy and Commerce Committee, I have a plan to put America on a path toward energy independence. If we had time we would go into it in all the details tonight.

I was out visiting with constituents in 34 towns in my district in August talking about my plan to put America on a path toward energy independence. We have a plan to do that as members of the fiscally conservative Democratic Blue Dog Coalition.

Mr. TANNER. We need to start on it tonight.

Mr. ROSS. We have a plan. We have a plan to restore accountability to our government, to be sure that our government is accountable for your tax money, Mr. Speaker. We have a plan, in fact it is a 12 point plan, for budget reform.

So, Mr. Speaker, we are standing here willing, ready and able and asking that the Republican Members of this Congress work with us, work with us to restore common sense and fiscal discipline to our Nation's government so we can pay down this debt.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FATTAH (at the request of Ms. PELOSI) for today until 4 p.m.

Mr. CASTLE (at the request of Mr. BOEHNER) for the week of September 25 on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BURGESS) to revise and extend their remarks and include extraneous material:)

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and September 27, 28, and 29.

Mr. FRANKS of Arizona, for 5 minutes, today and September 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SCOTT of Virginia and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1.584.

ENROLLED BILL SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1442. An act to complete the codification of title 46, United States Code, "shipping", as positive law.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1275. An act to designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building".

S. 1323. An act to designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building".

S. 2690. An act to designate the facility of the United States Postal Service located at 8801 Sudley Road in Manassas, Virginia, as the "Harry J. Parrish Post Office".

ADJOURNMENT

Mr. ROSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 27, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9594. A letter from the Acting Deputy Maritime Administrator and Chief Counsel, Department of Transportation, transmitting the annual report of the Maritime Administration (MARAD) for Fiscal Year 2005, pursuant to 46 U.S.C. app. 1118; to the Committee on Armed Services.

9595. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Joseph L. Yakovac, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9596. A letter from the Comptroller, Department of Defense, transmitting notification of advance billing for the Defense-Wide Working Capital Fund, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

9597. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of real admiral (lower half) accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9598. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-69, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services; to the Committee on International Relations.

9599. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-55, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to United Arab Emirates for defense articles and services; to the Committee on International Relations.

9600. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-59; concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Netherlands for defense articles and services; to the Committee on International Relations.

9601. A letter from the Director, Defense Security Cooperation Agency, transmitting pursuant to section 36(b)(5)(C) of the Arms Export Control Act, Transmittal No. 06-00A, relating to enhancements or upgrades from the level of sensitivity of technology or capability described in Section 36(b)(1) AECA certification 92-18 of 03 March 1992; to the Committee on International Relations.

9602. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-68, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services; to the Committee on International Relations.

9603. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of Iraq (Transmittal No. DDTC 049-06); to the Committee on International Relations.

9604. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) and (d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense articles or defense services to the Government of Canada (Transmittal No. DDTC 011-06); to the Committee on International Relations.

9605. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of Kazakhstan (Transmittal No. DDTC 034-06); to the Committee on International Relations.

9606. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of Japan (Transmittal No. DDTC 052-06); to the Committee on International Relations.

9607. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(d) of the Arms Export Control Act, certification regarding the proposed manufacturing license agreement for the manufacture of significant military equipment to the Government of the United Kingdom (Transmittal No. DDTC 048-06); to the Committee on International Relations.

9608. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) and (d) of the Arms Export Control Act, certification of a proposed manufacturing license agreement for the export of defense articles and services to the Government of Japan (Transmittal No. DDTC 036-06); to the Committee on International Relations.

9609. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and service from the Government of French Guiana (Transmittal No. DDTC 043-06); to the Committee on International Relations.

9610. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to Section 804 of the PLO Commitments Compliance Act of 1989 (title VIII, Foreign Relations Authorization Act, FY 1990 and 1991 (Pub. L. 101-246), and Sections 603-604 (Middle East Peace Commitments Act of 2002) and 699 of the Foreign Relations Authorization Act, FY 2003 (Pub. L. 107-228); to the Committee on International Relations.

9611. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c),and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995; to the Committee on International Relations.

9612. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9613. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9614. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9615. A letter from the Assistant Secy for Administration & Management, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9616. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9617. A letter from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9618. A letter from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9619. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's Year 2006 Inventory of Commercial Activities, as required by the Federal Activities Reform Act of 1997, Pub. L. 105-270; to the Committee on Government Reform.

9620. A letter from the Chairman, National Endowment for the Humanities, transmitting the Endowment's inventory of activities as required by OMB Circular A-76 and the Federal Activities Inventory Reform Act for Fiscal Year 2006; to the Committee on Government Reform.

9621. A letter from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9622. A letter from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9623. A letter from the Acting Assistant General Counsel, Federal Election Commission, transmitting the Commission's final rule — Increase in Limitation on Authorized Committees Supporting Other Authorized Committees [Notice 2006-17] received September 18, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

9624. A letter from the Acting Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a copy of the Arkansas Valley Conduit Reevaluation Statement, pursuant to Public Law 87-590; to the Committee on Resources.

9625. A letter from the Deputy Assistant Administrator, Office of Diversion Control, DEA, Department of Justice, transmitting the Department's "Major" final rule — Retail Sales of Scheduled Listed Chemical Products; Self-certification of Regulated Sellers of Scheduled Listed Chemical Products [Docket No. DEA-291I] (RIN: 1117-AB05) received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9626. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Twenty-Eighth Annual Report to Congress on the activities during Fiscal Year 2005 as pursuant to subsection (j) of section 7A of the Clayton Act, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

9627. A letter from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting a copy of the Legion's annual audit as of April 30, 2006, pursuant to 36 U.S.C. 1101(28) and 1103; to the Committee on the Judiciary.

9628. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting the Department's report on the role of military medical and behavioral science personnel in interrogations, in response to Section 750 of the National Defense Authorization Act of Fiscal Year 2006; jointly to the Committees on Armed Services and Appropriations.

9629. A letter from the Under Secretary for Acquisitions, Technology and Logistics, Department of Defense, transmitting the Department's report on the budget models used for base operations support, sustainment, and facilities recapitalization, pursuant to Public Law 109-163; jointly to the Committees on Armed Services and Appropriations.

9630. A letter from the Secretaries, Department of Energy, Department of the Interior, transmitting a joint report on the cost of implementation of the Rocky Flats National Wildlife Refuge Act of 2001 during fiscal year 2005, in compliance with the requirements of Subtitle F, section 3182 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107); jointly to the Committees on Energy and Commerce and Resources.

9631. A letter from the General Counsel, Office of Compliance, transmitting a Report on Inspections for Compliance with the Public Access Provisions of the Americans with Disabilities Act Under Section 210 of the Congressional Accountability Act, pursuant to Public Law 104-1, section 210(f) (109 Stat. 15); jointly to the Committees on House Administration and Education and the Workforce.

9632. A letter from the General Counsel, Office of Compliance, transmitting a Report on Occupational Safety and Health Inspections Conducted Under Section 215 of the Congressional Accountability Act of 1995, pursuant to Public Law 104-1, section 215(e) (109 Stat. 18); jointly to the Committees on House Administration and Education and the Workforce.

9633. A letter from the Assistant Secretary of the Army, Civil Works, Department of the Army, transmitting a report on the CALFED Levee Stability Program, Sacramento-San Joaquin Delta, California, required by Section 103(f) of the CALFED Bay-Delta Authorization Act, Pub. L. 108-361; jointly to the Committees on Transportation and Infrastructure and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON of Texas: Committee on Energy and Commerce. S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska (Rept. 109-681). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming (Rept. 109-682). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 971. A bill to extend the deadline for commencement of construction of certain hydroelectric projects in Connecticut, and for other purposes (Rept. 109-683). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 4377. A bill to extend the time required for construction of a hydroelectric project, and for other purposes. (Rept. 109-684). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 4417. A bill to provide for the reinstatement of a license for a certain Federal Energy Regulatory project (Rept. 109-685). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 5533. A bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes; with an amendment (Rept. 109-686). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 6164. A bill to amend title IV of the Public Health Service Act to revise and extend the authorities of the National Institutes of Health, and for other purposes (Rept. 109-687). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLE of Oklahoma: Committee on Rules. H.R. 1042. Resolution providing for consideration of the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes (Rept. 109-688). Referred to the House Calendar

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGLISH of Pennsylvania (for himself, Mr. RUSH, Mr. HAYWORTH, Mr. WYNN, Mr. MCHUGH, Mr. GENE GREEN of Texas, Mr. MCNULTY, and Mr. JEFFERSON):

H.R. 6175. A bill to amend title XVIII of the Social Security Act to provide for guaranteed issue of Medicare supplemental policies for disabled and renal disease beneficiaries upon first enrolling under part B of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUGEBAUER (for himself, Mr. WESTMORELAND, Mr. FORTUÑO, Mr. GINGREY, Mrs. MUSGRAVE, Mr. CHOCOLA, Mr. RYUN of Kansas, Mr. GARRETT of New Jersey, Mr. MCHENRY, Mr. KUHL of New York, Mr. SODREL, Mr. ROHRABACHER, Mr. PITTS, Mr. BARRETT of South Carolina, Ms. HART, Mr. RYAN of Wisconsin, Mr. MARCHANT, Mr. AKIN, Mr. GUTKNECHT, Mr. SAM JOHNSON of Texas, Mrs. CUBIN, Mr. HENSARLING, Mr. FEENEY, Mr. CAMPBELL of California, Mr. POE, Ms. FOXX, and Mr. FLAKE):

H.R. 6176. A bill to establish requirements for the consideration of supplemental appropriation bills; to the Committee on Rules.

By Mr. OWENS:

H.R. 6177. A bill to establish the United States Postal Service Memorial Fund for the benefit of the families of Joseph Curseen, Jr. and Thomas Morris, Jr. of the United States Postal Service; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCGOVERN (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 6178. A bill to prohibit the procurement of victim-activated landmines and other weapons that are designed to be victim-activated; to the Committee on Armed Services.

By Mr. ANDREWS:

H.R. 6179. A bill to clarify that bail bond sureties and bounty hunters are subject to both civil and criminal liability for violations of Federal rights under existing Federal civil rights law, and for other purposes; to the Committee on the Judiciary.

By Ms. GINNY BROWN-WAITE of Florida (for herself, Mr. PAUL, Mr. FORD, and Mr. OBERSTAR):

H.R. 6180. A bill to amend the Internal Revenue Code of 1986 to increase the income limitation with respect to the credit against tax for qualified adoption expenses and to increase the dollar limitation with respect to such credit in the case of an adoption of a child with special needs or a child age 9 or older; to the Committee on Ways and Means.

By Mr. CLAY (for himself and Mr. OWENS):

H.R. 6181. A bill to amend the National and Community Service Act of 1990 to establish a National Infrastructure Corps to address the Nation's infrastructure needs and provide employment opportunities for unemployed individuals; to the Committee on Education and the Workforce.

By Mr. CONYERS:

H.R. 6182. A bill to amend the Occupational Safety and Health Act of 1970 to reduce injuries to patients, direct-care registered nurses, and other health care providers by establishing a safe patient handling standard; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Kentucky (for himself and Mr. McCAUL of Texas):

H.R. 6183. A bill to amend title II of the Social Security Act to provide for employer data sharing with the Department of Homeland Security regarding employers of employees with mismatched social security account numbers; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Ms. HART, Mr. POMEROY, and Mr. STUPAK):

H.R. 6184. A bill to amend title XVIII of the Social Security Act to provide for improved payments under the Medicare Program for academic anesthesiology programs for resident physicians and for academic programs for student registered nurse anesthetists; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself, Mr. SIMMONS, and Mr. BISHOP of Georgia):

H.R. 6185. A bill to amend title 38, United States Code, to improve health care for veterans, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 6186. A bill to amend the Public Health Service Act to authorize grants for the purpose of carrying out activities to increase the number of faculty members at collegiate schools of nursing in States with significant shortages of nurses; to the Committee on Energy and Commerce.

By Mr. HOLT:

H.R. 6187. A bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election; to the Committee on House Administration.

By Mr. HULSHOF (for himself, Mr. TANNER, and Mr. ROSS):

H.R. 6188. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York:

H.R. 6189. A bill to amend the Telemarketing and Consumer Fraud and Abuse Prevention Act to authorize the Federal Trade Commission to issue new rules to establish a requirement that telemarketers shall not make any calls during the hours of 5 p.m. to 7 p.m.; to the Committee on Energy and Commerce.

By Mr. OWENS:

H.R. 6190. A bill to reduce the number of innocent victims of immigration fraud by making certain immigration consultant practices criminal offenses; to the Committee on the Judiciary.

By Mr. PALLONE (for himself, Mr. PASCRELL, Mr. PAYNE, Mr. ANDREWS, Mr. HOLT, Mr. ENGEL, Mr. ROTHMAN, Mr. WAXMAN, Ms. MATSUI, Ms. SCHAKOWSKY, Mrs. CAPPS, Mr. LoBIONDO, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. FERGUSON, Ms. SOLIS, Mr. NADLER, and Mr. FRELINGHUYSEN):

H.R. 6191. A bill to amend title XXVI of the Public Health Service Act to provide for a one-year extension of the program under such title, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PASCRELL (for himself, Mr. ANDREWS, Mr. LoBIONDO, Mr. SAXTON, Mr. GARRETT of New Jersey, Mr. PALLONE, Mr. FERGUSON, Mr. ROTHMAN, Mr. PAYNE, Mr. FRELINGHUYSEN, Mr. HOLT, and Mr. SMITH of New Jersey):

H.R. 6192. A bill to establish the Paterson Great Falls National Park in the State of New Jersey, and for other purposes; to the Committee on Resources.

By Mr. POMBO (for himself, Mr. CARDOZA, Mr. PUTNAM, Mr. SALAZAR, Mr. RENZI, Mr. KUHL of New York, Mr. WALSH, Mrs. BONO, Mrs McMORRIS RODGERS, Ms. HOOLEY, Mr. COSTA, Mr. HINCHEY, Mr. CARNAHAN, Mr. BOYD, Mr. BROWN of South Carolina, Mr. CASE, Mr. DOGGETT, Mr. ENGLISH of Pennsylvania, Mr. FARR, Mr. FOLEY, Mr. HALL, Ms. HARRIS, Mr. HASTINGS of Washington, Mr. HIGGINS, Mr. HINOJOSA, Ms. KAPTUR, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. McHUGH, Mr. McINTYRE, Mr. MICHAUD, Mr. NUNES, Mr. PLATTS, Mr. RADANOVICH, Mr. REYNOLDS, Mrs. TAUSCHER, Mr. BOUCHER, Mr. BACA, Mr. GALLEGLY, Mr. WU, Mr. THOMPSON of California, Mr. ISSA, Mr. MARIO DIAZ-BALART of Florida, Mr. SCHWARZ of Michigan, Mr. BLUMENAUER, Mr. ALLEN, Mr. WALDEN of Oregon, Mr. GOODE, Ms. WOOLSEY, Mrs. KELLY, and Mr. GILCHREST):

H.R. 6193. A bill to continue and expand upon previous congressional efforts to ensure an abundant and affordable supply of fruits, vegetables, tree nuts, and other specialty crops for American consumers and international markets, to enhance the competitiveness of United States-grown specialty crops, and for other purposes; to the Committee on Agriculture, and in addition to the Committees on Education and the Workforce, Energy and Commerce, Ways and Means, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Wisconsin:

H.R. 6194. A bill to reduce temporarily the duty on bath and shower cleaning appliances; to the Committee on Ways and Means.

By Mr. WU:

H.R. 6195. A bill to authorize the National Science Foundation to award grants to institutions of higher education to develop and offer education and training programs; to the Committee on Science.

By Mr. FILNER (for himself, Mr. ROHRABACHER, and Mr. CASE):

H. Con. Res. 481. Concurrent resolution urging the President to authorize the return to the people of the Philippines of two church bells that were taken by the United States Army in 1901 from the town of Balangiga on the island of Samar, Philippines, and are currently displayed at F.E. Warren Air Force Base, Wyoming; to the Committee on International Relations.

By Mr. GRAVES (for himself, Mr. POMEROY, Mr. PETERSON of Minnesota, Ms. KAPTUR, Mr. SKELTON, Mr. SALAZAR, Mr. KIND, Mr. HULSHOF, Mr. McINTYRE, Mr. KENNEDY of Minnesota, Mr. FORTENBERRY, Mr. LaHOOD, Mrs. EMERSON, Ms. HERSETH, Mr. CONAWAY, Mr. KUHL of New York, Mr. BONNER, Mr. NUNES, Mr. BERRY, Mr. SIMPSON, Mr. HIGGINS, Mr. ROSS, Mr. PUTNAM, Mr. CARDOZA, Mr. PENCE, Mr. HERGER, Mr. BOSWELL, Mr. MORAN of Kansas, Mr. NUSSLE, Mr. OSBORNE, Mr. THOMPSON of California, Mr. HASTINGS of Washington, Mr. HALL, Mr. LATHAM, Mr. COSTA, Mr. KLINE, Mr. EVANS, Mr. WALDEN of Oregon, and Mr. UPTON):

H. Con. Res. 482. Concurrent resolution expressing the sense of Congress that public policy should continue to protect and strengthen the ability of farmers and ranchers to join together in cooperative self-help efforts; to the Committee on Agriculture.

By Mrs. McCARTHY (for herself, Mr. WALSH, Mr. CROWLEY, Mr. NEAL of Massachusetts, Mr. KING of New York, Mr. HIGGINS, and Mr. MURPHY):

H. Res. 1041. A resolution honoring the 25th anniversary of Northern Ireland's first integrated school and further encouraging desegregation of schools and teacher training colleges in Northern Ireland; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 332: Mr. McCOTTER and Mr. BURTON of Indiana.

H.R. 389: Mr. GONZALEZ.

H.R. 398: Mr. WYNN.

H.R. 550: Mr. HOYER.

H.R. 583: Mr. CLYBURN and Mr. THOMPSON of California.

H.R. 611: Mr. HASTINGS of Florida.

H.R. 752: Mr. MEEHAN.

H.R. 772: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. STARK.

H.R. 808: Mr. KLINE and Mr. TAYLOR of North Carolina.

H.R. 874: Mr. ROGERS of Michigan and Mr. LEWIS of Kentucky.

H.R. 910: Mr. JACKSON of Illinois and Ms. WATERS.

H.R. 1106: Mr. FORTUÑO.

H.R. 1108: Ms. KILPATRICK of Michigan.

H.R. 1229: Mr. PUTNAM.

H.R. 1306: Mr. HONDA.

H.R. 1376: Mr. HIGGINS and Ms. NORTON.

H.R. 1393: Mr. ANDREWS.

H.R. 1402: Mrs. SCHMIDT.

H.R. 1507: Mr. CONYERS and Ms. BERKLEY.

H.R. 1535: Mr. DAVIS of Tennessee.

H.R. 1548: Ms. HERSETH and Mr. HOBSON.

H.R. 1621: Mr. CARNAHAN.

H.R. 1807: Mr. LEWIS of Georgia.

H.R. 2121: Mr. OTTER.

H.R. 2164: Ms. BORDALLO.

H.R. 2421: Mrs. DAVIS of California, Mr. SPRATT, Ms. LINDA T. SÁNCHEZ of California, Mr. COSTELLO, Mr. GUTIERREZ, Mr. DEFAZIO, Mr. GOODLATTE, Mr. BARROW, Mr. ENGLISH of Pennsylvania, and Mrs. JONES of Ohio.

H.R. 2526: Mr. SANDERS.

H.R. 2861: Mr. SMITH of New Jersey and Mr. ALLEN.

H.R. 3183: Mr. JINDAL and Mr. LATOURETTE.

H.R. 3628: Mr. UDALL of Colorado, Mr. GONZALEZ, and Mrs. DAVIS of California.

H.R. 4030: Mr. OBERSTAR, Mr. MOLLOHAN, and Mr. MARSHALL.

H.R. 4033: Mr. MURTHA AND MR. HOLT.

H.R. 4098: Mr. BUTTERFIELD.

H.R. 4239: Mr. KIND.

H.R. 4517: Mr. YOUNG of Florida.

H.R. 4597: Mr. JACKSON of Illinois and Mr. FORD.

H.R. 4766: Ms. BORDALLO.

H.R. 4823: Mr. KUCINICH.

H.R. 4828: Mr. LARSEN of Washington.

H.R. 4834: Mr. SMITH of Texas.

H.R. 4867: Mr. SALAZAR.

H.R. 4873: Mr. LEWIS of Georgia.

H.R. 4903: Ms. SCHAKOWSKY and Mrs. DAVIS of California.

H.R. 4904: Mrs. CAPPS.

H.R. 5052: Mrs. DAVIS of California.

H.R. 5120: Mr. PENCE.

H.R. 5139: Ms. SOLIS.

H.R. 5185: Mr. WAXMAN.

H.R. 5189: Mr. CALVERT.

H.R. 5201: Mr. BERRY and Mr. PUTNAM.

H.R. 5242: Mr. CAMP of Michigan.

H.R. 5273: Mr. UDALL of New Mexico.

H.R. 5280: Mr. BOSWELL.

H.R. 5465: Mr. DOGGETT and Mr. MCDERMOTT.

H.R. 5472: Mr. PALLONE, Mrs. NAPOLITANO, and Mr. SAXTON.

H.R. 5513: Mr. HOLT.

H.R. 5555: Mr. BASS and Mrs. WILSON of New Mexico.

H.R. 5557: Mr. TOWNS.

H.R. 5562: Mr. MORAN of Virginia.

H.R. 5594: Mr. GONZALEZ.

H.R. 5635: Mr. RUPPERSBERGER and Mr. CARNAHAN.

H.R. 5698: Mr. PRICE of North Carolina and Mr. FRANK of Massachusetts.

H.R. 5704: Mr. CHOCOLA, Mr. DOYLE, and Mr. KENNEDY of Minnesota.

H.R. 5733: Mr. POMEROY, Mr. HYDE, and Ms. LEE.

H.R. 5746: Mr. SANDERS, Mr. WICKER, Ms. WOOLSEY, Mr. MARSHALL, MR. BOSWELL, Mr. CARDOZA, and Mr. CHANDLER.

H.R. 5771: Mr. REYES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ORTIZ, Ms. KAPTUR, Mr. GONZALEZ, Mr. DEFAZIO, Mr. CARDIN, Mr. KING of Iowa, Mr. LARSEN of Washington, Mr. HINOJOSA, Mr. NADLER, Mr. DOYLE, Ms. CARSON, Mr. WEXLER, Mr. WYNN, Mr. THOMPSON of Mississippi, Ms. ZOE LOFGREN of California, Mr. WEINER, Mr. JEFFERSON, Mr. SABO, and Mr. CRAMER.

H.R. 5791: Mr. WYNN and Mr. BLUNT.

H.R. 5834: Mr. WEXLER and Mr. EMANUEL.

H.R. 5866: Mr. CONAWAY, Mr. GOHMERT, and Mr. TIAHRT.

H.R. 5878: Mr. SCHIFF.

H.R. 5894: Mr. KUHL OF NEW YORK.

H.R. 5896: Mr. GONZALEZ.

H.R. 5900: Ms. BORDALLO and Mr. GILCHREST.

H.R. 5916: Mr. EMANUEL and Mrs. MCCARTHY.

H.R. 5935: Mr. PETRI.

H.R. 5963: Ms. WOOLSEY, Mr. HOLT, Mr. GONZALEZ, Mr. STARK, Ms. LEE, Mr. VAN HOLLEN, and Mr. FILNER.

H.R. 5965: Mr. OWENS, Mr. LYNCH, Ms. CARSON, Mr. JACKSON of Illinois, Mr. WEINER, Mrs. NAPOLITANO, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. SALAZAR.

H.R. 6038: Mr. SMITH of Texas.

H.R. 6040: Mr. PUTNAM.

H.R. 6044: Mr. GONZALEZ.

H.R. 6053: Mr. SCHWARZ of Michigan and Mr. LAHOOD.

H.R. 6070: Mr. DOOLITTLE.

H.R. 6080: Mrs. MCMORRIS RODGERS, Ms. BERKLEY, and Mr. REHBERG.

H.R. 6082: Mr. AL GREEN of Texas.

H.R. 6093: Mr. MICA.

H.R. 6098: Mr. CAPUANO and Mr. SCHIFF.

H.R. 6107: Mr. SCHIFF.

H.R. 6109: Mr. UPTON and Mr. RAMSTAD.

H.R. 6117: Mr. MACK, Mr. ROSS, and Mrs. BLACKBURN.

H.R. 6120: Mr. EHLERS, Mr. FRANKS of Arizona, and Ms. JACKSON-LEE of Texas.

H.R. 6130: Mr. PETRI.

H.R. 6132: Mr. TERRY, Mr. MCDERMOTT, Mr. WEXLER, Mr. WAXMAN, Mr. KIRK, Mr. HIGGINS, Mr. SAXTON, Mr. BOUCHER, Mr. HAYWORTH, and Ms. HART.

H.R. 6133: Mr. ENGLISH of Pennsylvania and Mr. BOUSTANY.

H.R. 6136: Mr. LEWIS of California, Mr. MCHENRY, Mr. NORWOOD, Mr. NUNES, Mr. OSBORNE, Mr. PEARCE, Mr. PUTNAM, Mr. RAMSTAD, Mrs. MCMORRIS RODGERS, Mr. ROGERS of Alabama, Mrs. SCHMIDT, Mr. SHAW, Mr. SMITH of Texas, Mr. SULLIVAN, Mr. SWEENEY, Mr. TAYLOR of North Carolina, Mr. WELLER, Mr. WICKER, Mr. SMITH of New Jersey, Mr. YOUNG of Alaska, Mr. TOM DAVIS of Virginia, Mr. COLE of Oklahoma, Mr. WHITFIELD, Mr. SHERWOOD, Mr. HYDE, Mr. SIMMONS, Mr. GOODLATTE, Mr. RYAN of Wisconsin, Mr. SOUDER, Mr. LAHOOD, Mr. BUYER, Mr. ROGERS of Kentucky, Mrs. MYRICK, Mr. HOEKSTRA, Mr. GERLACH, Mr. FOSSELLA, Mr. HOBSON, Mr. PITTS, Mr. SENSENBRENNER, Mr. ISTOOK, Mr. PLATTS, Mr. GILLMOR, Mr. SIMPSON, Mr. GOODE, Mrs. BIGGERT, Mr. MICA, Mrs. MUSGRAVE, Ms. PRYCE of Ohio, Mr. REHBERG, Mr. SHUSTER, Mr. TIBERI, Mr. YOUNG of Florida, Mr. AKIN, Mr. GIBBONS, Mr. UPTON, Mr. CANTOR, Mr. HAYES, Mr. INGLIS of South Carolina, Mr. ROYCE, Mr. STEARNS, Mr. PRICE of Georgia, Mr. WAMP, Mr. WESTMORELAND, Mrs. WILSON of New Mexico, Mr. HENSARLING, and Mr. HEFLEY.

H.R. 6147: Mr. OBERSTAR.

H.R. 6172: Mr. UPTON, Mr. MILLER of Florida, and Mr. HAYWORTH.

H. Con. Res. 346: Mr. GARY G. MILLER of California.

H. Con. Res. 381: Mr. SESSIONS, Mr. SOUDER, Mr. SIMMONS, Mr. ANDREWS, Mr. TOWNS, Mr. CULBERSON, Mr. ROHRABACHER, Mr. FRANKS of Arizona, and Mr. BURTON of Indiana.

H. Con. Res. 428: Mr. HALL.

H. Con. Res. 477: Mr. WYNN.

H. Res. 466: Mr. BARTLETT of Maryland.

H. Res. 759: Mr. FRANK of Massachusetts and Mr. HASTINGS of Florida.

H. Res. 807: Mr. WOLF.

H. Res. 822: Mr. KUCINICH.

H. Res. 931: Mr. OWENS.

H. Res. 944: Mr. BOSWELL, Mr. WAXMAN, Mr. GRIJALVA, Mr. GONZALEZ, and Mr. CONYERS.

H. Res. 953: Mr. ISSA.

H. Res. 962: Mr. ENGEL and Mr. LEWIS of Georgia.

H. Res. 964: Mr. BOOZMAN and Mr. WYNN.

H. Res. 977: Mr. CONYERS.

H. Res. 988: Mr. KLINE.

H. Res. 995: Mr. KENNEDY of Minnesota.

H. Res. 999: Ms. BERKLEY.

H. Res. 1006: Ms. BERKLEY.

H. Res. 1012: Mr. PETRI.

H. Res. 1016: Mr. MCCOTTER, Mr. MURPHY, and Mr. BLUNT.

H. Res. 1017: Mr. RANGEL, Mr. RAHALL, Mr. LAHOOD, and Mr. BOUSTANY.

H. Res. 1030: Mr. ADERHOLT, Mr. DAVIS of Tennessee, Mr. TAYLOR of North Carolina, Mr. HAYWORTH, Mr. BAKER, Mr. ROYCE, Mr. SESSIONS, Mr. GOODE, Mr. HUNTER, Mr. MARCHANT, Mr. SHADEGG, Mr. BURTON of Indiana, Mr. GUTKNECHT, Mr. CAMPBELL of California, Mr. TANCREDO, Mr. DUNCAN, Mr. ROGERS of Alabama, Mr. ROHRABACHER, Mr. RAMSTAD, Mr. MCCAUL of Texas, Mr. SULLIVAN, Ms. GINNY BROWN-WAITE of Florida, Mr. GARY G. MILLER of California, Mr. POE, Mr. PRICE of Georgia, and Mr. MCCOTTER.

H. Res. 1031: Mr. MCHUGH, Mr. SHAW, Mr. WEXLER, Mr. ISRAEL, Mr. GONZALEZ, Mr. SCOTT of Virginia, Mr. ACKERMAN, Mr. SANDERS, Ms. WATSON, Ms. JACKSON-LEE of Texas, Mr. WYNN, Ms. WATERS, Mr. CUMMINGS, Mr. PASCRELL, and Mr. KUCINICH.

H. Res. 1033: Mr. MCCOTTER, Mr. GERLACH, Mr. KUHL of New York, and Mr. GARY G. MILLER of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 817: Mr. POE.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO NORMAN L. DIANDA

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Norman L. Dianda for his leadership as President of Q&D Construction.

Norm is a native Nevadan, having graduated from Reno High School and then serving 6 years as a machinist in the Nevada Air National Guard. Following his tenure with the Nevada Air National Guard, Norm founded Q&D Construction with his friend Lawrence Quadrio. Over the years, the business grew into the 1,000-employee company that it is today, and has added several divisions along the way.

Norm also believes that giving back to the community is necessary. Over the years he has served and continues to serve on numerous committees and boards. One of the projects that was special to Norm was the relocation and restoration of Huffaker Elementary School, which he attended as a youth. Norm also regularly donates to 10 non-profit organizations.

Mr. Speaker, I am proud to honor Norman L. Dianda. His professional success with Q&D Construction and his philanthropic undertakings should serve as an example to us all of what constitutes good citizenship. I applaud him for his success and with him the best in his future endeavors.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, on September 19, 2006, my vote was not recorded for House Concurrent Resolution 415, a bill condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is. Had my vote been recorded, it would have been a "yea.'

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. ANDREWS. Mr. Speaker, I regret that I missed three votes on September 25, 2006. Had I been present I would have voted "no" on H.R. 5059—to designate the Wild River Wilderness in the White Mountain National Forest in the State of New Hampshire, "no" on H.R. 5062—to designate as wilderness certain National Forest System land in the State of New Hampshire, and "yes" on H.R. 6102—to designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, VA, as the "Captain Christopher Petty Post Office Building."

THE PATERSON GREAT FALLS NATIONAL PARK ACT OF 2006

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PASCRELL. Mr. Speaker, it is my pleasure today to introduce the Paterson Great Falls National Park Act of 2006. This bipartisan legislation is cosponsored by every Member of the New Jersey congressional delegation, and would designate a national park at the majestic Great Falls in Paterson, NJ. I urge my colleagues to pass this legislation as soon as possible.

Fifteen miles west of New York City, the Great Falls was the second largest waterfall in colonial America. No other natural wonder in America has played such an important role in our Nation's historic quest for freedom and prosperity. At the Great Falls, Alexander Hamilton conceived and implemented a plan to harness the force of water to power the new industries that would secure our economic independence.

Hamilton told Congress and the American people that at the Great Falls he would begin implementation of his ambitious strategy to transform a rural agrarian society dependent upon slavery into a modern economy based on freedom. True to Hamilton's vision, Paterson became a great manufacturing city, producing the Colt revolver, the first submarine, the aircraft engine for the first trans-Atlantic flight, more locomotives than any city in the Nation, and more silk than any city in the world.

New Jersey's Great Falls is the only National Historic District that includes both a National Natural Resource and a National Historic Landmark. In a special Bicentennial speech in Paterson with the spectacular natural beauty of the Great Falls in the background, President Gerald R. Ford said, "We can see the Great Falls as a symbol of the industrial might which helps to make America the most powerful nation in the world."

The preeminent Hamilton biographers, an esteemed former Smithsonian Institution curator, the former chief of the National Park Service Historic American Engineering Record, and distinguished professors at Yale, Princeton, Harvard, NYU, Brown and other universities have filed letters with the National Park Service strongly recommending a National Historical Park for the Great Falls Historic District.

Scholars have concluded that Pierre L'Enfant's innovative water power system in Paterson, and many factories built later, constitute the finest remaining collection of engineering and architectural structures representing each stage of America's progress from a weak agrarian society to a leader in the global economy. Editorial boards, Federal, State, and local officials and community groups have also strongly endorsed the campaign to award a National Park Service designation to the falls.

This proposed national park would also encompass historic Hinchliffe Stadium, which was added to the National Register of Historic Places by the National Park Service in 2004. This stadium, built in 1932, is adjacent to the Great Falls and was home to the New York Black Yankees. Baseball legend Larry Doby played in Hinchliffe Stadium both as a star high school athlete and again as a Negro League player, shortly before becoming the first African-American to play in the American League.

I am grateful to the National Park Service for its diligent work on the Great Falls National Park feasibility study, which was authorized by an act of Congress in 2001. Officials at the National Park Service have done meticulous, thorough work and acted with the utmost professionalism as they compiled this study, which is scheduled to be released for public comment in early October 2006. While I am confident that, given the criteria, the National Park Service study will recommend choosing the Great Falls as a national park, in the end it will only present recommendations. National Park Service units are designated by Congress, and it is imperative that we begin the process of selecting the Great Falls as a national park site as soon as possible.

Mr. Speaker, Congress must act now to pass this vital piece of legislation, so that we may fully recognize these cultural and historic landmarks that have played such a seminal role in America's history.

PAYING TRIBUTE TO DAMON OHLERKING

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the life of my good friend Damon Ohlerking, who succumbed to cancer on July 5, 2006.

Damon was born in Eagle Grove, Iowa on September 23, 1945. A graduate of Iowa State University, with both a Bachelor's and Master's degree in landscape architecture, Damon

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

worked in Iowa, California, New Mexico, Minnesota, Oregon and Illinois before coming to Boulder City 10 years ago as the City's urban forester. Under Damon's leadership, the City underwent numerous beautification projects, and his vision changed the face of Boulder City. Damon's efforts resulted in Boulder City winning the 2002 National League of Cities' James C. Howland Award for Urban Enhancement for all cities in the country under 50,000 population.

Damon, a Vietnam War Veteran, also sought to share his knowledge with future generations through his service as an adjunct professor of landscape architecture, at the School of Architecture, University of Nevada—Las Vegas (UNLV).

Mr. Speaker, I am proud to honor Damon Ohlerking. He was a man of vision who greatly enhanced the lives of the residents of Boulder City, and he will be greatly missed by the entire community.

RECOGNIZING THE HERNANDO COUNTY PHILIPPINE-AMERICAN ASSOCIATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this evening is the celebration of the Hernando County Philippine-American Association Incorporated's year-long efforts to promote the 2006 theme of "Unity for a Better Tomorrow."

Through both social and cultural outreach, the Association has proven to be a positive resource for the entire Filipino-American community. Its activities foster goodwill, friendship and camaraderie among the entire Filipino-American community. The support of HCPAA in socio-political activities has helped secure rights for Filipinos both here and abroad.

As a Member of Congress, I have the opportunity to work on many pieces of legislation that affect millions of Americans. Earlier this month, I was proud to support H. Res. 622, a resolution that recognized and honored the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II.

Members of the Hernando County Filipino community know that their family members played a vital role defeating the Axis powers during World War II. Like Vietnam veterans after them, Filipino veterans often went decades without a pat on the back or a note of congratulations from the United States government. I am proud to stand here this evening and tell you that I supported this legislation and recognize the important work that Filipino men and women performed in World War II.

I encourage all HCPAA members and constituents to get involved with this great nonprofit organization. I once again congratulate your organization and its leadership for their past efforts and wish its new officers and members a productive and influential year.

COMMEMORATING SEA OTTER AWARENESS WEEK (SOAW)

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FARR. Mr. Speaker, I rise today to call attention to the 4th Annual Sea Otter Awareness Week, September 24–30, 2006, sponsored by Defenders of Wildlife. This week-long event provides the opportunity to broadly educate the public about sea otters, their natural history, the integral role that sea otters play in the near-shore marine ecosystem ,and the conservation issues they are facing. The work done by such groups as Defenders of Wildlife, Friends of the Sea Otter, The Otter Project, and The Ocean Conservancy to recover the southern or California sea otter has raised public awareness and helped protect this important species under the Marine Mammal Protection Act and the Endangered Species Act. Greatly due to their efforts, Governor Schwarzenegger recently signed California Assembly Bill 2485 into law to codify the protections for this important species.

The southern sea otter population has increased considerably from less than 100 otters in the 1930's to more than 2,500 today, though still significantly less than what is necessary to consider the population stable. Since otters continue to face many direct and indirect threats to their full recovery, I introduced H.R. 2323, the Southern Sea Otter Recovery and Research Act. I am also working with my colleagues to secure funding to support a continued and complete recovery of the population.

In the past, one of the main threats to the species was the killing of the animals for their fur. However, the decrease in their population that we have seen in recent years is increasingly due to indirect hazards (e.g., non-point pollution, pathogens, entrapment in fisheries gear) that are being identified. Such realizations support the need for continued research and preventive measures to respond to these issues, while continuing to ward against the direct killings/takings that still occur.

The decline of southern sea otter populations not only has impacts on the species itself, but also affects other marine populations and the surrounding ecosystem. For instance, the demise of sea otters allows their prey sea urchins to proliferate unchecked, which leads to the alarming overgrazing of kelp beds—one of the oceans nursery grounds for many marine animals. In particular, research shows that the absence of sea otters has a direct link to the sharp decline of kelp along portions of California's coast. Sea otter research also has proven to be an effective method of monitoring toxins and diseases in the marine environment, both of which can affect the health of humans and other wildlife.

The presence of the California sea otter has become an icon of the state's coastal environment and culture, and these charismatic animals bring significant tourism revenue to Californian coastal communities. Protecting them is not only directly advantageous to the otter population, but also fosters indirect benefits on a greater scale.

Mr. Speaker, I applaud the many accomplishments of Defenders of Wildlife and other non-profit environmental organizations, working with the Monterey Bay Aquarium, researchers, fishermen, state and federal agencies, schools, and many other institutions and individuals, who devote tremendous effort to protect and recover the southern/California sea otter. Sea Otter Awareness Week is just one of their many activities geared towards honoring and saving this species, and I am proud to be associated with this vital work.

PAYING TRIBUTE TO JENNIFER RITZ

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Ms. Jennifer Ritz for her outstanding work as a Clark County school teacher.

Jennifer currently holds three different certifications as a Highly Qualified Teacher (HQT) at the elementary and middle school levels in elementary education, math and science. She also holds a Bachelor's Degree in elementary education and is a National Board Certified Teacher.

This fall, Jennifer is working as an educational computing strategist at Lied Middle School in Las Vegas, Nevada. She gained a computer application endorsement, giving her a total of five different education certifications in addition to her BA.

Mr. Speaker, it is with great pleasure that I honor Ms. Jennifer Ritz. Her dedication and enthusiasm has greatly enriched the lives of her students. I thank her for her continued commitment to enhancing the educational experiences of her students and wish her luck in all of her future endeavors.

TRIBUTE TO RETIRING BARTON COUNTY OFFICIALS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. SKELTON. Mr. Speaker, it has come to my attention that a number of officials from Barton County, Missouri, are retiring this year after serving the public for a number of years.

I have had the privilege of representing Barton County in the United States Congress on two occasions. Barton County lies in the southwestern part of the Fourth Congressional District. Its county seat of Lamar is the birthplace of President Harry S. Truman, and the people who live there today personify the same common sense, hard working, Show-Me State values that made President Truman an outstanding president and global leader. I am honored to represent these fine Missourians in the United States Congress and to have had the privilege to work with many of these outstanding public officials.

Presiding Commissioner Gerald Miller was born in Idaho but moved to Missouri as a child. He graduated from Lamar High School in 1958 and has been active in the community since that time. Since 1999, Mr. Miller has served as Presiding Commissioner and has worked tirelessly to improve the communities he represents. He is a member of the Lamar Metro Club, the Abou Ben Adhem Shrine, and the Lamar Masonic Lodge. He is a successful businessman who is married to Brenda Rinehart—and has two sons, Mark and Matt.

County Clerk Bonda Rawlings is a lifelong resident of Barton County. She graduated from Lamar High School in 1971 and has dedicated much of her life to bettering her community. Since 1983, she has served as the Barton County Clerk and has been a leader in the State Association of County Clerks, serving as president in 1996. While working full time, she is also a member of the Barton County Chamber of Commerce, the Lamar Art League, the Barton County Historical Society, the Truman Area Transportation System, and the Lamar High School Booster Club. In all of these organizations, Mrs. Rawlings has held a leadership position. Bonda is married to Bill Rawlings and has two sons, Stan and Steve.

Circuit Clerk Jerry Moyer has spent his adult life serving the City of Lamar and is a graduate of Golden City High School. In 1976, he graduated from the College of the Ozarks with a degree in criminal justice administration. Mr. Moyer has served as the Clerk of the Circuit Court in Barton County since 1983 and has been a leader among his colleagues, serving as president of the Circuit Clerk and Recorders Association in 1994. Mr. Moyer previously served as Deputy Sheriff, a police officer, and a Deputy Juvenile Officer. He is active in the First Assembly of God Church, the Lamar Rotary Club, and the Freedom Singers gospel choir. Jerry Moyer is married to Jena Moyer and has a daughter named Tiffany.

Recorder of Deeds Jean Keithly has lived in Barton County all her life and is a graduate of Lamar High School. From 1984 to 2003, she served as the Deputy Recorder of Deeds in Barton County. In 2003, she became the first elected Recorder of Deeds in Barton County since 1935, when the office had been combined with the Circuit Clerk's office. Mrs. Keithly has been an active member of the Recorder's Association of Missouri for 22 years. She is a long-time member of the Hopewell Cumberland Presbyterian Church and has been an outstanding charitable volunteer. Mrs. Keithly is married to Bob Keithly and has two children, Michael and Teresa.

Deputy Assessor Dna Mullinax has lived in Golden City, Missouri, for the past 41 years and has worked at the Barton County Courthouse since 1983. Throughout her tenure, she has capably worked through many changes within her office and was especially instrumental in assigning emergency 911 addresses to rural Barton County homes. In 1998, Mrs. Mullinax received the "Employee of the Year" award, which was presented by the Lamar Rotary Club. She and her Husband, Rusty, have a shared family of seven children and ten grandchildren.

Mr. Speaker, these five individuals represent the outstanding Missourians who live and work within Missouri's Fourth Congressional District. As they each prepare to spend time with their families and enjoy retirement, I know that my colleagues will join me in wishing them well.

IN HONOR OF THE SALINAS WOMEN'S CLUB

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FARR. Mr. Speaker, I rise today to honor the achievements of the Salinas Women's Club, which recently commemorated its 100th year of existence. In the century that it has been around, the Salinas Women's Club has contributed greatly to the progress that the city of Salinas has enjoyed through its amazing fundraising abilities and true compassion for the welfare of this city. This organization has helped in several ways, from funding important and needed amenities to awarding scholarships to young people to cleaning up the streets.

The club was founded on August 25, 1906 by a group of active Salinas ladies whose main areas of focus were civic affairs, current events, and public health. The club immediately focused on an overall community need, a library. After circulating a petition for the library, the club pushed the City Council to support and approve the funding for the project. The ladies of the club raised the funds from a variety of events. They held dances, plays, and talent shows, and they sold flower arrangements. By 1915 they had raised the funds and also acquired a grant to build the library.

Because of the success of its first project, the Salinas Women's Club thrived. The club continued to develop community projects such as tennis courts and playgrounds. And in 1923, it funded its own building to be the site for meetings and to be an open environment for all those who wish to express their views about the community in which they live.

The Salinas Women's Club has done so much for the city of Salinas in its one hundred years that the city is indebted forever. This club began the Exchange Student program, which helped to further the cultural aspect of the town. It helped in the founding of Meals on Wheels, and fundraised for the National Steinbeck Center. It promotes music and the arts, and always is willing to help those in need. They entertained soldiers at luncheons and fought against the pollution of the city.

Mr. Speaker, the Salinas Women's Club has contributed so much to the city of Salinas and the surrounding community; I have only scratched the surface of its beneficial and compassionate dedication. I commend the Salinas Women's Club for all that it has done in its one hundred years, and I hope that it will continue for another hundred years with the same service, attitude, and contribution to the community.

HONORING LOWELL STANBERRY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor Lowell Stanberry, a dear friend who passed away this past weekend.

Lowell Stanberry was a straightforward man who always stood up and fought for his deeply held convictions. He was a Republican long before it was popular—or politically advantageous—to be a member of the GOP in my state of Florida. Lowell was instrumental in building support for my first candidacy for Congress by hosting barbeques at his ranch.

Lowell summed up his unwavering dedication to political activism and conservative principles by saying that "I think politics is kind of like religion. If you were born Baptist, I guess you die Baptist. If you were born a Republican, I think you die a Republican."

But Lowell was much more than a political activist. He was a dedicated member of his Dade City, Florida, community. He was a local volunteer and civic leader. He was a philanthropist and humanitarian. He was a friend and mentor to many. And he was a dedicated husband to his beloved wife, Evelyn, who passed on earlier this year.

Mr. Speaker, Lowell Stanberry was a courageous man whose convictions guided him throughout his life. I can think of no better way to honor him than by remaining true to ourselves and fighting for the goals and ideals in which we so strongly believe. I urge our colleagues to do that today and every day that we have the honor of serving as members of the greatest deliberative body in world history.

PAYING TRIBUTE TO WALTER LLOYD BELL

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the life of Walter Lloyd Bell, one of the founding fathers of the Las Vegas Metropolitan Police Department. Known to his family and friends as Lloyd, he passed away on Saturday, July 15, 2006, at the age of 80.

After serving his country in the Navy during World War II, Lloyd returned to Las Vegas and began his career in law enforcement at the Clark County Sheriff's Office. In 1955, at the age of 29, Lloyd became the youngest person to become County Undersheriff. Three years later, he graduated from the FBI Academy, the first member of the department to do so.

Lloyd served on the Nevada Gaming Control Board from 1961 until 1963, when he rejoined the law enforcement community. In 1968, he served on the committee that created the Las Vegas Metropolitan Police Department by uniting the Las Vegas Police Department and the Clark County Sheriff's Office.

Lloyd retired from the Sheriff's Office in 1973 and moved on to the private sector, owning thirteen shoe stores and a beauty salon. The ambition and dedication that allowed Lloyd to make such a positive impact on the law enforcement community in Las Vegas made him a successful business owner, as well.

Lloyd was a devoted husband and a proud father who enjoyed spending time with his family. He and his wife Pamela raised two daughters, Ashley Bell and Courtney Bell Vincent.

Mr. Speaker, I am proud to honor Lloyd Bell for his accomplishments and his law enforcement service. I thank him for his participation in the ambitious task of creating the Las Vegas Metropolitan Police Department and I applaud his long record of distinguished service. He has truly had a great impact on the safety and well-being of the Las Vegas community, and he will be greatly missed.

PATTON'S FOOT SOLDIER— J. GIVENS YOUNG

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. WILSON of South Carolina. Mr. Speaker, congratulations to Givens Young upon the publication of Patton's Foot Soldier—The True War Story of J. Givens Young.

With a moving forward by his dear friend, the late U.S. Senator Strom Thurmond (R–SC), this is the story of a patriotic young man who at the age of 16 left his Pee Dee home to enter Clemson University and its reserve officers' training school.

The book is a moving tribute to all veterans who faced the horror of World War II in Europe. For his service in France, Luxembourg, Germany, and Austria, even into Czechoslovakia, First Lt. James Givens Young was awarded the Silver Star for his courage. Americans are grateful for General George S. Patton, Jr.'s, Third Army, which fought valiantly to liberate Europe from Nazism.

The daily story of First Lieutenant Jim Young (as he was called during the war) is a chilling reminder of the sacrifices that embody the truth that Freedom is Not Free.

After the war, he returned home to Florence, South Carolina, where he and his late wife of 57 years, Florence Hunter Young, had made their home. They had three daughters, Marian Young Howard, Beth Young Gilbert, and Mary Miles Young Swink.

He successfully made Young Pecan Company the second largest pecan-shelling corporation in the United States.

PAYING TRIBUTE TO DEBORAH MARY LINDEMENN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Deborah Mary Lindemenn for her years of service as an Employment Specialist for the State of Nevada.

Deborah is retiring from her post as a Supervisor of the Employment Security Division staff located in the North Las Vegas JobConnect office. As the Division Supervisor, Deborah was responsible for the scheduling of staff duties and ensuring staff availability to provide required services. Deborah also managed the Career Enhancement Program Assistance Funds and wrote the evaluations for all the staff in the Employment Security Division. In her capacity as Supervisor, Deborah had to have an in-depth knowledge of intrastate, interstate, federal and military unemployment programs. Deborah also possesses exemplary communications skills which aided her in directing the activities of personnel in accordance with organizational policies.

In addition to her professional success, Deborah has completed a number of supplemental training programs that enhanced her over-all productivity in the workplace. Deborah completed; Total Quality Leadership Training, in April 1996; Facilitator Training, in July 1997; Employee Appraisal Training, in March 1998; as well as the Women in Leadership Forum in April 2000.

Mr. Speaker, I am proud to honor Deborah Mary Lindemenn. Her years of service to the State of Nevada are admirable and I wish her the best in her retirement.

HONORING COL. ROBERT TOVADO

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. TERRY. Mr. Speaker, I rise today to honor the service of Colonel Robert R. Tovado, the Commander of University of Nebraska Lincoln Air Force ROTC Detachment 465, who is retiring after three decades of service in the United States Air Force.

Colonel Tovado entered the Air Force in 1976 through AFROTC at the University of Northern Colorado. Since that time, he has served American in almost every major operation U.S. forces have been engaged in around the world. During his career, the Colonel has served in Operations Just Cause, Restore Hope, Sea Signal, Desert Strike, Desert Focus, Joint Guard, and Southern Watch.

Prior to his time in Nebraska, Colonel Tovado worked for General Tommy Franks as the Director of Manpower and Personnel at United States Central Command and he served as the Coalition/Joint Director of Manpower and Personnel deployed to Operations Enduring Freedom and Iraqi Freedom.

Since his arrival at the University of Nebraska, Colonel Tovado has taken his valuable military experience and applied it to his teaching and building of America's next generation of great leaders. During his tenure in Lincoln, the Colonel has led his staff and students in providing over 4,000 volunteer hours in support of a plethora of community service organizations for the betterment of Nebraska and her citizens.

Furthermore, he has helped countless students pursue their academic dreams by his efforts in bringing over two million dollars in scholarship money to the University of Nebraska. Under his command, UNL Air Force ROTC Detachment 465 was named the Right of Line Award winner for 2005 for the best Air Force ROTC Detachment in the nation. Furthermore, in 2005 Detachment 465 was also home to the Number One cadet in the nation. This marks the first time an Air Force ROTC detachment has received both awards during the same year and is a reflection of the work and leadership of Colonel Tovado.

Over the last three years of Colonel Tovado's tenure, 77 new lieutenants, including one of my former congressional staff members, have been commissioned into the United States Air Force. As I have been informed, the Colonel inspired and taught all of these great young men and women what it meant to be the best in the nation. These 77 young officers are now serving all across our globe defending America for future generations. This is perhaps the greatest legacy of Colonel Robert R. Tovado.

In closing, I join all Americans in wishing Colonel Tovado, his wife Wendy, and his family, heartfelt thanks on behalf of a grateful nation for his dedication and service to freedom.

TRIBUTE TO COMMAND SERGEANT MAJOR TERESA V. KING UPON HER RETIREMENT FROM THE UNITED STATES ARMY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. MEEK of Florida. Mr. Speaker, I rise today to congratulate Command Sergeant Major Teresa V. King on her retirement from the U.S. Army after a distinguished record of military service that spanned over 32 years. I know that I speak for all of my colleagues in thanking her for her service.

Command Sergeant Major Teresa V. King is a native of my home state, Florida. She entered the Army in August 1974 as a clerk typist and completed 3 years of active duty before leaving the Army in 1977. After a brief departure, she returned to active duty as a Motor Transport Operator in 1978. She has been assigned to Fort Eustis, Virginia; Fort Riley, Kansas; Fort Dix, New Jersey as a Drill Sergeant in Charlie, Delta and Alpha Companies, 2nd Battalion, 5th Training Brigade; Wiesbaden, Germany; and Baumholder, Germany as a PLDC Instructor.

After her tour in the Federal Republic of Germany, she was assigned to Fort Hood, Texas, with the 15th Supply and Transport Battalion, now the 27th Main Support Battalion, as a squad leader. In 1986 she volunteered for Drill Sergeant duty at the U.S. Army Drill Sergeant School at Fort Knox, Kentucky, as a Drill Sergeant Leader. In 1991, she was reassigned to the Republic of Korea as a Transportation Coordinator with the 227th Maintenance Battalion, Yongson, Korea. Upon completion of her tour, CSM King was reassigned to Fort Stewart, Georgia, as a Platoon Sergeant in Bravo Company, 724th Main Support Battalion; given the opportunity to serve as a First Sergeant, she was reassigned to 24th Forward Support Battalion, Fort Stewart, Georgia. After completion of First Sergeant duties, she attended the First Sergeant Course and was selected to work as a active duty advisor to the National Guard, 1454th Transportation Battalion, Concord, North Carolina; assigned to Readiness Group, Fort Bragg, North Carolina, from 1993–1995.

Her next assignment was with the 2nd Infantry Division; Camp Red Cloud, Korea, as the NCOIC of the Division Transportation Office. She was reassigned to Fort Story, Virginia, serving as both First Sergeant and Battalion Command Sergeant Major. In 1998 she attended the United States Army Sergeants Major Academy, Class 49 with a subsequent assignment in 1999 to Advanced Individual Training Battalion, 58th Transportation Battalion, Fort Leonard Wood, Missouri. CSM King served as the Brigade Command Sergeant Major in Kaiserslautern, Germany, with the 1st Transportation Movement Control Agency from May 18, 2001 to June 20, 2003. She currently serves as the Command Sergeant Major for Installation Management Agency-Europe, Heidelberg, Germany.

Her awards include the Meritorious Service Medal, 4th OLC, Army Commendation Medal, 3rd OLC, Army Achievement Medal, 3rd OLC, Good Conduct Ribbon, 10th Award, National Defense Ribbon, Humanitarian Service Ribbon, Overseas Ribbon, 3, and the NCOES Ribbon.

CSM King is the daughter of Mr. and Mrs. Johnie King of Fernandina Beach, Florida. She has two children, Tiffany, a graduate of Georgia Southern University and Nathan, a member of the Florida National Guard and a junior at Florida A & M University, Tallahassee, Florida.

Mr. Speaker, CSM King has set a high standard of service, and her career embodies the commitment to honor, duty and service to country. I wish her well on her retirement and every happiness and success in her future endeavors.

PAYING TRIBUTE TO JODET-MARIE HARRIS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Ms. Jodet-Marie Harris for her exceptional work as a Clark County high school teacher.

Jodet, a teacher at Mojave High School in Las Vegas, Nevada, holds certification as a Highly Qualified Teacher (HQT) in accordance with the No Child Left Behind Act. She has obtained both a Master's degree in Special Education and a Doctorate in General Education studies. She is also a National Board Certified Teacher.

According to Mojave High School Principal, Charity Varnado, Jodet has a passion to take a child under her wings and work with them individually to focus on the needs of that child and what it is that will help them learn." Jodet has realized that, when working with special education students, patience and compassion helps each student to understand the material being covered.

Mr. Speaker, it is with great pleasure that I honor Ms. Jodet-Marie Harris. Her dedication and enthusiasm has greatly enriched the lives of her students. I commend her devotion to constantly looking for innovative ways to increase the learning opportunities of her students and I wish her luck in all of her future undertakings.

RECOGNITION OF LIEUTENANT COLONEL SUSAN K. RIOPEL'S RETIREMENT FROM THE UNITED STATES ARMY

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. KINGSTON. Mr. Speaker, today I wish to honor my friend, LTC Susan K. Riopel, a respected officer in the United States Army Reserve, as she retires after having distinguished herself by continuous meritorious performance during 23 years of dedicated service.

LTC Susan Riopel was selected and served as one of the prestigious Army Congressional Fellows from August 1998 until November 1999, handling a wide range of responsibilities such as preparing input for committee hearings and conference mark-ups and conducting research and analysis, recommending sponsorship of bills, drafting speeches, talking points and press releases. Upon completion of her assignment as an Army Congressional Fellow, LTC Susan Riopel continued as a Legislative Liaison, for the Army Office of the Chief of Legislative Liaison as well as the Office of the Chief, Army Reserve Legislative Liaison.

LTC Susan Riopel has been an exemplary leader. Her efforts have brought a higher quality of life to the men and women in uniform who serve our country. She is, however, first and foremost, a loving and supportive wife to Frank, her husband, a caring and understanding mother to her children, Elizabeth and David.

Mr. President, I therefore honor LTC Susan Riopel today for her outstanding contributions to the United States Army Reserve as well as our Nation. She is a visionary and a leader and a mentor, a beloved wife, and mother, and I am proud to call her my friend.

TRIBUTE TO DIANE AND EMERY KLEIN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. LEVIN. Mr. Speaker, I rise today to recognize two leaders from my district, Diane and Emery Klein.

This marvelous couple has teamed to provide an unusual level of commitment to community. They are being honored on September 28th with the Jewish Federation of Metropolitan Detroit's most prestigious recognition, the Fred M. Butzel Award.

Emery and Diane are passionate advocates for innumerable Jewish causes and organizations and give tirelessly of their time and talents. The presentation of the Fred M. Butzel Award is the latest honor presented to Emery and Diane for their service to the community.

Emery is a past chair of the Federation's Annual Campaign, past president of the Hebrew Free Loan Association, and a national board member of the American Israel Public Affairs Committee. His honors include the Yeshiva Beth Yehudah Golden Torah Award, the International Association of Hebrew Free Loans Maimonides G'Millut Chasodim Award, and the Bar Ilan Honorary Fellowship Award.

Diane is a native Detroiter and past president of Federation's Women's Department, past vice president of the Federation, past president of the Greater Detroit Chapter of Hadassah and a past vice president of the Fresh Air Society. Diane has also generously contributed her talents to the Jewish Vocational Service, the Jewish Community Council and Israel Bonds Women's Division. Diane is a recipient of the Hadassah National Leadership Award and an Israel Bonds Lion of Judah Honoree.

Emery and Diane Klein have carried out with unusual passion their duties as citizens of their beloved country. Born in Czechoslovakia and a survivor of the Holocaust, Emery Klein has devoted himself to assure our Nation's full commitment to the security of Israel as the homeland of the Jewish people. He is currently a Board member of the American Israel Public Affairs Committee. His deep belief in democratic values, freedom and tolerance has motivated his decades of political activity, including an active role in Presidential campaigns including Bill Clinton's and in many Congressional races. Diane has been an active partner in these efforts.

Committed to education, the Kleins have established an Excellence in Education Fund to support professional development of Jewish educators in our community.

They are devoted to their children, Jeffrey and Barbara, and grandchildren, Spencer, Griffin, Zoe and Isabel.

Mr. Speaker, I ask my colleagues to join me in recognizing Emery and Diane Klein. They have worked tirelessly to make a difference and they indeed have done so. Privileged to witness their devotion and advocacy firsthand, I know I speak for many others in offering congratulations to Emery and Diane Klein as they are honored for their service with the Fred M. Butzel Award.

PERSONAL EXPLANATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on September 25, 2006 during rollcall votes No. 471, No. 472, and No. 473 during the second session of the 109th Congress.

Rollcall vote No. 471 was on the motion to suspend the rules and pass H.R. 5059.

Rollcall vote No. 472 was on the motion to suspend the rules and pass H.R. 5062.

Rollcall vote No. 473 was on the motion to suspend the rules and pass H.R. 6102.

If present, I would have voted "yes" on each of these rollcall votes.

PAYING TRIBUTE TO RAY GIUNTA

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Reverend Ray Giunta for his compassionate support for families and victims in times of crisis.

Ray is an ordained minister of the Evangelical Church Association, has a Bachelor's Degree in social work from the California State University in Sacramento and a Bachelor's in Pastoral Studies from Borean University. Not too long after graduating, Ray co-founded We Care Ministries with fellow minister Jeff Jones. We Care Ministries is a nonprofit Christian social service organization that dedicates its time to helping individuals and communities cope with the trauma of crises, from slayings and accidental deaths to high-profile tragedies like hurricanes, school shootings, and terrorist attacks. Since its existence, approximately 15,000 people have been touched by the Crisis Intervention team with physical, emotional, and prayer support.

Most recently, Ray aided several displaced families of Hurricane Katrina by providing $11,000 in rental fares for the bus that brought the evacuees from Gonzales, LA to Henderson, NV. His congregation also supplied the families with toiletries, cell phones, gift cards to department stores, and shelter in homes of church volunteers.

Ray has worked with a number of agencies, including FEMA (Federal Emergency Management Association), the American Red Cross and the Salvation Army. He has worked to provide relief at a number of different disaster sites, including: earthquakes in San Francisco; the Oklahoma City bombing; New York after 9/11; and several hurricane disaster areas in Florida and Louisiana. Ray also has counseled families and friends at school shootings in Texas and California as well as corporate mass shootings throughout the Nation.

When he isn't aiding distressed families and friends, he serves as the Encouragement Pastor at Central Christian Church in Las Vegas, NV, where he oversees a congregation of 8,000 members as well as the community outreach programs to the city. As pastor, he trains sympathetic, willing volunteers with the tools necessary to provide exceptional spiritual support for those in need.

Ray has received numerous awards for his compassionate care, including "Investigator of the Year" during his time as a criminal investigator. He also accepted the California Governor's "Heroes in Health Care" Award and the "Good Samaritan" Award from the American Red Cross. The California State Legislature also recognized him for his outstanding service in Oklahoma City and New York.

Mr. Speaker, it is with great pleasure that I honor Reverend Ray Giunta for his generosity and selflessness to numerous people during some of the most tragic events in today's world. On behalf of the Las Vegas community, I thank him for his caring attitude and wish him luck in all of his future deeds.

HONORING DONNA PAOLETTI PHILLIPS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. CARDIN. Mr. Speaker, I rise today to congratulate Ms. Donna Paoletti Phillips, my constituent, and one of three recipients of the first annual American Civic Education Teacher Award. This award honors teachers who have demonstrated a special expertise in teaching about the U.S. Constitution, the U.S. Congress, and public policy at the state and local levels. It is one of the activities of the Alliance for Representative Democracy, which is funded by the U.S. Department of Education by an act of Congress.

Now in her eleventh year as an educator, Donna, a resident of Columbia, Maryland, teaches eighth grade at Robert Frost Middle Schools in Rockville. She has worked to make her classroom an incubator of democracy, believing that "the essence of civic education lies in the people the students become while in the care of our classrooms." She describes her teaching style as experiential, noting that civic education cannot be a "from the neck up" activity.

For 6 years, Donna has coordinated We the People, the Citizen and the Constitution, a simulated congressional hearing held annually at the Robert Frost Middle School. In that time, she has witnessed a profound change in the participating teachers as they moved from direct instruction to a more facilitative role in the students' education process. She has also observed the students' progress to more self-directed research and collaboration with their peers. For these reasons, Donna sees this program as a life-changing activity for those involved.

Throughout the school year, Donna's students are able to witness her collaboration with fellow faculty and her volunteer efforts in the community. She initiates discussions on global, national, local, and school-based events, and frequently questions the causes of injustices, inspiring her students to do the same.

Donna says that she is proud to have "the best kids in the country" in her class, and she considers it a wonderful opportunity to teach in the Washington Metropolitan Area, where Capitol Hill can be so easily accessed. I am very pleased that she is visiting my office today, and I call upon my colleagues to join me in honoring Donna Paoletti Phillips' accomplishments and congratulating her on receiving this award.

PERSONAL EXPLANATION

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BERMAN. Mr. Speaker, on May 22, 2006, I was unable to cast a vote on H.R. 3858, the Pets Evacuation and Transportation Standards Act, rollcall vote No. 178. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BISHOP of New York. Mr. Speaker, I was not present in the Chamber on September 25th to cast my vote on rollcalls 471, 472, and 473.

Had I been present, I would have voted "nay" on rollcalls 471 and 472, and "aye" on rollcall 473.

PAYING TRIBUTE TO ESTHER FRIED

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the life of Esther Fried, who passed away on Wednesday, September 6, 2006.

Esther was born October 16, 1919 in Denver, Colorado and was raised in Denver and Salt Lake City. Moving to Las Vegas with her husband in 1959, they opened what would become a Las Vegas institution, Freeds Bakery. Launched in 1959, this bakery grew from a mom-and-pop operation into a world-renowned business. Having seven locations in the 1970s when Las Vegas' population was one-fifth what it is today, Freeds Bakery eventually was consolidated into one location. Under her leadership the bakery grew exponentially and gained widespread recognition. In 1996, Bon Appetit named Freeds Bakery one of the top 10 places to eat in Las Vegas. The bakery was also featured in the April 2002 edition of Martha Stewart Weddings magazine.

Mr. Speaker, I am proud to honor the life of Esther Fried. She will be dearly missed by the Las Vegas Community.

IN HONOR AND RECOGNITION OF CASEY COLEMAN DAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in celebration of Cleveland's Casey Coleman Day. Mr. Casey Coleman is a landmark in Cleveland radio broadcasting and sportscasting who has recently been diagnosed with inoperable pancreatic cancer with only months to live. Cleveland Mayor Frank Jackson has proclaimed September 26 as "Casey Coleman Day" to honor the distinguished Cleveland resident.

Mr. Coleman has been an acclaimed sports broadcaster for over 25 years and has been recognized by the Associated Press for "Best Regularly Scheduled Sports" and "Best Sportscaster" in the State of Ohio. While performing television broadcasting, Mr. Coleman received four Emmy Awards. Mr. Coleman also has the honor of being the field and locker room reporter for the Cleveland Browns for the past five consecutive years.

Casey Coleman Day will be more than just a title, as a ceremony will be held at Tower City, and on September 27 there will be a blood drive sponsored by the American Red Cross in Mr. Coleman's name. The region-wide blood drive effort will help hundreds of lives in 57 different Ohio hospitals. Everyone who donates blood at a Red Cross site on September 27 will be able to write a personal message to Mr. Coleman. The day of celebration also marks the creation of "Casey's Fund," which will contribute all donations to help treat alcoholics and addicts as Mr. Coleman is a recovered alcoholic and his legacy will continue to aid in fighting addiction with the help of Recovery Resources.

Mr. Speaker and Colleagues, please join the city of Cleveland and myself in honoring and rejoicing over Mr. Casey Coleman's inspiring life, courage against cancer, and devotion to Cleveland. My thoughts go out to his wife and his six daughters during this difficult time.

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Monday, September 25, 2006, I was unavoidably detained due to a prior obligation. Had I been present and voting, I would have voted as follows:

(1) Rollcall No. 471: "no" (H.R. 5059, New Hampshire Wilderness Act); (2) rollcall No. 472: "no" (H.R. 5062, New Hampshire Wilderness Act); (3) rollcall No. 473: "yes" (H.R. 6102, Captain Christopher Petty Post Office Building).

NATIONAL ADDICTION RECOVERY MONTH

HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. LARSEN of Washington. Mr. Speaker, I rise today to pay tribute to an often overlooked group of Americans who have made great contributions to the health and safety of our Nation. Those who have made a career out of counseling individuals with alcohol and drug addictions deserve our recognition, respect, and gratitude, as we celebrate National Addiction Recovery Month this September. Furthermore, I would like to recognize that September 20th is National Addiction Counselor's Day.

Last year, over 19 million Americans used illicit drugs. Fifty-five million engaged in binge drinking, and over 16 million were considered heavy drinkers. These numbers are staggering. Imagine the entire populations of New York and Los Angeles as illicit drug users. Imagine if the entire population of Florida were heavy drinkers.

This is a prevalent problem.

The problem of addiction is not restricted to illicit, illegal drugs or products sold on the street. There are dangers in our homes and our medicine cabinets. Common household products, such as cough syrup, contain ingredients that can provide a high if taken in large enough doses.

According to research conducted by the Partnership for a Drug-Free America, one in 10 teenagers, or 2.4 million young people, have intentionally abused cough medication to get high. Teens take excessively large amounts of over-the-counter cough medicine or abuse the main active ingredient in most cough syrups, dextromethorphan (DXM). DXM can be purchased over the Internet in bulk and is very dangerous when abused.

Since cough medicine is a necessity in every home with a child, we must take action to ensure our kids are protected from DXM abuse. First, parents need to talk to their children about the dangers of overdosing on DXM and cough syrup. Second, Congress needs to ensure that bulk amounts of DXM are not sold over the counter, or over the Internet, to entities not registered to do so with the FDA. I urge congressional leadership to bring legislation I introduced with Rep. FRED UPTON, H.R. 5280, the DXM Distribution Act of 2006, to the floor of the House for a vote.

The professionals who treat the destructive disease of addiction are a dedicated, knowledgeable group. Today there are hundreds of thousands of clean and sober individuals living happy, productive lives because a counselor was there and made the difference. Not only do these counselors assist in recovery, but in prevention and intervention as well. Addiction professionals are an essential cog in the health services machine. Through training and experience, addiction professionals can help turn a life around and often even save a life.

I call upon all of my colleagues to join me in recognizing the invaluable contributions of addiction counselors. Congress has shown strong support for this issue in the past, yet we are far from victory. We must continue our steadfast fight against drug and alcohol addiction. The hard work of addiction professionals should be recognized, honored, and appreciated.

PAYING TRIBUTE TO KIRK V. CLAUSEN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Kirk V. Clausen for his leadership as the regional president of Nevada for Wells Fargo Bank.

Kirk has worked for Wells Fargo Bank in various capacities since he was 14 years old. In his childhood hometown of Sioux City, Iowa, Kirk worked for Norwest Bank, now Wells Fargo, delivering calendars and performing other odd jobs. During college, Kirk worked the night shift as a teller. By the time he graduated from college, Kirk was managing all three teller lines during all three shifts. Due to his adeptness, Kirk was asked to participate in the bank's management training program, and so began his bank management career. Today, Kirk is responsible for more than 11 Wells Fargo banks across Nevada.

Despite demands on his time, Kirk is also very active in the community and has served on numerous community boards, including the Economic Development Authority of Western Nevada, EDAWN.

Mr. Speaker, I am proud to honor Kirk V. Clausen. His combination of professional success and community activism is exemplary. I applaud his efforts and wish him the best in his future endeavors.

J.S. HOLLIDAY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. STARK. Mr. Speaker, our Nation and especially our great State of California, lost part of our soul last week.

Thousands of historians have written about American history, but it took J.S. Holliday to analyze, understand, define and describe the monumental effect on our State and Nation of the California Gold Rush.

In authoring the two classic histories about the Gold Rush—The World Rushed In (1981) followed by Rush to Riches (1999)—Jim Holliday captured the spirit, the human face and the meaning of what he defined as the seminal event that changed the American West and indeed all of America. He described recklessness, entrepreneurship, resourcefulness, greed, speculation, ambition and thrill, and how gold abolished all the old rules. He explained dry diggers and long toms and sluice boxes and ditching and tailing, and he opened our eyes to life on the Yuba River and Sutter's Mill and Marysville. His meticulous research exposed the life of the miner and through him, the culture of the time and the impact of it all on us, as Californians and Americans.

Beyond being a great historian and a great writer, Jim Holliday was a great friend. The decibel level of his voice was not the only thing that ensured he was a presence in the room; his laughter, his warmth, his passion to learn and capacity to listen, and his sheer brainpower, made him the center of gravity in any setting. He was as irrepressible and dynamic as they come.

On behalf of the members of the California delegation—both those who knew him personally and those who knew only his work—I send condolences to all members of his family.

Mr. Speaker, I ask that obituaries from the San Francisco Chronicle of September 2 and the Carmel Pine Cone of September 8 be printed in the RECORD.

[From the San Francisco Chronicle, Sept. 2, 2006]

J.S. HOLLIDAY: 1924–2006

(By Carl Nolte)

J.S. Holliday, one of the most eminent historians of California and the West, died at his home in Carmel on Thursday at the age of 82. He had been suffering from pulmonary fibrosis.

Holliday was the author of "The World Rushed In," a history of the California Gold Rush that was a best-seller when it was published in 1981; it went through 13 printings.

and a new edition was reissued recently by the University of Oklahoma Press.

Kevin Starr, another noted historian of the West, called "The World Rushed In" "a classic."

If it were only for the one book, Holliday's reputation as a historian would be secure, but he was also the founding director of the Oakland Museum of California and executive director emeritus of the California Historical Society, taught history at San Francisco State University, and served for a time as assistant director of the Bancroft Library at UC Berkeley.

He also lectured, appeared on television and wrote articles on history. "No one writes better about California's irresistible past," said Ken Burns, the television documentary expert. "I am a huge fan."

"He was a towering figure in California history," said Gary Kurutz, principal librarian for special collections at the California State Library. "His death is a real loss."

Holliday was born Jaquelin Smith Holliday II, June 10, 1924, in Indianapolis. His family was in the steel business, and young J.S. Holliday attended private schools. He seldom used his given name. His friends called him "Jim."

Holliday attended midshipman school at Northwestern University during World War II and served in the U.S. Navy as an officer aboard an escort aircraft carrier in the Pacific.

He attended Yale University and graduated with a degree in history in 1948. At Yale, one of his teachers brought to his attention letters and a diary written by a man named William Swain, who set out from Michigan in 1849 with a group of adventurers called the Wolverine Rangers to make his fortune in far-off California.

In Swain, Holliday found his own mother lode. Swain's letters and diary—his adventures traveling across the Great Plains, down the dreary Humboldt River in Nevada, his trek across the Black Rock Desert, his life in the California Gold Country—were the basis for "The World Rushed In."

Holliday often said that the story of the Gold Rush—which he said was the greatest peacetime mass migration in history—brought him to California. He moved West in 1949, on the 100th anniversary of the Gold Rush. "I came here for gold and found other ways of seeking success in California," he said.

He got a doctorate in history from UC Berkeley in 1958 and a research fellowship at the Huntington Library, then worked at the Bancroft and taught at San Francisco State.

By then he had a considerable reputation as a forceful and vigorous exponent of his views of history. "He was one of the most vital people I ever knew," said Joe Illick, who served with him on the faculty at San Francisco State.

He was "a big, handsome, rumpled man with a passion for the rugged life," The Chronicle said of him when he had become well known. Early in his career, however, Holliday's passion for history did not always go down well with more sedate custodians of the State's past.

In 1967, he was named the founding director of what later became the much-praised Oakland Museum of California. However, he was so forceful and uncompromising in his views that he was fired just before the museum opened in 1969.

He then became executive director of the California Historical Society and organized a series of major traveling exhibitions, including one about the internment of Japanese Americans during World War II. "It caused quite a stir," said David Crossen, the current executive director of the society. "People in historical societies didn't deal with issues like that back then. He was a model for the young Turks in historical organizations."

Holliday served two terms in the top job at the California Historical Society. However, he always came back to the Gold Rush book. He felt the 1849 Gold Rush was a seminal event in the state's history that, in his words, "changed California, changed the whole West and changed America's sense of itself." He wanted to present it in human terms, to make the lives of the long-dead Forty-Niners come alive.

It took him 30 years to write.

"He was such a careful writer that it sometimes took him a week to get two paragraphs right," said Kurutz. "He was as thorough as can be."

The result was what Starr called "a masterly narrative." The book won the Silver Medal of the Commonwealth Club of California and the Oscar Lewis Award for Achievement in Western History from the Book Club of California.

In 1999, Holliday wrote "Rush for Riches: Gold Fever and the Making of California," which also received critical acclaim.

Holliday was married twice. His first marriage, to Nancy Adams, ended in divorce. He was married to Belinda Vidor Jones in 1983, and she survives him.

He also leaves three children: Timothy Holliday of New Orleans, Martha Brett Holliday of Farmington, Conn., and W.J. Holliday of Menlo Park.

A memorial service is pending.

[From the Carmel Pine Cone, Sept. 8, 2006]

GOLD RUSH HISTORIAN, CRA FOUNDER WAS AN "OVERSIZED SLICE OF LIFE"

(By Mary Brownfield)

"He was a very forceful and outspoken person, but also very sensitive and very gentle, too," John Hicks said of his friend, Jim Holliday, the notable California historian and author who died of pulmonary fibrosis at home in Carmel last Thursday morning at the age of 82. "That made for an interesting paradox, I think."

Mr. Holliday, who helped found the Carmel Residents Association after Clint Eastwood was elected mayor of the town 20 years ago and was named the group's Citizen of the Year in 2001, was best known for his books and studies on the California Gold Rush.

In 1981, Simon & Schuster published "The World Rushed In," which described the Gold Rush and its impacts on California's development and American values. The book, heralded by fellow historians, underwent 13 printings. Its latest edition, published by the University of Oklahoma Press, remains available.

In 1999, assisted by Hicks, he wrote "Rush for Riches: Gold Fever and the Making of California," copublished by the Oakland Museum and the University of California Press in Berkeley.

His writing earned honors from the Library of Congress, the Commonwealth Club of California (silver medal), the Book Club of California and Western Writers of America, Inc. Known as a strong speaker, Mr. Holliday lectured throughout the State and Nation.

In Carmel, Hicks and Mr. Holliday served on the board of trustees at Tor House. Hicks described his friend as a "big, vigorous person, but endlessly curious and a great listener," and said they agreed on the local and national significance of Robinson Jeffers and his historic home on the point.

"He was a big, oversized slice of life and more than some people could take at times, but he was a good spirit," Hicks said. "The little town will be different without him."

Attorney and CRA cofounder Skip Lloyd first met Mr. Holliday in San Francisco, and the two became reacquainted years later when Mr. Holliday moved to Carmel. Lloyd also lauded his friend's public speaking skills and said, "He brought tremendous enthusiasm, energy, generosity, leadership and a wonderful spirit" to the residents group. "He was a really accomplished person, but he never wore it on his sleeve," Lloyd said. "He was always friendly, helpful and generous to everybody."

Historian and longtime San Francisco Chronicle journalist Carl Nolte, who wrote Mr. Holliday's obituary for his newspaper, read Mr. Holliday's books "with much admiration" and described the author as "a charmer." "He was very, very impressive as an historian," Nolte said, "and also very kind with his praise, which is rare among authors."

Born Jaquelin Smith Holliday II, on June 10, 1924, to steel magnate William J. Holliday and Martha Henley Holliday in Indianapolis, IN, Mr. Holliday was most commonly known as J.S.—Jim to his friends.

He graduated from the Hill School in Pottstown, PA, attended midshipman school at Northwestern University and served on the USS *Santee* in the Pacific during World War II. Mr. Holliday graduated from Yale University with a degree in history in 1948.

Drawn west, he undertook graduate studies in history at UC Berkeley in 1952 and received his Ph.D. in 1959, following a year as a research fellow at the Henry Huntington Library in San Marino. He also worked as an associate professor at San Francisco State University and a lecturer at other institutions. He was editor of "American West" magazine and served as executive director of the Oakland Museum of California. From 1970–1977 and 1983–1985, he was director of the California Historical Society.

Socially, Mr. Holliday belonged to the Bohemi-an and Roxburge clubs in San Francisco, and the Zamorano Club in Los Angeles.

His first marriage, to Nancy Adams, ended in divorce in 1974, and he married Carmel resident Belinda Vidor Jones in 1983. She and three children from his first marriage—Timothy Holliday of New Orleans, LA, Martha Brett Holliday of Farmington, CT, and William J. Holliday of Menlo Park—survive him.

RECOGNIZING THE RETIREMENT OF JOSE R. CORONADO

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. GONZALEZ. Mr. Speaker, I rise today to recognize the noteworthy career of Jose R. Coronado, the Director of the South Texas Veterans Health Care System STVHCS. Mr. Coronado has retired from this position, ending a long and illustrious 40-year career as a public servant. He is an incredibly accomplished man who has served this Nation with honor and distinction.

Too often, those who have chosen a career in public service are overlooked as their efforts are hidden behind the scenes. However, Mr.

Coronado's impact on veterans healthcare cannot be ignored. As director of the STVHCS, Mr. Coronado has led one of the largest integrated healthcare systems in the Veterans Health Administration, VHA. He was responsible for a healthcare delivery system which has an annual budget of nearly $430 million, is comprised of more than 2,800 employees, and consists of three divisions: the Audie L. Murphy Division, the Kerrville Division, and the Satellite Clinic Division.

Due to its affiliation with the University of Texas Health Science Center in San Antonio, the STVHCS has an active ambulatory care program with outpatient clinics in cities throughout South Texas. The system also serves as a parent facility for Veterans Outreach Centers in the region. Needless to say, Mr. Coronado was ultimately responsible for the care of veterans throughout South Texas.

Mr. Coronado's passion for serving the public, and his interest in health care, have been demonstrated throughout his career. He began his undergraduate education in premedical studies. This education, however, was interrupted by his military service in the Army which lasted from 1953–1955. During this time period, he served as an operations sergeant in the U.S. Army, 11th Armored Cavalry Regiment. Upon the completion of this service, Mr. Coronado finished his undergraduate education and became an assistant principal and science teacher at Hebbronville High School.

In 1962, Mr. Coronado began his illustrious career with the Veterans Administration as an administrative officer with the Veterans Administration Medical Center in Houston, TX. He worked his way up the ranks as a devoted civil servant until 1975, when he became the director of the Audie L. Murphy Memorial Veterans Hospital in San Antonio. He served in that capacity for 20 years, until he was named director of the STVHCS in 1995.

Mr. Coronado's unyielding devotion to his career can only be matched by his commitment to the community. Throughout the span of his career, he has participated in a number of organizations in a wide range of capacities. Currently, he is a member of the Medical Research Public Awareness Committee, he is chair of the Graduate Healthcare Administration Training Program, GHATP, Board, he is on the Board of Contributors for the San Antonio United Way, and he is a fellow with the American College of Healthcare Executives, ACHE. Furthermore, he is an adjunct professor at both the University of Texas Health Science Center at San Antonio and the University of Houston, Clear Lake. He is also affiliate faculty within Trinity University's Department of Health Care Administration.

Mr. Coronado's efforts have made a positive impact on the organizations he serves as well as the individual lives that he has touched. This impact has been recognized by awards presented to him by three separate Presidents. Most recently, Mr. Coronado was bestowed Modern Healthcare Magazine "Top 25 Minority Health Care Executive" award and the Under Secretary for Health, Department of Veterans Affairs "Exemplary Service Award."

I believe that Mr. Coronado has consistently demonstrated incomparable leadership abilities and a selflessness reserved for the truly great public servants. He has given so much in service to our military and to the countless veterans who have benefited from his direction. In fact, generations of military personnel have been positively impacted by the efforts he has made throughout his career.

On behalf of the brave men and women of the military, the staff of the facilities over which Mr. Coronado led, and the citizens of South Texas, I want to say thank you. Thank you Mr. Coronado for the sacrifices you have made to better the lives of others. Thank you for your commitment in service to this great Nation. And thank you for showing us what can be achieved through hard work, vision, and a strong sense of purpose. While Mr. Coronado's retirement is certainly well-deserved, his presence will no doubt be missed in our community.

IN RECOGNITION OF CLINTON KIRK

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I respectfully ask the attention of the House today to pay tribute to Mr. Clinton Kirk, a constituent of mine who has dedicated the past 20 years of his life to staying healthy and fit.

Mr. Kirk resides in Valley, Alabama, and is in his eighth decade of life. He is known around the area as the Walking Man. Kirk says when he began his walking in 1986, he would walk around 5 to 6 miles a day in the early morning. Twenty years later, he says he now walks about a mile a day and says he attributes his good health to his walking habit. Amazingly, Mr. Kirk has walked over 50,000 miles since 1986, the year he began keeping a daily log of the distance he covers.

I salute Mr. Kirk for his continued efforts to exercise and stay healthy, and commend him at this milestone for serving as an example for us all to take care of ourselves and stay fit.

TRIBUTE TO LUAN RIVERA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. HUNTER. Mr. Speaker, I raise today to recognize Luan Rivera, a devoted and inspirational leader who has dedicated her life to the education and development of America's youth. As the 2005—2006 President of the California School Boards Association, CSBA, Luan has worked tirelessly to promote and strengthen educational opportunities in California's public schools and I would like to commend her for her efforts.

Luan was elected to the Ramona Unified School District Board of Education in 1994 and served seven years on CSBA's Delegate Assembly. Her impressive credentials include a master's degree from Roosevelt University in Chicago, completion of CSBA's Master in Governance Program, a multiple-subject teaching credential and an English as a Second Language certificate. She is also the former youth coordinator of the Yellow Ribbon Suicide Prevention Program and has participated in numerous activities designed to enhance tolerance amongst California's culturally diverse youth population.

Adding to this long list of achievements, Luan has also been active in the San Diego County Inter-Agency Coalition for Human and Civil Rights and, in 2001, she attended the United Nations World Conference Against Racism in Durban, South Africa. These experiences and qualifications enabled Luan to serve as CSBA President with a high level of insight and an acute understanding of California's educational challenges.

Luan recognizes that stimulating and encouraging our children to learn is an investment in America's future. Her incredible devotion to improving California's education system has set a new precedent for CSBA's top leadership position and it is my hope that leaders like Luan will continue to step forward in the future.

Mr. Speaker, I ask my colleagues to join me in thanking Luan Rivera for her service as a member of the Ramona Unified School District Board of Education and CSBA President. Thanks to Luan, California's public schools are a better place and she can take special pride in knowing that her contributions are improving the lives of children and families throughout the State.

IN RECOGNITION OF FORT LAUDERDALE'S LONE SAILOR MEMORIAL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. SHAW. Mr. Speaker, I rise today to recognize the Fort Lauderdale Council of the Navy League of the United States for their successful campaign to locate a Lone Sailor Statue on Fort Lauderdale's Riverwalk.

The Fort Lauderdale Council has been greeting military ships of all Navies arriving in Port Everglades for over 50 years, earning a reputation for Fort Lauderdale as the 'best liberty Port in the world'. Although Fort Lauderdale is not home to a major Navy facility, it is rich in naval history. During World War II, pilots including former President George Bush, trained at the old Fort Lauderdale Naval Air Station. During my tenure in Congress, I have had the privilege of participating in two ship commissioning ceremonies at Port Everglades. It is a fact: the Navy loves Fort Lauderdale and Fort Lauderdale loves the Navy.

With this strong relationship with the Navy, members of the Council, including former Congressman George Wortley, felt it was time to join eight other communities around the country and bring a Lone Sailor statue to South Florida. They committed to raising $250,000 to obtain the statue, prepare the site and cover other related expenses. They successfully petitioned the City of Fort Lauderdale to approve a permanent home for the 'sailor' on Fort Lauderdale's Riverwalk.

On Saturday, October 14th, 2006, I look forward to joining members of the Fort Lauderdale Council and our South Florida community to dedicate the Lone Sailor statue. Cast in bronze, the statue is composed of 2 pieces: the sailor who stands 7 feet tall and weighs approximately 1,000 lbs. and his sea bag and cleat weighing 700 lbs. During the casting process, the bronze is mixed with artifacts from eight U.S. Navy ships which span the Navy's history. It is a fitting tribute to the men and women of the sea service.

Mr. Speaker, I commend the members of the Fort Lauderdale Council of the Navy League of the United States for their commitment to this wonderful project. The Lone Sailor Statue will stand as a symbol of the esteem in which this community holds the members of the sea services: Navy, Marine Corps, Coast Guard, U.S.-Flag Merchant Marine.

IN MEMORY OF LOBIS ADAMS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BURGESS. Mr. Speaker, I rise today to remember Lobis Adams, the 99-year-old retired pastor of the Corinth Missionary Baptist Church.

Reverend Adams pastored the Corinth Missionary Baptist church for 33 years before retiring in 2003. As a faithful servant to the Lord, Reverend Adams spent his life in the service of others by volunteering in countless Baptist organizations.

His commitment to the church and the community are still visible today through the many organizations that he helped establish and lead. His dedication to education in the Baptist community is shown through his tenure as Director of Christian Education at the Texas State Missionary Baptist Convention. He also served as a board member to the Texas Baptist Foreign Mission board.

It was my honor to represent Reverend Adams. I extend my sympathies to his family and friends. May the example of this man, whose contributions made richer the fabric of our faith, be inspiration to all.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. ANDREWS. Mr. Speaker, I regret that I missed three votes on September 25, 2006. Had I been present I would have voted no on H.R. 5059, to designate the Wild River Wilderness in the White Mountain National Forest in the State of New Hampshire, no on H.R. 5062, to designate as wilderness certain National Forest System land in the State of New Hampshire, and yes on H.R. 6102, to designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, Virginia, as the "Captain Christopher Petty Post Office Building".

SENATE—*Wednesday, September 27, 2006*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, You are always the same. Help our legislative leaders to be honest and fair. May our lawmakers labor for justice and peace. As You use them for Your purposes, deliver them from moral paralysis and spiritual inertia.

Make them voices for those who are captives of injustice and oppression. Use them to rescue the hopeless, to help the hurting, and to have pity on the weak. Because of their faithfulness, let this Nation prosper like flowers in a well-kept garden.

As we praise You, Our Father, show Your glory throughout our world.

We pray in Your glorious Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

PROGRAM

Mr. FRIST. Mr. President, we have a period of 1 hour of morning business to start today's session. Following morning business, we have 1 hour of debate prior to a scheduled cloture vote on the pending amendment relating to military tribunals, to the military commissions. Before that cloture vote begins, the Democratic leader and I will continue to work toward an agreement that would allow us to consider the military tribunal legislation as a freestanding measure under a specific time agreement. We started talking about that yesterday and worked through the night, and we will continue over the course of the morning to reach that agreement. We are working in good faith toward an understanding on this bill and hope we will be able to work that out prior to that 11:30 a.m. vote. I will keep our colleagues posted as to the outcome of those talks.

If we are able to reach a consent agreement, then I will vitiate the order for the cloture vote, and we will proceed directly to the military tribunals, the so-called Hamdan legislation, today. Votes will likely occur throughout the afternoon either on the cloture vote on that issue or on amendments that may be considered to the freestanding bill.

We have a number of other important items to consider this week. The Defense appropriations conference report has been filed, and we do not expect that to take very much time at all. It may even be that we can do that at some point later today.

We have the Homeland Security appropriations that will shortly be completed, as well as other conference reports that are underway, such as port security, which may become available.

I remind my colleagues that we have a policy meeting on this side of the aisle to occur from 12:30 p.m. to 2:15 p.m. today. If we can schedule debate on one of these issues during that time, we will likely be able to remain in session in order to make progress.

I have a brief statement. Does the Democratic leader have comments?

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

WORKING ON A UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I appreciate the majority leader yielding. So everyone understands where we are, let me repeat what the majority leader said. As things now stand, we are going to have a cloture vote on the Hamdan matter, the Supreme Court detainee situation that now confronts the country, sometime this evening.

What we are going to try to do in the next hour or so is work out a unanimous consent agreement that there will be amendments allowed to be offered on the Hamdan matter. There would be amendments. We would agree between the leader and me as to how much time will be on the amendments.

I have cleared this matter with most everyone. As I told the leader today, I still have to work things out with two other members of the Judiciary Committee. Hopefully, I can do that. If not, what will happen is cloture will be invoked on Hamdan and then 30 hours will start, and there will be cloture on the fence bill, the barrier bill, sometime tomorrow. We are trying to work our way through this so the Hamdan matter will have some debate on it and some amendments offered on it. We are doing our best to do that.

As I said yesterday, late in a session such as this, everyone becomes a Charles Atlas—one person can stop anything. They have the right to do that. We understand that. But procedurally that is where we are now. Hopefully, we can work our way through this and have some debate on this detainee matter and move on to the fence bill, hopefully work something out on that, and put us on a glidepath to completing the work of the body, as the majority wants to do, in the next couple of days.

Mr. LEAHY. Mr. President, will the Senator yield on that point for a couple of moments?

Mr. REID. Of course.

Mr. LEAHY. Mr. President, I commend the two leaders for trying to work out these issues. Over the years, I have seen leaders try to do it at the end of a session. I don't consider myself a Charles Atlas, but I do consider myself a U.S. Senator. I have taken an oath to uphold the Constitution of the United States.

Some of us have sat in this Chamber and in committee for 5 years while what was being done in detaining the prisoners violated our Constitution and our traditions in the United States. Seven of the nine Members of the Supreme Court are Republicans, incidentally, and have said the same thing in the Hamdan decision.

We tried for 5 years to get the administration to listen to us, to tell us there are ways we could have worked this out so the United States would follow its own laws, would follow its own Constitution, would follow the ideals on which this country was founded, and give that kind of example, a shining light to the rest of the world. And now suddenly the administration, after meeting behind closed doors, predominantly just with the Republicans, says: Here, in 2 hours' time, we have a solution; accept it. I have some problems with that. I will discuss this with the leaders.

As I said, I don't stand here as Charles Atlas, but I stand here as a U.S. Senator with my rights and to protect the rights of Americans.

Mr. REID. Mr. President, reclaiming the floor for just a moment, I say to my friend from Vermont, I consider him a Charles Atlas today and any time I have ever served with him in the Senate. He is one of the most senior Members in the Senate. He is the person the Democrats have designated to be the arbiter of issues that go on in the Judiciary Committee, the busiest committee in the Senate.

I also say to my friend that he is not only a U.S. Senator but a very good one, and I look forward to working with him to work through this issue, and with other members of the committee, as I mentioned, not in name, but there are others I need to work with on the Judiciary Committee.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, we will continue our discussions. The goal will be to make sure Senators do have the opportunity to debate and amend this bill. We are just trying to put together an agreement to do that. If not, we will have the cloture vote and still have that debate and that opportunity as we go forward.

NATIONAL COMPETITIVENESS INVESTMENT ACT OF 2006

Mr. FRIST. Mr. President, I wish to comment briefly on another issue, the National Competitiveness Investment Act of 2006, a bill that was introduced yesterday with bipartisan sponsorship—myself and Senator Reid—a bill that focuses on our global competitiveness by focusing on education, by focusing on the resources we should be investing right here at home to make sure we are globally competitive with nations such as China and India. If we don't act, our Nation is going to lose our competitive edge.

The United States today has the strongest scientific and technological enterprise in the world, including the best universities and the best corporations investing in research. But there is growing evidence and recognition that our educational system is failing to equip our young people and older people today to compete in this increasingly global economy. We are failing in the very areas that have in the past underpinned our strength, in areas such as mathematics, science, and engineering.

We are going to have to invest in the future in those specific areas if we are going to preserve our competitive edge, what has made this country great, as we have competed with other nations around the world. We are in a 21st century global economy which depends on mathematics, science, and technology. Those are the foundations. They are the engine to create that economic security for the next generation.

Two years ago, the Senate Energy Committee asked the National Academies to identify policies that would enable the United States to successfully compete and prosper. The National Competitiveness Investment Act of 2006, a bipartisan bill we introduced yesterday, incorporates the recommendations made by the National Academies and a number of other very similar studies that have been produced over the last 2 to 3 years.

The bill reflects the bipartisan leadership of many Senators, including those of the three major Senate committees responsible—Energy, Commerce, and the HELP Committee.

In these few moments, I wish to comment on what this bill does because it is important for people to understand how we invest and where we invest to improve that global competitiveness in this 21st century economy.

The bill doubles our investment for basic Federal research over the next 5 years at the National Science Foundation and increases investment for basic research at NASA and other science-related agencies.

It creates a new teachers institute to improve teaching techniques—how we teach math and science—focusing on education, on teachers who are responsible for putting forth that knowledge.

It creates a DARPA-modeled advanced research projects agency at the Department of Energy dedicated to the goal of increasing innovation and competitiveness breakthroughs in technology.

It expands scholarship programs that are aimed to recruit and train math and science teachers—teachers who really need to focus on the K–12 area.

It encourages more students, more high school students, to take advanced placement courses and enter the international baccalaureate programs.

It will take an increased investment. Over the next 5 years, our economy will exceed $76 trillion—$76 trillion is how big our economy will grow. A 1-percent investment for the future is really a small price to pay for that continued security and leadership in the world.

I did not have the opportunity to speak to this bill yesterday when it was introduced. I encourage our colleagues to join the bipartisan leadership—again, myself and Senator Reid who are sponsors of this legislation.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont is recognized.

RETIRING FROM THE SENATE

Mr. JEFFORDS. Mr. President, even a diehard Red Sox fan has to give the devil his due. Probably the most moving moment in the history of baseball was when longtime New York Yankees first baseman Lou Gehrig walked on the field to accept the tribute of his fans and teammates. On Independence Day in 1939, he told the crowd at Yankee Stadium that he considered himself the luckiest man on the face of the Earth.

I consider myself pretty lucky, too. I was elected to the House of Representatives in 1974. That was not the best year to be a Republican candidate. Out of an enormous freshman class of 92 new Members, which included Chris Dodd and Tom Harkin, only 17 of us were Republicans. And as Chuck Grassley and I walked down the aisle of the House, he with crutches and I with a neck brace, one Democrat muttered: There's two we almost got.

Time has gotten just about all of us. With my retirement and that of Henry Hyde in the House, Chuck Grassley next year will become the last remaining Member of the Republican class of 1974, an iron horse in his own right. The silver lining for me in the electoral losses suffered by the Republicans was a chance to land senior positions on the Agriculture and Education Subcommittees that would quickly throw me into the thick of things. Throughout my career in the House, I focused on those two issues.

In 1988, with the retirement of Bob Stafford, I ran for and won a seat in the Senate. Senator Stafford was a tough act to follow. He had held just about every office in the State of Vermont and had an enormous impact on the Federal policy for education, the environment, and elsewhere. I was lucky when I got to the Senate that there were openings on both the Education and Environment Committees.

Early on, I learned what the Senate can be at its best. In 1989, Congress was in the midst of reauthorizing the Clean Air Act. Even though I was a freshman, the door was open for anyone who had the time and interest. As John Chafee, George Mitchell, and the rest of us forged a strong renewal of the Clean Air Act, I realized these were the moments I enjoyed most. I realized these were the moments I enjoyed most when smart and committed people worked together to solve tough problems and improve the lot for Americans. Every year since has provided similar moments, from rebuilding our roads to rewriting our food and drug laws.

Probably the biggest and the most rewarding challenge for me has been in the area of education. From my first year in the House when we enacted the Education of the Handicapped Act, to work that continues today on the Higher Education Act, I have tried to do my best to ensure that every child is given the opportunity to reach his or her potential.

There is plenty of work left to be done to reach this goal, and nowhere is that more true than in the District of Columbia. A decade ago, Congress stepped in to try and help the District resolve the problems plaguing its overall budget and its schools in particular. As chair of the DC Appropriations Subcommittee, I helped lead that effort. The city is to be commended for its record of fiscal responsibility in the years since, and I hope the superintendent, the new mayor, the council, and the school board will be able to make similar progress in improving the city's school system.

While Vermont has always been home, I have lived in the District of Columbia since coming to Washington. Luckily, I have never lost the ability to be moved by the sight of the Capitol dome. Its majesty struck me when I first came to Washington and it still does today. Under that dome and in the buildings around it work thousands of good people. We are all privileged to work with a whole host of people who get too little recognition, from the person recording my words, to the people who put them in the CONGRESSIONAL RECORD while we sleep—not always easy tasks, in my case.

Ours, too, is not always an easy task. I know it is hard for the public to understand the reality of life in the Congress, but the continual travel, the campaigns, and the unpredictable hours of our jobs can take a toll on our families. I have been blessed with two wonderful children, Laura and Leonard, who are here with me today, and a feisty, funny, and an incredibly strong wife, Liz. They have had to put up with an awful lot over the years so that I could serve Vermont.

Three decades is a blink of an eye in history, but what a tremendous period of change in our country we have been through. When I came to Washington, we were only three decades removed from the Second World War. My childhood heroes were heroes of that war, and it seemed as though every family had a father or son or uncle who served and sacrificed in that war. But when I came to Washington, an entirely different war was being waged in Southeast Asia. Vietnam has colored much of our thinking since. Whether Vietnam had too much or too little influence upon the ensuing three decades is a much larger debate, but we would be better served in world affairs today by being less haughty and more humble.

I regret that my departure from Congress, like my arrival, finds our country at war. Young and even not so young Americans are sacrificing life and limb while the rest of us are making little or no sacrifice. It seems to me the very least we should do is pay today for the fiscal costs of our policies. Instead, we are floating IOUs written on our children's future. This year we have no budget, and we are unwilling even to debate most of our basic spending bills before the November election. Thirty years from now, we could well face the biggest crisis in government since the Civil War, if Congress and the White House do not adopt a more honest approach to government.

The basic compact between generations is being broken. F.D.R. was right to borrow heavily to finance World War II, but are we justified in doing so today?

Earlier this month, I was privileged to attend the dedication of a monument in Virginia commemorating the sacrifice of more than 1,200 men of the Vermont Brigade during the battle of the wilderness. The tangled thickets of the 19th century have given way to mature forests. The individuals are largely forgotten, but our collective memory must endure. Today, we use blocks of granite to remind us of the sacrifices of the Civil War. In its immediate aftermath you would think no such reminder would have been needed. But 140 years ago, so the story goes, a northern Congressman literally waved a bloody shirt before his colleagues to inflame them against the South for alleged misdeeds. True patriotism is the incredible bravery of those men whose too-brief lives ended on that wilderness battlefield. Waving the bloody shirt then or today is anything but patriotic.

The beautiful Capitol dome above us, completed even as the Civil War concluded, should serve to inspire us. I am an optimist and have been every day of my life. With Lincoln, I hope that the mystic cords of memory will stretch from every battlefield and patriot grave to the hearts of the living, and that we will soon again be touched by the better angels of our nature.

Mr. President, I wish you and all of my colleagues good luck and Godspeed.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The minority leader is recognized.

Mr. REID. Mr. President, Senator JEFFORDS has been a friend and colleague for many years. We had the opportunity to serve together in the House of Representatives. We served together in the Senate. To say that he has made history during his time in Congress is an understatement. But more important, he has made a difference. I have always been impressed by his knowledge of the issues, his dedication to the public well-being, and the environment. I have had the good fortune of serving with him on the Environment and Public Works Committee. He is a stalwart. He is a true believer that the environment is in distress and things need to be done to change our environment.

He has worked to preserve the middle class and to provide for the safety of the American people in so many different ways. Senator JEFFORDS is a man of conscience. No one can question that. He grew up in Vermont where the Jeffords family first settled in the 18th century. His father was a longtime member of the Supreme Court. After JIM JEFFORDS graduated from Yale, he served in the Navy on active duty for 4 years. He served then in the Naval Reserve, retiring as a captain. Senator JEFFORDS studied law at Harvard—Yale and Harvard—which shows his intellect. He returned after having finished law school to Vermont to practice law. Shortly thereafter, he was elected to the Vermont State Senate and then attorney general. He was elected to the House of Representatives in 1975 and served there until he came to the Senate in 1989.

In walking in here I grabbed a book that has a lot of definitions. I flipped to courage. Whatever definition you have of courage, you can pick one here going back to two centuries ago:

> I love the man who can smile on trouble, who can gather strength from distress and grow brave by reflection. It is the business of little minds to shrink, but he whose heart is firm and whose conscience has approved his conduct will pursue his principles unto death.

That really is JIM JEFFORDS, and that, Mr. President, is a quote from Thomas Payne. I have seen up close JIM JEFFORDS' courage. Everyone knows, as it has been written about in books, the conversations that Senator JEFFORDS and I had prior to Senator JEFFORDS deciding that he wanted to change course and become an Independent. That was not an easy decision. It involved years of friendship, and it involved years of his being a member of two different legislative bodies on Capitol Hill.

Most of our discussions took place on the Senate floor as people were walking around, but we had conversations in private. I know firsthand, I repeat, of the courage of this man. I in my now long public career have been involved in a number of things that I will always remember, but I will never, ever remember anything more vividly than the Senator from Vermont, as a matter of principle and courage, changing not only his course but the course of this country.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I have listened to my friend, JIM JEFFORDS, the Senator from Vermont speak here this morning. I couldn't help but think as I heard Senator JEFFORDS speak with wit and clarity, and you might say even some emotion, that JIM JEFFORDS, given the opportunity to make a speech—and many of us will do so on this Senate floor as we leave—did it being true to himself, with his own good nature, his own sense of history, and his own justifiable pride in what he has accomplished.

I have known JIM JEFFORDS from his days as a State senator in Rutland. I have known his wonderful wife, Liz Daley Jeffords. They are both dear friends of mine and my wife Marcel. Mrs. Jeffords was referred to as a great lady the other night by the anchor of our State's largest TV station. Some of us who have known JIM for years would say she gets that greatness for putting up with him for all these years. But we Vermonters found no difficulties in putting up with JIM JEFFORDS. He has been elected overwhelmingly to the offices he has held and he has done it with support from Republicans, Democrats, and Independents alike. He has gotten these votes the old-fashioned way—he earned them.

We came here together 32 years ago. I like to talk about the Leahys coming to Vermont in the 1850s. JIM reminds me his family came to Vermont a century before. We both live in small towns in Vermont; we have had that sense of Vermont. He has never lost it. He has been a good friend.

His career highlights are legendary. Let me tell you why he is supported so. First and foremost, Senator JEFFORDS is known as an environmental champion. In Vermont, they say, if you scratch a Vermonter you scratch an environmentalist, no matter the party.

He has done it in the great tradition of Senator Bob Stafford. Senator Bob Stafford is also from the same county as JIM JEFFORDS—actually JIM grew up near him. He mentioned Bob today.

He carved out a legend on education and the environment when he was here. But then JIM JEFFORDS had done that as attorney general and as a State senator in our State. For the past three decades he has left his fingerprints on nearly every environmental law enacted, from the Clean Air Act and the Clean Water Act to the Superfund program to acid rain reduction.

In fact, when others in his position would be thinking about where are the papers going and how will we retire, just a matter of months ago he offered the boldest solution to combat global climate change this body has ever considered.

He has championed legislation to strengthen our Nation's education system and increase the opportunities for individuals with disabilities.

In 1975, as a brandnew Member of the House of Representatives, as he said, coming in with a neck brace—the walking wounded from an election where both of us ran in Vermont—he coauthored what would later be known as the Individuals with Disabilities Education Act, IDEA. It was strongly supported by his colleagues here in the Senate and before that in the House. It has provided equal access to education for millions of students with disabilities, students who otherwise would have been shunted aside and this country would not have had the value of their achievements.

As chairman of the Health, Education, Labor and Pension Committee, he worked tirelessly on education, job training, and disability legislation. Most recently, his leadership in the Senate Environment and Public Works Committee was essential to the passage of the highway bill. Of course, Vermont and the rest of the country will benefit from that.

I might say there has been no greater leader for Vermont's dairy industry than Senator JEFFORDS. In his work on the Northeast Dairy Compact and the milk programs, he has fought tough battles for Vermont dairies—and won. He actually knows as much about our dairy industry as most dairy farmers.

It is what he has done for future generations. All of us can talk about what we do here. It is what we leave for our children and our grandchildren that counts. Future generations of Vermonters will honor JIM's legacy when they see the work that he began as attorney general and continued throughout the Senate—helping to restore Lake Champlain to its brilliance, its magnificence; or witness the bald eagles abounding in the wilderness areas, thanks to JIM.

I applaud him for this statement as he takes leave of the Senate—although it seems this year we will never know when we leave. None of us are getting our final airplane reservations yet. But he has done it with his usual grace and good humor. I applaud him for that and I hope all of us when we come to leave, whenever that may be, will have the opportunity to show that same grace. He served Vermont well and, just as importantly, he served the Senate well.

After a long career I might violate the rules somewhat, addressing my friend and colleague directly: For a long career, JEFF, you can leave with your head held high. You have served Vermont and your Nation proudly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise for the purpose of telling my colleagues that I am going to miss my colleague.

The PRESIDING OFFICER. I will interrupt the good Senator. Because the minority controls the next 7 minutes, it is necessary to gain consent from the minority.

Mr. DURBIN. I ask consent the Senator from Iowa be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. GRASSLEY. Mr. President, I rise to tell the Senator from Vermont that I am going to miss him in the Senate and still consider him a friend. I hope to have a long relationship with him, even in his retirement. I am that Senator that JIM JEFFORDS, the Senator from Vermont, referred to as the one remaining Republican of the class of 1974. There were 17 of us. I think there were about 70 Democrats. It was a bad year for Republicans. You couldn't even put the word Republican on your literature. It was the year Nixon resigned.

There were only 140 of us in the House of Representatives at that time. I don't know whether Senator JEFFORDS felt this way, but I felt this way, that it was probably the end of the Republican Party. Well, I was wrong. He and I have been reelected to serve together, to serve our respective constituents.

I remember Senator JEFFORDS as an outstanding member of the Agriculture Committee in the House of Representatives the 6 years I served on that committee. Then there was a period of time where I was a Member of the Senate and he still stayed in the House of Representatives. Our friendship still held. But working together—you know how it is in Congress, the House and Senate; there is a Grand Canyon between us sometimes, and we don't communicate as much as we ought to. Consequently, it was like getting reacquainted with Senator JEFFORDS again when he came to the Senate. I was glad then and I am very glad now that he continued his service.

I think he is an outstanding example of probably what is an unacknowledged principle of political science—at least it is a feeling I have about the people of our country—that if you serve honorably where you are at a certain time and do the best job possible, you are going to have opportunities to enhance your position within public service. So as a State senator, then as an attorney general, then as a Congressman, and then as a Senator for the people of Vermont, I believe he got to be a Senator because people in Vermont recognized him, as a State senator, as a Congressman, and as an attorney general, as a person who was not there because of political ambition, wanting to rise to the top, but a person, in each stage of his public service life, who did what that job required and did it well. People recognized that and in the end of the process, he came to the Senate.

In every relationship I have had with Senator JEFFORDS, whether he was Republican or an Independent, it has always been one that has been friendly and honorable and honest, and, most importantly, to describe him as a humanitarian as he approached public policy.

It seemed to me that as a Member of the Senate, whether as an Independent or as a Republican, Senator JEFFORDS brought forth what it takes to get things done in the Senate, and that is moderation. It doesn't matter whether it is a bill that is representing the philosophy of the extreme left or a bill that represents the philosophy of the extreme right, nothing such as that is going to get through the Senate. Eventually you have to have people come together seeking a middle ground, a bipartisan approach to get things done. It seems to me, in every respect, that is what Senator JEFFORDS did—he sought moderation because that is how you get solutions and that is the only way the Senate produces.

I compliment him on his dedicated public service. I congratulate him on his long service to the people of the United States and the people of Vermont. I will miss working with him. I will miss him, but I hope we have opportunities to have great relationships for the rest of our lives.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, could I inquire of the Chair, do we have a limited period of time? I see a number of our colleagues here. I am just inquiring of the Chair.

The PRESIDING OFFICER. There is 7 minutes 20 seconds remaining in this block of time for the minority.

Mr. KENNEDY. Well, I see the floor leader. I will take 2 or 3 minutes, then, because I see half a dozen of our friends here.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I believe there are at least four or five Members here who would like to speak about Senator JEFFORDS' retirement. I ask unanimous consent those Members currently on the floor, Senators ROCKEFELLER, BOXER, HARKIN, DODD and KENNEDY, be recognized for such time as they consume, and I would like to add myself to that list, and then extend whatever time we use on the minority side, if they would like to use it as well.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is entirely appropriate that we take these few moments on the floor of the Senate to listen carefully and take the measure of an extraordinary Senator, Senator JIM JEFFORDS. In these next several weeks, this Nation is going to be focused in many, many States on trying to select who is going to represent them in the Senate. And if the people of those States just took a few moments to listen to the eloquence of this Senator, they would know what the standard should be in selecting someone to represent them in this body. It is JIM JEFFORDS. He sets the standard. So we thank JIM JEFFORDS for his service—his service to the State of Vermont and his service to all of our States and to the country. We thank him for that service.

We also thank the people of Vermont for their wisdom in selecting this extraordinary talent and giving him the kind of support that they gave over a long and distinguished career, especially in those times when he was willing to take positions and stand up on issues as a matter of conscience. They understood their native son. They respected him, and they supported him. So thank you to the voters of Vermont.

Thank you to his family, Elizabeth that Senator JEFFORDS mentioned, Laura, and Leonard—a family that gave him great support. I think those of us who have been fortunate enough to know that family and meet that family understand what a strong influence it has been in terms of his service.

And thank you, Senator JEFFORDS, for that simple eloquence that we heard from you today on the floor of the Senate, going back into the history of our country, providing inspiration as we listen to you talk about the history of the Nation, mentioning with great pride the role of Vermonters in the time of the Civil War—and his understanding of history, talking about the Greatest Generation, which were inspiring figures to him and many of us continuing to the present.

He typically understated his own achievements and accomplishments. I think many of us on this floor are well familiar with them. I certainly am as someone who has had the good opportunity to serve with him on the Education Committee. I know the difference that he has made in the education of children in this country, particularly those with special needs, accomplishments which are memorable and historical. He mentioned just causally his interest in the education of the children here in the District of Columbia. A number of us who are here on the floor now remember JIM JEFFORDS speaking in our caucus not many years ago how that we, as members of the Senate who happen to either live here in the District or work here, even though we are working in this body, have a responsibility for the education of the children here. He was the inspiration of a program, a literacy program called "Everybody Wins!" And JIM JEFFORDS led a number of us to Brent School here near the Capitol to read with the second and third graders each week to ensure that those children were going to have an opportunity to learn to read. It was just a simple illustration, once again, that JIM JEFFORDS does not just talk the talk, he walks the walk. And on so many different times, he has been there doing just that.

So, JIM, we admire your service. You have demonstrated here—and we do not understand perhaps well enough—that you can speak with a quiet and soft voice, but you speak with a great passion and a compelling argument, and with a simplicity and effectiveness that has enriched and enhanced the quality of life and opportunity, particularly for children but also for all Americans. It is a distinguished career, and it is one I know that you should be—and are—proud of. All of us have had our own lives enriched and inspired because of our friendship with you and the type of Senator you have been.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I add my voice to my colleagues who have spoken and those who will speak in thanking our wonderful friend from Vermont for his remarkable service to our country.

I begin as well by thanking his family, Elizabeth and the children, as well as the people of Vermont, as Senator KENNEDY has said so eloquently.

Let me also include in enumeration his wonderful staff people, over the years, who have been very much a part of JIM's family. In fact, I note from the interns to senior staff people, everyone refers to him not as "Senator" or "Mr. Chairman"—but just "JIM." That is certainly a symbol of the kind of relationship he has had with his constituents and with his family over the years.

I have had the privilege of serving my entire time in the Senate—in the Congress—with this remarkable person from Vermont. We arrived in the House of Representatives on the very same day, 32 years ago. As JIM pointed out, he had that neck brace on, and I had a head of black hair. We have aged over those 3 decades. But my respect for JIM JEFFORDS has only grown.

He has taught us America will listen to you even if your voice is soft. His achievements in the Senate and the House are the envy of all who wish to improve a quality of life in this great country of ours. JIM's body of work is truly admirable.

But it looks even more admirable when you remind yourself that it was all the doing of a man unpretentious enough to be fond of mismatched socks, frugal enough to spend his earliest days in Washington sleeping in a parked van, and humble enough to be universally known, as I've said, as just "JIM." The people of Vermont returned him to office over and over again on the strength of his plainspoken integrity and his indefatigable Yankeeness. That's what JIM brought to this body of discussion: and that was more than enough.

JIM came to Washington knowing what he wanted to accomplish, and his success is clear to us today. No one has worked with more dedication for a clean environment. JIM was an environmentalist practically before we had a word for it. In fact, he got his start in the Vermont State Senate in the

1960s, fighting the efforts of the paper mills to pour sludge right into Lake Champlain. He was a long-time nuclear watchdog and among six Congressmen to found the Congressional Solar Coalition years ago. It is telling that when he had his pick of chairmanships, Senator JIM JEFFORDS chose the Environment and Public Works Committee. Perhaps most importantly, he helped clean up the air we breathe. He mentioned it briefly. But the work of John Chafee, George Mitchell, and JIM JEFFORDS truly created the great Clean Air Act of 1990, a huge accomplishment. I want to thank JIM immensely for the tremendous effort he made years ago in improving the quality of air in this country. If he had done nothing else in 32 years, that alone would have been a significant achievement. Of course, his body of work is far more than that.

Like JIM's dedication to the environment, his work for children who come from special education needs is decades long. In 1976, he was essential to the passage of legislation guaranteeing local school districts that the Federal Goverment would pay 40 percent of the costs of educating the disabled. And if that guarantee remains unfunded today, never let it be said that it was for lack of JIM's passionate work.

I would be remiss if I didn't mention of TOM HARKIN, another fellow classmate of 1974, working with JIM and many others who cared about this issue over the years. No one contributed more to the Individuals with Disabilities Education Act than JIM JEFFORDS. Few Senators are as tied to special education, and that is a title to be very proud of. It has been my honor to work along with him in the House and the Senate on the issues that meant the most to him—on afterschool programs, on higher education, and, most especially, to secure funding for IDEA.

It Vermont, commitment to education is a longstanding tradition. Right in the middle of the Civil War, we building the dome on the Capitol to show our determination to keep this Union together; but we showed it in another way, too. A Senator from Vermont by the name of Justin Smith Morrill created the land grant colleges—the University of Connecticut is one; there are many all across the country—and his work was one more demonstration of the remarkable people who come from that State of Vermont to help build this country, defend this country, and secure this country for our children. Senator Stafford and Morrill passed on that proud tradition, and Senator JEFFORDS stands in its forefront today.

JIM has taught at every opportunity the difference between education as a privilege and education as a right. It is a right, and its worth is measured in our willingness to educate even—especially—where it is inconvenient.

There weren't many Senators shyer than JIM JEFFORDS, but there wasn't a single one fuller of quiet purpose and courage. Politics was always a means to JIM's purpose—never the other way around. And the way JIM practiced politics, the way he spent his power, was never calculated to bring him money, or fame, or even particularly glamour. It was only the quiet satisfaction of a job very well done.

That is what I think of when I recall the more than three decades of our service together. But, to tell the truth, through all those 30 years I had a privileged seat right here with him. Those without that vantage point are probably going to remember, first of all, something very different. We all know how JIM crossed this aisle for good 5 years ago, and how he has served as an Independent ever since. JIM entered the national spotlight full of honest regret, and fully aware of how difficult his choice was for colleagues, his staff, and his supporters.

I saw JIM upclose as he struggled with a decision as few men or women ever have to. But whatever one thinks of it, there is a fact beyond dispute, which all of us appreciate in this body: JIM JEFFORDS has never followed anyone but his conscience.

If we insist, 5 years later, on reasoning out the need in votes or dollars or any other measure of practicality, we only reveal our failure to understand what that man did on the day he made his choice. Sometimes what goes on in this Chamber cannot be reasoned away. JIM taught us that, too.

So, I would like to close with a happy thought. Two years before the American Revolution, Edmund Burke gave a speech on the relationship between a representative and those whom he tries to represent.

"It is his duty," said Burke, "to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interests to his own. But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence."

JIM, you have kept your trust over these many years, in both the Senate and public life, in your State and in the Congress. We send you back to Vermont with your work in the Senate accomplished, with your conscience still clean, and with our best wishes to you and your lovely family. God bless you.

I yield the floor.

Mr. DURBIN. Mr. President, it took an act of courage for JIM JEFFORDS to declare himself an Independent. It took an act of courage for a lifelong Red Sox fan to quote a New York Yankee in his farewell address to the Senate.

JIM JEFFORDS is an extraordinary public servant. Fewer than 2,000 men and women in the history of the United States of America have served in the Senate. We all understand the great privilege of being in this body representing our great States. But people are not noted in the history of the Senate for longevity alone. People are noted for singular acts of courage. And when it comes to JIM JEFFORDS, his public career has been a singular act of courage.

I hail from the State of Abraham Lincoln, where he lived most of his adult life, and where we claimed him as part of our national heritage. When I think of JIM JEFFORDS and the political party he identifies with more than any other name, I will say he identifies with the party of that great leader Abraham Lincoln who stood up for principles often against public and popular will.

This last week, Time Magazine noted they were going to designate Senator JIM JEFFORDS of Vermont as "Person of the Week." They said in his one principled decision to become an Independent, "He demonstrated to the White House and the United States Senate that revolutionaries often come in surprising packages."

We all know what happened after JIM made his decision to become an Independent. He told me about walking home to his apartment at night down Pennsylvania Avenue. And people who were outside restaurants and cafes would stop and stand and start to applaud, and JIM would be startled by it at first. But he received more recognition then he, I am sure, expected. A lot of it came in positive terms; some in negative terms. People wanted to name their babies after him.

In Burlington, VT—I think this is probably the greatest tribute a politician could ever expect—they named a beer after him—"Jeezum Jim" they called it. I hope it was a popular brew because he has been a popular Senator.

When they asked him why he changed his affiliation to become an Independent, he replied very simply: "It is all about education." I remember it well, because I know that was the deciding factor.

Your commitment to particularly those students who struggled with disabilities, students who have these difficulties, your commitment to those kids led you to this decision. Many of us make these decisions on votes on the floor. But as has been said, for JIM JEFFORDS education went way beyond a vote or a speech. Several years ago, he established this tutoring program in Washington, DC, encouraging us, as Members of Congress, the House and the Senate, to walk just a few blocks from here, as he did so many times, to tutor the inner-city youth of Washington, DC.

He is a true Vermonter and a true Independent. When we look at his record, he was the only House Republican who voted against the Reagan tax cut because he was afraid it would lead to dangerous deficits. How right he was. In 1993, he was the only Republican Senator to cosponsor President Clinton's health care plan. He worked for years for regulation of tobacco by the Food and Drug Administration, a goal which I share with the Senator. And he sponsored the Employment Nondiscrimination Act, banning employment discrimination on the basis of sexual orientation.

Some politicians in their career find ways to divide us. JIM JEFFORDS always looked for ways to bring us together. A strong supporter of Federal funding for AIDS research and the arts, justifiably proud of the role he played in passing the Work Incentives Improvement Act, and, of course, his record on the environment is without parallel.

I know historians will also record all these accomplishments and courageous battles when they write about JIM JEFFORDS. On July 4, 2001, several weeks after he made his decision to become an Independent, he sat down at his home in Vermont and wrote these words:

> I hope my decision will move the two parties to the center, where the American people are. The American people want an active, responsible, Federal Government.

He went on to say:

> There seems to be a hunger in country for heroes, especially for the political variety.

Not only with this one historic act of conscience but throughout his career in the House and the Senate, in public life JIM JEFFORDS has been a living example of these hopes and beliefs. I am proud to have been able to serve with him. I am proud to count him as one of my colleagues, even prouder to count him as a friend.

I thank his family for giving him this opportunity to serve and giving this wonderful man to public life.

I thank you, JIM JEFFORDS, for all you have meant.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is, indeed, a privilege to be here this morning to personally hear the words of our good friend, Senator JEFFORDS, and to hear other Senators get up and talk about JIM in such glowing terms.

However, I must say that all the years I have known JIM JEFFORDS, he is an old-fashioned New Englander, which means he is very modest. That means he is embarrassed to receive this kind of praise and adulation. Senator JEFFORDS will just have to endure it because we love you, we respect you, we admire you, and you are one of the most beloved Members of the Senate.

Thirty-two years ago, we came together in the House. You talked about that. Our colleague, CHRIS DODD, was in that class, and also my colleague from Iowa, Senator GRASSLEY. I didn't know Senator JEFFORDS at that time, obviously. We had just come in as freshmen Members. I found myself on the Committee on Agriculture with Senator JEFFORDS. We both sat down at the end. He was on one side and I was on the other side because we were just freshmen.

We had a farm bill coming up. After a few weeks on the Agriculture Committee, we dubbed Senator JEFFORDS "the Senator from Dairy." He was tenacious in fighting for his dairy farmers of Vermont and, of course, New England. Those from Iowa and Minnesota and Wisconsin—we had dairy farmers, too, and there was, shall I say, a little bit of a conflict in how we viewed the world of milk and dairy. That was my first experience with Senator JEFFORDS because we had to work things out. And we did. That was the first time I got to see the kind of person JIM JEFFORDS is and always has been. He was tenacious in fighting for his dairy farmers but willing to understand that we all have to live together; somehow we have to seek our compromises. And we did. We reached a compromise and we moved the legislation forward. That was the first time I came to really know and respect JIM JEFFORDS.

As we moved ahead in agriculture, I found another area in which I respected and admired Senator JEFFORDS. That was the area of environment and conservation. In those days, people were thinking mostly about all the commodity programs, how much money we could get in the commodity programs. We were all protecting our interests. I was protecting my Iowa interests and Senator JEFFORDS was protecting his Vermont interests.

However, conservation transcended everything. That began back in the late 1970s, in the House Agriculture Committee. We began the move toward more conservation in our farm bills, which led to more of a "greening" of America. He did that work also on Environment and Public Works. When I think about the environment, cleaning up the environment—clean water, clean lakes, clean streams—I have to think of JIM JEFFORDS. He was there at the beginning.

Then in 1975, on the Committee on Education, JIM JEFFORDS coauthored what later became the Individuals with Disabilities Education Act. I was not on the Committee on Education, but because of my family and because of my intense interest in disability rights, especially as it pertained to the hard-of-hearing and the deaf, I learned about this bill with JIM JEFFORDS and with Paul Simon—at that time, Senator Simon—and sort of stuck my nose in their business, if you don't mind my saying that, because I was not on the committee. I talked about how we had to help do some of these things. My focus was narrow at that time, just in hard-of-hearing and deafness at that time. My great respect for Senator JEFFORDS, or JIM, at that time grew because he was focused on how we make sure every kid in America gets an education, make sure kids with disabilities were mainstream, make sure they got the support in our schools.

It was Senator JEFFORDS who made sure that in the bill we passed, the Federal Government committed itself to providing at least 40 percent of the additional costs to States and local communities in educating kids with disabilities. Forty percent was the goal we set in the bill Senator JEFFORDS coauthored in 1975.

That moves me up to the year 2001. In the year 2001, the budget came from the White House, President Bush's budget, which severely underfunded our commitment to increasing funding. We have never reached 40 percent. I think the highest we have been is 18 percent. We have never gotten the 40 percent. Senator JEFFORDS wanted to move that up. Yet the budget came down and had a severe cut in the funding for the Individuals with Disabilities Education Act. That is when Senator JEFFORDS said no, he wanted to make sure that money was in there. That happened, mostly, on the Republican side of the aisle. I was not privy to all of that. That is when Senator JEFFORDS made his declaration of independence. A matter of conscience—he could not turn his back on all these years of moving our society forward to educating kids with disabilities in our schools and then all of a sudden say: No, we are going to turn the clock back; we are not going to do it. He wanted to keep moving forward. The budget would not allow it; he fought hard for it. Based upon the fact that the administration would not move on that, he declared his independence and became an Independent and left his party. We can all imagine how wrenching that must be, to leave the party that nurtured us, that we grew up with, that supported us all our adult life. It is a matter of conscience. You can read about it in his book, "My Declaration of Independence."

After that, I invited Senator JEFFORDS to come out to speak at the steak fry I have in Iowa every year. It was after the book came out. I will never forget the scene. We had thousands of people. It was a beautiful sunny Sunday afternoon. Thousands of people came to meet this person, to hear him and to hear his message. They had all these little books they were waiving, "My Declaration of Independence."

He had a wonderful message. His message was: don't ever turn our back on making sure every child in America has a decent education. It was a simple, straightforward message. But you should read his book.

Senator KENNEDY mentioned another thing about Senator JEFFORDS that not too many people know about; that is, his support for a program called "Everybody Wins." He brought it here to Washington in the late 1990s and then began badgering us to participate in it in his usual tenacious manner. So he got a lot of us hooked on it.

It is every Tuesday. I see Senator KENNEDY goes about every Tuesday; JIM, of course, goes all the time; I go every Tuesday we are here, and a lot of staff members. We go to Brent Elementary School. We read to a child for 1 hour every Tuesday. It has been a wonderful experience for me and I know for everyone who participates in it. In fact, we now talk about JIM as being sort of the Johnny Appleseed of this movement because now it is starting in other States. We took the idea to Iowa, and now it is sprouting in Iowa. Other States and businesses are involved. "Everybody Wins" is now moving around the country. Senator KENNEDY said: Senator JEFFORDS doesn't just talk the talk, he walks the walk. When he brought it here, he was there every week reading to kids and getting us to go down and read to them, also.

I have in my office a big picture that is my favorite picture. It is a big picture taken at Tiananmen Square, a picture we all will remember of the young man holding a little briefcase, a young student holding a briefcase. There is a line of tanks. He is standing in front of the tanks, and the tanks have all stopped. To those of us who have seen the video of this, the tanks were coming down the street, the student went out in the street, he stopped, the tanks turned to go one direction and he moved over a few steps, then the tanks moved another direction to get around, and he moved over and stood there. Finally, the tanks stopped right in front of him. A hatch popped open, and a military guy got out and looked at him and stood there for a few minutes. The tanks all stopped, and then the young man turned and walked off the street.

A lot of people I talk to about that picture—did they ever know who he was? No, they never did find out his name. But I gave them the name. I call him JIM JEFFORDS. To me, that young man who did that represents the JIM JEFFORDS of the world, willing to stand on principle no matter what the odds are. No matter what is coming at them, they are willing to stand on principle.

So after 32 years, we will miss this soft-spoken and self-effacing New Englander who has a spine of steel. After 32 years, Senator JEFFORDS, you have left your mark: education, job training, disability rights, the environment and, lest we forget, the dairy farmers of New England, who will never forget JIM JEFFORDS.

JIM, we are going to miss you, your kindness, your leadership, your courage, your generosity of spirit, and your example. Know that our love, our admiration, our respect, and our best wishes go with you and with Elizabeth and your family. Know that you have left on our Nation and the world a mark for all of us to follow in how to make our Nation and our world a better place.

Senator JEFFORDS, JIM, Godspeed. Come back now and then. Come back on the floor. Retired Senators have the privilege of coming to the floor. Come back on the floor and remind us why we are here.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, this is a very poignant morning for so many. I am so glad I have been able to arrange my schedule to be here to listen to my colleagues and friends, whom I deeply respect, and to listen to the great Senator from Vermont, JIM JEFFORDS.

If I might say how blessed I have been, I got here in 1993 and went right to the Environment and Public Works Committee. I met JIM there, and now I get to sit next to him in the Senate. I got to know his staff.

We are going to miss you. But, JIM, I must say, you made a beautiful speech today. And in listening to TOM HARKIN talk about you and explain that you have always been motivated by what is right for the people, if ever you could take an opportunity to tout your accomplishments, it is when you say goodbye. People would say that is fair. But you did not do that. You did not say: This year I passed this legislation and this bill. The rest of us have been lauding your accomplishments, but it is just like you, instead, to talk about this country you love so much. And you cite to us what our challenges are. And, of course, they continue to be the challenges you have taken up: education, the environment, fiscal responsibility, war and peace. You have left a roadmap for us, and for that we are very grateful.

I mentioned that I was sworn in in 1993. That was the so-called year of the women, where we tripled the number of women in the Senate. That sounds great, but it was from two to six. We were still a very strong minority. Our leader, BARBARA MIKULSKI, the dean of the women here, always taught us, from day one—she said: You are going to have to work with the men because they control things here, and you are going to find that among these many men there are many Sir Galahads.

JIM, you are Sir Galahad. You have been a wonderful friend to us, treating us, from the minute we walked in, as equals and colleagues. We are very grateful to you for that.

I am not going to talk a long time at all. But I want to talk about three things quickly. One is, I went to your State of Vermont this last weekend. I had been there before and always marveled at how beautiful it is, but I was taken with it again.

Now, coming from California, we have our beautiful places, believe me. So I have come to appreciate beautiful places. We overlooked Lake Champlain when we were there. Knowing that you worked so hard to make that lake clean and beautiful, thank you for that. There is so much history there, JIM, that you have also helped to preserve—you and PATRICK LEAHY, and so many others who came before.

But what struck me about Vermont as much as the beauty is the incredible people in your State, how involved they are. It is that old New England townhall type of quality. They get it. They are involved. They love you, JIM. They love you. When I mentioned your name, oh, my goodness, the roars came up. You could hear it blocks away.

People love you here and they love you in Vermont. And your family loves you. As you said, you are blessed, as we are blessed in your presence.

The second point is your family and how much they care about you. They are so proud of you. I know how hard it was for them when you declared your independence. It rocked their world, just as it rocked your world, and just as it rocked the country. But when you do something for the right reasons, it all works out. And you did something for the right reasons, for the people of this country.

The last thing I want to say to you is, we do not know how things will work out this November, but either way, I will be taking a larger role on the committee you love, the Environment and Public Works Committee, where you have been an extraordinary leader. You have given us a roadmap on how to fight global warming—a huge challenge we face. We cannot turn away from it because if we do, we are neglecting our responsibility. You, thank goodness, have written a bill that will show us the way.

So I am here today not only to wish you well in your retirement, and joy with your family, but to tell you that I am going to follow your leadership on global warming. I am excited about the challenge. And because of the love your colleagues feel for you, I hope you will come back here, as TOM HARKIN said, to help me with that because we are going to have to move and get going on it.

Mr. President, thank you very much. And thanks to our colleagues for giving us this time we need to pay tribute to an extraordinary Senator, one who will be missed but never forgotten.

Thank you very much. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I have to start off anything I say—and I will be short—about JIM JEFFORDS with the word "friendship," based upon his unbelievable qualities of kindness, of goodness, of steadfastness, being the same person every day under any circumstance.

We sit together. We have sat together for quite a long time on the floor of the Senate. And we talk a lot. I have the honor of talking with his staff, too, a superb staff, who adores him.

The business of friendship in the Senate is underpracticed. If you know JIM JEFFORDS, then you know why you should take more time to know your colleagues better. Because the fact is—although it has been more so recently—it is not your politics or your party that determines how you vote. but your conscience and your sense of a moral compass that guides you. In that practice, you have to think of JIM JEFFORDS.

He is an extraordinarily wonderful human being. He has got a ferocious sense of humor, which is always delivered very quietly. And yet he is deep, he is profound, he sort of looks like Vermont: chiseled; his nose is just the right shape. And, of course, he talks that way. But he is humble, not because he wants to be, just because he is. Nothing about his record is humble. But his nature is humble. He is gentle; and he really is. He listens, does not interrupt, does not insist on his point of view—except when it counts, and then he is unmovable.

All of the subjects he has concentrated on—children, the environment, many other things that have been mentioned—there is also the matter of post-traumatic stress disorder. On the Veterans Committee, which is the one committee where I do get to—not the only committee, but I get to sit with him on that committee—he has been a champion of something which Americans still do not really understand; and that is, the ferocious nature of being wounded in war these days—an Iraqi improvised explosive device that implants shards of metal into people that will remain there for the rest of their lives; the whole question of How does somebody rehabilitate a life? and What is the VA doing about that? JIM is all over that subject.

When he switched parties to be an Independent, woe be the person who said: Switch parties from Republican to Democrat—no—Republican to Independent. And, yes, he got an enormous amount of cheering and praise based upon his moral compass. He also got a lot of death threats. Life was very hard for him for a period of time. So he understood that was going to happen. But with JIM JEFFORDS, the moral compass always prevails. I think it is one of the reasons all of us here respect him so, admire him so, look to him as to what the Senate ought to be.

I had never heard the word "ANWR" until it was explained to me by Senator JEFFORDS. He was there early because he was thinking, as always, of our children and grandchildren, and, as they say, their children too. We always take it one generation too far, but it is true.

Alternative fuels. Will the history books write about JIM JEFFORDS on alternative fuels? Yes, they will. Do people generally in the Senate or elsewhere know that he has spent a career working on that? Probably not.

Our air; they know about that. The groundwater; they probably know about that. But his work on alternative fuels is one of the most important things he's done.

The Title I, Head Start, improving the lives of children, all of that that has been talked about—Senator HARKIN talked about, in 1975, the Individuals with Disabilities Education Act—he has always been looking ahead. Does that make him a Good Samaritan? Does that mean he is a do-gooder or does it mean that he does good? It is the second. He does what is comfortable to him and what he feels is just for the people he serves, not only in Vermont but across the United States of America.

The work he has done with post-traumatic stress disorder is awesome in terms of those of us on the Veterans Committee. He is justifiably proud of the research and work done by Vermont's White River Junction Veterans' Administration Hospital to help veterans who are struggling, as they truly are, not just with the postwar physical problems of being wounded, but the psychological problems of that, as well.

He has never sought the limelight, and he does not care about the limelight. He has been elected time after time probably partly because of that. Because he is not like so many other people who run for public office who want to tick off everything they have done. He is JIM JEFFORDS. And with JIM JEFFORDS comes a certain set of principles, a certain set of commitments to people. The people of Vermont have understood that over the years. So he has not had to promote himself in ways that others have to do.

He has always done his work, in the words of Shakespeare, with the "modest stillness and humility" that becomes any human being. When you look back at his record, you can see this man from Shrewsbury, VT, has left his mark on virtually every single piece of legislation on education, job training, disability legislation, and on and on and on.

JIM has always had extraordinarily deep passions and convictions, but, at the same time, he has been a paragon of civility and humbleness. JIM has a gentle voice, but his resolve and commitment to stand up for vulnerable children, veterans in need, and our environment is assertive and strong.

Throughout his career, JIM has made some very tough personal decisions. Take his decision to switch parties to be an independent in the summer of 2001. Regardless which party you are a member of, I think all of us would agree that given the fact that his move fundamentally changed the governing structure of the Senate, it truly was a profile in courage. Time and time again, JIM has been willing to take risks for his beliefs, and he deserves our respect and admiration for such independence.

In terms of public service, JIM JEFFORDS has lived a life that many aspire to. He has spent nearly every day of his life working to make the lives of people better. In the 1950s, he served in the U.S. Navy, and until 1990 he was in the Naval Reserve, where he retired as a captain. In the 1960s, he began his political service, first as a Vermont State Senator, then as Vermont's Attorney General, and then, in the wake of the Watergate scandal, he became one of the very few Republicans elected to Congress in 1974.

JIM has been a true steward of the environment. Long before many of us knew what ANWR was, he was fighting to preserve the environment for our grandchildren and their grandchildren. He has been at the forefront of fighting to make sure our air and ground water are safe for our citizens, and he has fought for the use of alternative fuels. His efforts have truly cut a trailblazing path for many generations to come.

Over the years, JIM and I have worked on many issues together, and I am particularly proud of what we have done for our students and for our veterans. He understands how important it is to make sure that our citizens get started on the right foot. He believes that the first years of a child's life are absolutely critical in the life and future of that person, and that is why he has worked so hard to push for greater funding for Head Start and other early education programs. And that is why he has worked on Title I—to help low-performing students, who disproportionately live in the rural areas that make up much of West Virginia and Vermont, achieve the standards they must meet.

That sort of Good Samaritan principle has always guided JIM's life and career. He has been extraordinary in advocating for those whose needs are often forgotten. In fact, perhaps no American living today and certainly no American legislator—I want to echo here what Senator HARKIN has said—has done more to advance the educational success of those with disabilities. Almost from his arrival in Congress, JIM took extraordinary steps because he believed that the needs of others simply could not wait. In 1975, as a House freshman, JIM co-authored what would later be known as the Individual with Disabilities Education Act, IDEA. IDEA serves as a Federal commitment to give students with disabilities a better education.

It was an extraordinary legislative achievement, one that had even greater implications in terms of setting a moral baseline imperative that we must meet the needs of those who live difficult lives. JIM has worked, not for the well-heeled or the heavy-hitting lobbysist—he has tirelessly worked for the people who truly need help.

I have also been proud to serve with JIM on the Senate Veterans' Affairs Committee. He has been an important voice in calling for compassionate care for our veterans, especially those veterans returning from Afghanistan and Iraq.

We both have States with a very high number of soldiers and veterans, and we both know how important it is for our soldiers and veterans to have the health care they have earned and deserve. The two of us have been allies in pushing for greater funding and resources to help our soldiers with PTSD, and I know that JIM is justifiably proud of the research and work by Vermont's White River Junction to help veterans struggling with PTSD.

JIM JEFFORDS has never sought the limelight—he has sought results. He has always done his work in the words of Shakespeare, with the modest stillness and humility that becomes any human. But when one looks back at his record, you can see that the modest man from Shrewsbury, VT, has left his mark on virtually every piece of education, job training, and disability legislation over the past quarter century. It is difficult to determine how many people JIM's efforts have helped, but if it were possible to quantify his efforts, I know we would find that hundreds of thousands of lives have been improved because of his actions in Vermont and across the country.

The Senate this year is losing a treasure, a man who in the best tradition of the Senate has never been afraid of taking heroic, principled stand without having to make a lot of noise. Sharon and I are personally losing good friends in JIM and his wife Liz. And Americans all over the country are losing one of the most dedicated fighters for the basic rights that too many disadvantaged people are shortchanged on. I wish my friend well in his retirement.

I close with the sadness of losing in our body somebody such as Senator JEFFORDS. People go to him. People are comforted by his presence. People are emboldened by his nature. They see what it is he does not say to promote himself or his ideas, and somehow they are attracted to those ideas because they understand if it comes out of JIM JEFFORDS, it is good for the public.

So I think of his family too. I say to Senator BOXER, and I think of how proud they must be. I also think of just myself, to be honest, how sad I am going to be not being able to sit next to JIM JEFFORDS and share his humor and to look upon his greatness—not just his nose, but his greatness: the classic Vermonter, the classic New Englander. He has been so incredibly good for the Senate.

Mr. President, I yield the floor.

Mr. OBAMA. Mr. President, I rise today to acknowledge the extraordinary career of Senator JIM JEFFORDS.

For the past 32 years, JIM JEFFORDS has served the citizens of Vermont and the American people with integrity, intellectual honesty, and diligence. When faced with the choice between political convenience or protecting the interests of his constituents, JIM JEFFORDS always stood for Vermont and the concerns of hard-working Americans. When others decided to do what was popular in Washington or among the chattering classes, JIM remained true to his values. He has been a model of principled leadership, often ahead of his time.

Long before protecting our environment and precious natural resources occupied America's consciousness, JIM was leading on these issues. Working across party lines throughout his career, including as chairman of the Senate Environment and Public Works Committee, JIM JEFFORDS urged the President to strengthen antipollution measures, investigated the effects of greenhouse gas emissions, and promoted increased fuel efficiency. During his time in the U.S. Senate he introduced the Global Warming Pollution Reduction Act, the High-Performance Green Buildings Act, and the Renewable Energy and Energy Efficiency Investment Act.

JIM JEFFORDS has never lost sight of his constituents and their needs. He loyally stood by farmers in Vermont and all over the Nation when he fought President Bush's dairy tax, extended the Milk Income Loss Contracts—MILC—program, and supported the Farm Security and Rural Investment Act.

JIM JEFFORDS has also committed his career to improving education, which he has treated as one of the great callings of our time. Speaking at a Rally for Education in 2002, JIM JEFFORDS said of education funding that "it is not an option, it is a necessity, for our children, for our schools and for the future of our great Nation." JIM JEFFORDS championed the Head Start Program, increased funding for elementary, secondary, and higher education, and sponsored the Better Education for Students and Teachers Act. He has also provided unwavering support to American children with disabilities that face a unique set of challenges in navigating our education system. Even as a freshman Congressman some 30 years ago, JIM JEFFORDS managed to marshal his colleagues in order to pass the Individuals with Disabilities Education Act.

As a member of the Environment and Public Works Committee, I have had the opportunity to work closely with Senator JEFFORDS and his capable staff. His office and his standards of professionalism inspire great respect.

On a personal level, I continue to admire a public servant that has so consistently followed his conscience. Time magazine recognized JIM JEFFORDS as the "Person of the Week" for his "revolutionary" party switch in 2001. I do not believe that JIM necessarily set out to start a revolution; rather he invoked what might be considered a revolutionary idea to some in Washington: government ought to serve the concerns and interests of ordinary Americans instead of catering to fringe groups or election year antics. In hindsight, most will hail JIM JEFFORDS' principled decision to switch parties, though I know the decision was a difficult one for him and strained his relationship with many in this body. But JIM JEFFORDS did what he thought was right, and I applaud his courage and his example of leadership.

So I thank Senator JEFFORDS not only for his lifetime of service and accomplishments but for having raised the bar for all of us.

I wish JIM JEFFORDS and his family many happy years ahead.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I thank my colleagues for their very generous and kind comments. Their remarks remind me—all of us—the Senate is a family. I also thank my colleagues for their friendship. I am honored to be able to serve with you, especially you, I say to Senator ROCKEFELLER.

You have been very kind to me over the years. I have followed your guidance, and it has been good. I thank all of my colleagues for their friendship and am honored to serve with you. And as I go forward—I don't know—I am going to wonder why I am going forward and not just staying with you.

Mr. President, now I guess we should proceed with the process that is normal. I thank the leader.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

NATIONAL SECURITY

Mr. COCHRAN. Mr. President, I am pleased to be able to advise the Senate that the Appropriations Committee has completed our work on the bill providing funds for the Department of Homeland Security and the Department of Defense for the next fiscal year which begins on October 1.

Yesterday, the other body approved the Defense appropriations conference report, which provides new spending authority for the Department of Defense. Included in this bill is $70 billion in additional appropriations to fund operations related to the global war on terror. I expect the majority leader will call up this conference report later today for approval by the Senate.

I commend the excellent leadership and hard work of the distinguished

Senators from Alaska and Hawaii, the chairman of the Defense Appropriations Subcommittee and the ranking Democrat on that subcommittee, for putting together a bill that carefully considers the requests made by the administration for this massive undertaking of defending our country, identifying the challenges that we face, which threaten our security at home and abroad. It is a daunting task, but they have brought to this challenge a lot of experience, a lot of keen insight into the needs of our country, and the way the Department has to receive funding on a predictable and regular basis to achieve its goals and carry out its important mission.

It is also my hope that the Homeland Security conference report will soon be filed in the House. It includes $34.8 billion in discretionary spending. It also reflects hard work by the conferees on that subcommittee, the distinguished Senator from New Hampshire, Mr. GREGG, and the distinguished Senator from West Virginia, Mr. BYRD, who were the chairman and ranking minority member of that subcommittee. Our conferees completed work on this bill, and we expect that it will be filed in the House, as I have suggested, I hope, very soon.

The Homeland Security appropriations bill for fiscal year 2007 appropriates $1.8 billion, designated as emergency funding for border security, to help make our borders more secure. I commend the President and the Secretary of the Department of Homeland Security for their leadership and their efforts to help strengthen the capability of protecting our homeland. Four thousand new border agents have been added. Detention facilities have been constructed. Cargo inspection has been improved. Coast Guard equipment and capabilities have been upgraded and modernized. New vehicles for agents have been acquired. New technologies have been acquired, as well, to help control illegal immigration. The capacity to detect weapons of mass destruction have been improved.

The timely consideration of both of these appropriations conference reports is very important to our Nation's security. The bills provide the funding to protect our Nation from those who would threaten us.

I commend the conferees and the staff members who worked very hard to complete our work on these bills. I appreciate President Bush's leadership in sending the requests to Congress that were comprehensive, very carefully considered. I applaud the leadership of the administration for successfully protecting our homeland.

Protecting our homeland is a huge challenge. Every year there are over 500 million people who cross our borders. There are 118 million vehicles and 16 million cargo containers that enter the United States annually. We have 95,000 miles of coastlines, 2,000 miles of common border with Mexico, and 5,000 miles of common border with Canada. These are under the jurisdiction of U.S. Customs and Border Protection, the Transportation Security Administration, and the Coast Guard.

While efforts are being made at home to protect ourselves and our borders, demanding work is being done abroad by our military forces to defeat the terrorists. They have expressed their intention to kill Americans and anyone who stands in their way.

The Defense appropriations bill fully funds military pay for our troops and includes an across-the-board pay raise that was requested by the President, as well as procurement of necessary aircraft, ships, and ground equipment to ensure that our military forces are the best in the world.

The Defense appropriations bill contains $70 billion of supplemental funding to ensure that our troops have the resources needed to succeed in the global war on terrorism.

Mr. President, I commend the good work of our conferees, and I am hopeful that both conference reports will be passed by the Senate this week. It will permit the timely transition to the new fiscal year and prevent potential funding delays that could result in a disruption of programs that are very important to our national security.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, how much time is remaining on our side for morning business?

The PRESIDING OFFICER. Fifteen and a half minutes.

Mrs. HUTCHISON. Mr. President, I will take such time as I may consume, but I will be perfectly willing to vitiate our time if we are going to a cloture vote that was scheduled for 11:30 a.m. I will go with the flow.

The PRESIDING OFFICER. The Senator from Texas is recognized.

NATIONAL INTELLIGENCE ESTIMATE

Mrs. HUTCHISON. Mr. President, there has been so much in the news since last Sunday regarding parts of a National Intelligence Estimate that was put out in a major American newspaper. The leaked report has been the subject of much discussion, supposedly saying that the war in Iraq is hurting the chances of our stopping the terrorist attacks on ourselves and other freedom-loving nations.

Yesterday, the President said he believed it was very important, rather than just having the leaked portions of the National Intelligence Estimate available to the public, to have the whole document be out in the public forum. Within a matter of hours, the President declassified the Key Judgments of the National Intelligence Estimate so that everyone in America—and indeed in the world—would be able to see the full text of the Key Judgments, which was an internal, classified document that was meant to assess the threats, the global threats from terrorists to ourselves and other western nations, or other democracies around the world.

I think it is so important that we get the full report out there. The Key Judgments are on the Web for everyone to see. Anyone with a computer or a FAX machine can get these Key Judgments. I think what it does is show, clearly, that what the President is trying to do, and what our strategy in America is, is the right one; that is, that we must continue to pursue the terrorists without equivocation, without a lessening in commitment, without any hesitancy. We must go after these terrorists, who are inhuman, who have no standards of any moral framework, and we must not be diffident in our efforts to wipe them out before they attack Americans and other freedom-loving people in the world indeed, innocent women, children, and men who are being slaughtered daily with suicide bombs and kidnappings and beheadings.

Secondly, the major point that the President is trying to make—and most of us in Congress agree with is that we need to have a very long term commitment to help bring freedom to the people who are living under the regimes that treat women as if they are subhuman, that treat their own people who might be of a different sect as if they are lesser people, or because I am a Sunni and you are a Shiite, or I am a Kurd and you are a Sunni—any of those combinations. They are treating each other with the same violence, and inhumane treatment as they do with Americans.

Mr. President, I think if you look at the entire report, you will see that the strategy of cut and run is not the way to wipe out the terrorists. The President's strategy is not to treat terrorists with kid gloves. The President's strategy is to go on the offensive to bring terrorists to justice. The President's strategy is to also work with the innocent people in the Middle East so they can have freedom, they can have democracy, they can have a quality of life that would make their children want to live, rather than blow themselves up in order to kill innocent people. And it is to confront the terrorists with the same determination that they bring to their assault on freedom. We must treat them with absolute clarity—that we will not give up the defense of freedom and be dictated to by people who do not even treat their own people with humanity, and who treat women as if they are not human beings.

Mr. President, I want to talk about some specific parts of the report. I want to put in the RECORD some of the significant Key Judgments that I have not seen reported in the press. Here are some of the key parts of the report under the "Key Judgments" section of the National Intelligence Estimate:

> United States-led counterterrorism efforts have seriously damaged the leadership of al-Qaida and disrupted its operations; however, we judge that al-Qaida will continue to pose the greatest threat to the Homeland and U.S. interests abroad by a single terrorist organization. We also assess that the global jihadist movement . . . is spreading and adapting to counterterrorism efforts.
>
> Greater pluralism and more responsive political systems in Muslim majority nations would alleviate some of the grievances jihadists exploit. Over time, such progress, together with sustained, multifaceted programs targeting the vulnerabilities of the jihadist movement and continued pressure on al-Qa'ida could erode support for the jihadists.

That is saying in the internal document that pursuing democracies, freedom, and self-governance is one of the ways that we will be able to eventually erode the al-Qaida terrorist network and other terrorist networks with which we are not even yet familiar. So it is verifying that education and the attempt to bring self-governance to the Middle Eastern countries that do not have it is the right approach.

It goes on to say:

> We assess that the global jihadist movement is decentralized, lacks a coherent global strategy, and is becoming more diffused. New jihadist networks and cells, with anti-American agendas, are . . . likely to emerge. . . .
>
> We assess that the operational threat from self-radicalized cells will grow in importance to U.S. counterterrorism efforts, particularly abroad but also in the Homeland.
>
> The jihadists regard Europe as an important venue for attacking Western interests. Extremist networks inside the extensive Muslim diasporas in Europe facilitate recruitment and staging for urban attacks, as illustrated in the 2004 Madrid bombings and the 2005 London bombings.

The report goes on to say:

> We assess that the Iraq jihad is shaping a new generation of terrorist leaders and operatives; perceived jihadist success there—

In Iraq—

> would inspire more fighters to continue the struggle elsewhere.
>
> The Iraq conflict has become the "cause celebre" for jihadists, breeding a deep resentment of U.S. involvement in the Muslim world. . . . Should jihadists leaving Iraq perceive themselves, and be perceived, to have failed, we judge fewer fighters will be inspired to carry on the fight.

Let me reemphasize what they are saying in their estimate. Should the terrorists be perceived as failing, they would have fewer recruits for their continued terrorist activities.

The report goes on to say:

> Concomitant vulnerabilities in the jihadist movement have emerged that, if fully exposed and exploited, could begin to slow the spread of the movement. They include dependence on the continuation of Muslim-related conflicts, the limited appeal of the jihadists' radical ideology, the emergence of respected voices of moderation, and criticism of the violent tactics employed against mostly Muslim citizens.
>
> The jihadists' greatest vulnerability is that their ultimate political solution—an ultra-conservative interpretation of shari'a-based governance spanning the Muslim world—is unpopular with the vast majority of Muslims. Exposing the religious and political straitjacket that is implied by the jihadists' propaganda would help to divide them from the audiences they seek to persuade.
>
> Recent condemnations of violence and extremist religious interpretations by a few notable Muslim clerics signal a trend that could facilitate the growth of a constructive alternative to jihadist ideology: peaceful political activism.

That is exactly what the strategy of the United States has been. It is not a strategy that can be pursued on a short-term basis. Education and enlightenment is a very long-term strategy and the Muslim clerics now stepping up to denounce violence against other Muslims is exactly what we are seeing emerge. As this National Intelligence Estimate has revealed these developments are the beginning of how we can make a difference.

The report goes on to say:

> If democratic reform efforts in Muslim majority nations progress over the next five years, political participation probably would drive a wedge between intransigent extremists and groups willing to use the political process to achieve their local objectives.

I did not read all of the Key Judgments into the RECORD. I did read excerpts because I think the strategy of America today is a strategy that is being borne out by the report, which is the opposite of what the leaks purported to say; that our efforts in Iraq are undermining the Global War on Terrorism. When in fact, with regard to the situation in Iraq, it is actually essential for us to win in order to keep our commitment, in order to show that America will stand strong when the times are tough, and they are tough. To show that we will stand against these terrorists is the most important thing we can do, and that is our strategy.

We should not be undercut by leaks that will undermine that strategy. We must be united as a Congress, as the President is trying to do, in saying that we must do the right thing, we must keep our commitments, we cannot cut and run because times are tough. We must admit that times are tough. We must admit that this has been one of the most difficult times in our history. But we must continue to be vigilant because, according to the report, if we are perceived as weak, if we are perceived as leaving because we are defeated rather than leaving after we have kept our word and are the victors in freeing the Iraqi people to have self-governance, then the jihadists, the terrorists, the networks; about which we don't even know yet, will be emboldened to come forward and hurt Americans in our homeland, as well as wherever they see a perceived weakness in the defenses of the people.

I think the President of the United States did the right thing yesterday by immediately declassifying this document because if people will take the time to read it in its totality, people will see that it verifies the strategy in the short term of standing firm against these terrorists to show that we will not buckle, we will not cut and run, we will not be divided as a nation in our commitment to freedom and preservation of our society, and the long-term strategy of taking the time and the patience and the effort to work with the Muslim clerics and the Muslim leaders who are willing to stand up, who are willing to risk their lives for the future of their civilization and say violence against Muslims or other people who have not harmed us is wrong.

That is what we are doing, and it is the right strategy.

The President has had the current strategy against terrorism verified by the National Intelligence Estimate. Unfortunately, the National Intelligence Estimate was partially leaked last week but not in its full context. In the full context, we see the verification of the strategy, and we cannot relent. We know these terrorists want to spread terrorism and harsh, violent, inhuman regimes wherever they can get a foothold. It is the hope of peace and freedom and humanity that America and our allies carry to the battle. It is a battle, it is a war. It is every bit as much a fight for freedom as any war in which America has been involved.

This is a war we cannot lose. We have stopped communism from taking over the world. We have stopped socialism from taking over the world. We cannot allow terrorists to take over the world if we are worth anything as leaders in this country. The President of the United States is resolute on this issue. Congress must stand with him. We must not allow selective leaks of internal intelligence advisories to be misconstrued to say that vigilance against terrorism is a losing proposition.

I hope we can bring America together to speak with one voice. I hope we can bring America together to stay the very long term course that we must pursue in order to have the opportunities for our children that we have had, to grow up in the greatest country on Earth. That is our responsibility. We are the leaders of this country, and if we cannot protect freedom for our children, if we cannot protect the opportunities for them that we have had, we are not worthy. I think we are worthy, I think the President is worthy, and I think it is our responsibility to stand strong and to point out the facts where the facts have not been pointed out.

That is exactly what I intend to do. That is what the President intends to do. It is my hope that we do not have a divided Congress behind him but instead a united Congress with a united people to say to the terrorists who would break down the freedom we have built for over 200 years and the beacon of freedom that we are to the world: We will stand, we will not run, we will not be lackluster in our commitment. We do not have a 30-minute attention span in this country. We have a memory, and that memory will never let terrorists take away our freedom, nor will it allow us to walk away from our responsibility to the future generations of America.

We stand on the shoulders of giants who have protected freedom in this country. We cannot let the American people down, and we will not.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY COMMISSIONS ACT OF 2006

Mr. DURBIN. Mr. President, I rise to speak about the Military Commissions Act of 2006 which the Senate is likely to consider, possibly today, certainly this week.

For those who have been following it, the debate in Washington the last few weeks has been very interesting. It has now been 5 years since the attacks of 9/11. The present administration has finally come forward and asked Congress to pass a bill authorizing military trials to try suspected terrorists. At this late date, the President is demanding the Congress act immediately after the administration waited 5 years to come to Congress.

It is welcome news that the President is now working with the Congress to bring the planners of 9/11 to justice. Why do we have to do it today? Why do we have to do it this week?

For some of us who have served in the Senate for a while, this reminds us of a debate that took place 4 years ago. Four years ago this Congress was told that before we could return home to face the November elections, we absolutely without fail had to vote on the question of authorizing the use of military force and giving the President the authority to invade Iraq. We were told there was a timetable that had to be met; that there was no time to spare.

Despite the fact that we had limited information about the situation in Iraq, despite the fact that we had only vague assurances from the President that he would use diplomacy before he ever considered military action, despite the fact that we didn't have a coalition of allies or forces, we were told the decision had to be made. It had to be made in October, before an election.

I recall it very well because I was up for reelection. Many of us were told: If you vote wrong on this one, you may not be reelected. It wasn't an easy vote. The toughest vote any Member of Congress can face is a vote for going to war. On that vote there were 23 Members of Congress who voted no—1 Republican, 22 Democrats—and I was one of that number. I look back on it now as the right vote. I have heard many Senators who voted to go to war that day who have said: We made a mistake.

I salute their courage for standing up and admitting that. I have yet to find a single Senator who voted against that war who has said the same.

Now we are being told, less than 2 months before another election, we absolutely have to have a vote this week on a—secure fence, they call it. See if you can catch the flaw in the logic.

The proposal is to build a 700-mile fence on the Mexican border, which is 2,000 miles long. Do you catch the flaw in this logic? Is it possible that those determined to come into the United States might go around the fence? Over it? Under it? This 700-mile fence is a 19th or early 20th century answer to a 21st century challenge. It has now become a question of political bragging rights. Which party has the longest fence to take to the American voters? Is that the best we can do on Capitol Hill?

I might add, this underlying bill says it is about time we get serious about building a fence between Canada and the United States—thousands of miles. I try to envision this, what we are talking about. The 700-mile fence on the southern border is the equivalent of a fence from the Washington Monument in the Nation's Capitol to the Sears Tower in Chicago—a fence of 700 miles.

We can argue the merits or demerits of this issue, but it is clear what it is all about. It is an effort to have a political vote as close to the election as possible. It is an effort to tap into voter sentiment on the issue of immigration. It is an effort to avoid our real responsibility, and that is to demand smart enforcement—tough enforcement at the border, and enforcement in the workplace so that those who are drawn to America to find a job will be discouraged because now there will be a tamper-proof ID to establish who a person really is before they have a chance to work in this country.

It is also ignoring the obvious, too. We need agricultural workers immediately. The crops, the fruit and produce, are rotting right now in many States such as California because the workers are not permitted to come here. That is not good for the growers, of course. It is certainly not good for America. But it is a fact.

We also face another reality. There are 10 to 12 million people here today who are undocumented. I know many of them in my city of Chicago, which I am honored to represent. Many come forward to talk about the challenges they face with current immigration laws, which are almost impossible to understand. Instead of looking at the whole picture and having an honest answer, even if it isn't that popular, the Republican leadership has decided that before we get out of town we are going to vote on a 700-mile fence, on the Mexican border and a study of a fence along the Canadian border. It tells you where we are politically.

The second part of this bill is not much different. It is an effort, I am afraid, by many political strategists, to create a political wedge issue, a replay of what we faced 4 years ago with the vote on authorizing the President to invade Iraq. The reality is that the Congress has stood ready to create commissions to try terrorists for a long time. It was 2002, when Senator ARLEN SPECTER, Republican of Pennsylvania, now chairman of the Judiciary Committee, came to me and asked me to cosponsor bipartisan legislation to authorize military commissions, and I did. The understanding was we should have commissions that are consistent with the rule of law and our constitutional values. That was 4 years ago. Nothing has happened, from the administration or in Congress. Now we are told we can't wait another day.

Instead of working with Congress, the President unilaterally created military commissions that are inconsistent with American values and the law. It was no surprise when the Supreme Court ruled in the Hamdan decision this administration's military commissions were illegal.

After the Hamdan decision, I had hoped that we could work with the administration by charting a new course, a bipartisan course, as we did with so many other things. When it came to the creation of the PATRIOT Act, it was a bipartisan effort after 9/11. When it came to reforming our intelligence agency, it was bipartisan. But, unfortunately, this effort has not been bipartisan. Instead, the Administration initially demanded that Congress pass a law simply ratifying the approach that the Supreme Court has already rejected. The Republican leadership of Congress rushed to rubberstamp the President's proposal.

We need to create military commissions so those who are guilty of terrorism and war crimes can be held accountable. But we need to do it in a way that will meet the test of the body right across the street, the U.S. Supreme Court. They will ultimately look at our product and decide whether it meets constitutional muster. If the Court rejects these new military commissions, justice for the victims of 9/11 will be delayed yet again.

It is fortunate that under the leadership of Chairman JOHN WARNER and ranking member CARL LEVIN, the Senate Armed Services Committee took a hard look at this issue and produced bipartisan legislation that is vastly superior to the bill proposed by the administration. It is disappointing, but not surprising, that the White House and Republican leadership of the Senate did not accept the Armed Services Committee bill. I am afraid that was our last best hope for a bipartisan effort. But perhaps many of them do not want a bipartisan bill. Many of those strategists want a partisan issue.

It is more important that the protection of America be done on a bipartisan basis and a sensible basis than that we posture in these last few moments before an election to try to win some advantage in the polls.

I want to salute a number of Republican Senators, one of whom is presiding at this moment, for their leadership on this issue: Senator JOHN WARNER of Virginia, Senator JOHN MCCAIN of Arizona, and Senator LINDSEY GRAHAM of South Carolina, who is presiding. Senator WARNER is a World War II vet and former Secretary of the Navy; JOHN MCCAIN, Vietnam, a Vietnam vet, former prisoner of war; LINDSEY GRAHAM, who was a judge advocate in the Air Force Reserves and is the only Senator currently serving in the National Guard or Reserves.

They spoke out, and I am sure they took some heat for saying the administration's proposal was not good enough. The chorus behind them was a strong one. General Colin Powell stepped forward and said the administration's proposal did not meet the moral test of a country that wants to fight terrorism on a global basis. He was joined by General Vessey and General Shalikashvili and other military leaders who were equally critical.

Thanks to their efforts, the bill we will consider is better than it otherwise would have been. For example, the bill would make it a crime to use abusive interrogation techniques like waterboarding, induced hypothermia, painful stress positions, and prolonged sleep deprivation.

What it comes down to is this: How will we treat detainees and prisoners? Is there a limit to what we can or should do? Will the Geneva Conventions work? This administration, the Bush administration, said a few years ago they were quaint and obsolete in a war against terrorism. Thank goodness that point of view is no longer acceptable.

President Bush says he has one test for this legislation: Will it allow the administration's secret prisons and coercive interrogation techniques to continue?

Of course we must detain and aggressively interrogate suspected terrorists. We live in a dangerous world. There are people in this world who wish us ill. We learned it on 9/11. We learned it in countries around the world, that these are people who cannot be trifled with. They must be taken seriously, and I would not support any legislation that prevented our military or intelligence investigators from asking the hard questions of those they have detained.

But there are other tests we have to apply as well. First, is the legislation we are about to pass consistent with American values and law? What makes us better than the terrorists is that there are some lines we won't cross, even in war. I believe we can fight terrorism effectively and stay true to our Constitution.

Just as important: Will this legislation put our own troops at risk or make it more difficult to fight the war on terror. As dozens of military leaders have argued in recent weeks, this is not the last war we will fight, and the standards we set today for the treatment of detainees and prisoners will determine how our brave soldiers will be treated in this and future wars.

Despite the great efforts of Senators WARNER, MCCAIN, and GRAHAM, I am concerned that provisions in the bill that will come before us do not meet these tests.

Let's take one example. The bill would revise a law known as the War Crimes Act to give Bush administration officials and those who preceded them, back to 1997, amnesty, amnesty for authorizing illegal interrogation techniques.

Think about this for a second. This administration wrote a memo. The author of that memo is a gentleman who is now before us as a potential nominee for the Federal court. In that memo it was recommended that we might use, as part of interrogation techniques, using dogs to threaten and intimidate prisoners. That was in the memo.

Now, fast forward to Abu Ghraib and to those awful, horrific photographs we saw of the treatment of prisoners in that jail. You will recall, as I do, one of our soldiers holding on a leash a dog that was growling at one of the prisoners. That soldier is in jail today for using that dog and using that technique. The person who wrote the memo suggesting the use of dogs as an interrogation technique is not only facing no questioning, but the administration is proposing he be given a lifetime appointment to the second highest court in the land.

Where is the justice, when soldiers who use these techniques, as wrong as they are, end up in prison, and those who write the memos suggesting these techniques not only are not held accountable, they are rewarded? And now we are presented with this bill, which says we will give amnesty to those who conceived of these interrogation techniques.

Over 4 years ago, then-White House Counsel Alberto Gonzales recommended to the President that the Geneva Convention should not apply to the war on terrorism. In a January 2002 memo to the President, Mr. Gonzales concluded the war on terrorism "renders obsolete" the Geneva Conventions. Think of that. The Geneva Conventions, international agreements that have guided America for more than a century, were obsolete, we were told by the White House Counsel at that time, Mr. Gonzales.

In his memo to President Bush, Mr. Gonzales specifically warned that administration officials could be prosecuted under the War Crimes Act if the President did not set aside the Geneva Conventions. He argued that a presidential determination that the Geneva Conventions do not apply would "substantially reduce the threat of domestic criminal prosecution under the War Crimes Act" and "would provide a solid defense to any future prosecution."

It was during that period of redefining conduct that some terrible memos and terrible standards were generated by this administration, standards which led to some of our soldiers being imprisoned. Now this bill would say that the authors of those terrible standards cannot be held accountable.

General Colin Powell, who was Secretary of State at the time, strongly disagreed with the recommendation to set aside the Geneva Conventions. He had decades of military experience informing his judgment. He argued that complying with the Geneva Conventions and effectively fighting the war on terrorism were not only possible, it was the course America should follow. In a memo to Mr. Gonzales, Secretary Colin Powell concluded that setting aside the Geneva Conventions:

> . . . will reverse over a century of U.S. policy and practice in supporting the Geneva conventions and undermine the protections of the law of war for our own troops.

General Powell said:

> It will undermine public support among critical allies, making military cooperation more difficult to sustain.

Now look at what happened in the 4 years that followed. From Washington DC, to Guantanamo, to Abu Ghraib, damage has been done to America's image. It is clear that Secretary Colin Powell was right. Unfortunately, the President rejected his wise counsel. In February 2002 the President issued a memo directing that the Geneva Conventions would not apply to the war on terrorism.

Just this summer, in the Hamdan case, the Supreme Court ruled that the President's position on the Geneva Conventions is illegal. The Supreme

Court reminded the President and all of us that we are a nation of laws, even in a time of war.

Now, 4 years after Gonzales warned President Bush about possible prosecutions under the War Crimes Act, the administration wants an amnesty, retroactive immunity for their actions. According to a recent Washington Post story, Alberto Gonzales told Republican Members of Congress:

> . . . a shield is needed for actions taken by U.S. personnel under a 2002 Presidential order which the Supreme Court declared illegal.

One reason the White House may be pushing for amnesty is because high-ranking administration officials have authorized the use of several controversial interrogation techniques that appear to violate the law. In late 2002, relying on the President's decision to set aside the Geneva Conventions, Defense Secretary Rumsfeld approved numerous interrogation tactics for use at Guantanamo. The commander of Guantanamo Bay's detention operations gave the Guantanamo policies to senior officers in Iraq, and they became the bedrock for interrogation tactics in Iraq, according to the Department of Defense's own investigation. The horrible images that emerged from Abu Ghraib have seared into our mind the nature of some of these techniques, including threatening detainees with dogs and forcing detainees into painful stress positions for long periods of time.

When other countries have used these techniques throughout modern history, the United States, through our State Department, has condemned them as torture. In a memo that has been publicly released, the Federal Bureau of Investigation concluded that the techniques authorized by the Defense Secretary but "are not permitted by the U.S. Constitution."

Senior military lawyers, known as Judge Advocates General, have also raised serious concerns. To take just one example, in a recent hearing of the Senate Armed Services Committee, MG Jack Rives, the Air Force JAG, said "some of the techniques that have been authorized and used in the past have violated Common Article 3" of the Geneva Conventions.

These are not human rights groups, partisans, or journalists. This is our own State Department, our FBI, and military lawyers saying the administration has authorized interrogation techniques that violate the law.

And who will accept responsibility for these mistakes? The soldiers. The soldiers will go to jail. But if this bill passes, those who sent out the memos will be off the hook. So while the administration claims they want to do right by the victims of 9/11 and our brave men and women in uniform, it appears that they are not doing what justice requires.

This amnesty will protect someone else. Sadly, it will also protect those who commit war crimes against Americans. Let's not forget the original intent of the War Crimes Act, enacted in 1996 by a Republican-controlled Congress, adopted by a voice vote in the House and a unanimous vote in the Senate. Conservative Republican Congressman WALTER JONES proposed it after he met with a retired Navy pilot who spent 6 years in the Hanoi Hilton, the same Vietnamese prison where Senator JOHN MCCAIN was detained.

Congressman JONES wanted to give the Justice Department the authority to prosecute war criminals like the Vietcong who abused American POWs.

Here is what Senator Jesse Helms, a leading conservative on the Republican side of the aisle, said of the War Crimes Act:

> This bill will help to close major gaps in our Federal criminal law by permitting American servicemen and nationals, who were victims of war crimes, to see the criminals brought to justice in the United States.

So keep in mind that if we water down the War Crimes Act to immunize American government officials, we also make it harder to prosecute war criminals who abuse Americans.

There is another very troubling provision in this legislation. It would eliminate the writ of habeas corpus for detainees. Habeas corpus is a Latin phrase that means "you have the body." It is the name for the procedure that allows a prisoner to challenge his detention.

Over 700 lawyers from Chicago sent me a letter strongly opposing the elimination of habeas corpus for detainees. Here is how they explained the importance of habeas corpus:

> The right of habeas corpus was enshrined in the Constitution by our Founding Fathers as the means by which anyone who is detained by the Executive may challenge the lawfulness of his detention. It is a vital part of our system of "checks and balances" and an important safeguard against mistakes which can be made even by the best intentional government officials.

To a nonlawyer, habeas corpus may sound like an abstract legal principle, but eliminating it would have practical and very damaging consequences: it would prevent courts from reviewing the lawfulness of the administration's detention and interrogation practices. This is yet another form of amnesty for the administration.

Why is the administration so interested in protecting itself from judicial review?

Perhaps it is because the courts have repeatedly ruled that the administration's policies violate the law.

After the September 11 terrorist attacks, the administration unilaterally created a new detention policy which applies to many hundreds who have been held in detention, some for years. The administration claimed the right to seize anyone, including an American citizen in the United States, and to hold him until the end of the war on terrorism, whenever that may be.

They claimed than even an American citizen who is detained has no rights. That means no right to challenge his detention, no right to see the evidence against him, and no right even to know why he is being held. In fact, an administration lawyer claimed in court that detainees would have no right to challenge their detentions even if they were being tortured or summarily executed.

Using their new detention policy, the administration has detained thousands of individuals in secret detention centers around the world. While it is the most well-known, Guantanamo Bay is only one of these detention centers. Many have been captured in Afghanistan and Iraq, but people who never raised arms against us have been taken prisoner far from the battlefield, in places like Bosnia and Thailand.

Who are the detainees in Guantanamo Bay? Back in 2002, Defense Secretary Rumsfeld described them as "the hardest of the hard core" and "among the most dangerous, best trained, vicious killers on the face of the Earth." However, the administration has since released hundreds of the detainees and it now appears that Secretary Rumsfeld's assertion was false.

According to media reports, military sources indicate that many detainees have no connection to al-Qaida or the Taliban and were sent to Guantanamo over the objections of intelligence personnel who recommended they be released.

There have been all sorts of studies. I recall visiting Guantanamo recently where Admiral Harry Harris said to me—I asked him about the prisoners there. He said, "They are not being punished—they are only being detained."

They haven't been charged with anything—and that is the point. Habeas corpus allows these people being held for years to ask why they are being held. They are not automatically released, but under habeas corpus they can ask: On what basis are you keeping me as a prisoner?

I hope my colleagues will stop and think about this for a moment. If there is a dangerous person in Guantanamo who threatens an American soldier or any American citizens with an act of terrorism, if they have been complicit in any act of terrorism involving al-Qaida or Taliban, from my point of view they should be incarcerated and held until there is no danger to the United States. But if we are simply holding 455 people with no charges, indefinitely, and no right to challenge the basis for their detention, until this war on terrorism, which has no definable end to it, comes to an end, that is not consistent with the principle of justice.

In 2004, in the landmark decision of Rasul v. Bush, the Supreme Court rejected the administration's detention policy. The Court held that detainees can file habeas corpus claims in court to ask why they are being detained.

Rather than changing their policies to comply with the Court's decision, the administration has asked the Republican-controlled Congress to change the law to eliminate habeas corpus for detainees. This would overturn the Court's decision in Rasul v. Bush and immunize the administration's detention policies from judicial review.

Tom Sullivan is a prominent attorney in Chicago and a friend of mine. Tom served in the Army during the Korean war. He is a former U.S. Attorney. On a pro bono basis, he and his law partner Jeff Colman have taken on the cases of several Guantanamo detainees.

Tom says that his clients were not detained on the battlefield and that they are not even accused of engaging in hostilities against the United States. He believes they are innocent and are in Guantanamo because of mistakes that were made in the fog of war. Tom has been a lawyer for more than 50 years. He believes habeas corpus is the bedrock of the American legal system because it is the only recourse available when the government has mistakenly detained an innocent person.

ADM John Hutson was a Navy judge advocate for 28 years. Admiral Hutson testified yesterday at a Senate Judiciary Committee hearing. Here is what he said about eliminating habeas for detainees:

> It is inconsistent with our own history and tradition to take this action. If we diminish or tarnish our values, those values that the Founders fought for and memorialized in the Constitution and have been carefully preserved by the blood and honor or succeeding generations, then we will have lost a major battle in the war on terror . . . We don't need to do this. America is too strong. Our system of justice is too sacred to tinker with in this way.

Admiral Hutson also testified that eliminating habeas will put our own troops at risk:

> If we fail to provide a reasonable judicial avenue to consider detention, other countries will fell justified in doing the same thing. . . . It is U.S. troops who are forward deployed in greater numbers and on more occasions than all other nations combined. It is our troops who are in harm's way and deserve judicial protections. In future wars, we will want to ensure that our troops and those of our allies are treated in a manner similar to how we treat our enemies. We are now setting the standard for that treatment.

When I visited the detention facility at Guantanamo, I saw American soldiers doing their duty in a very bleak and desolate spot. I salute them for serving their country. Every day they wake up, put on the uniform of the United States and serve us with honor and distinction. Congress should not do anything to make their job more difficult.

We should not have a double standard where our brave men and women in uniform go to jail and high-ranking political appointees are not held accountable. What kind of message does that send to our soldiers?

If we eliminate habeas corpus for detainees at Guantanamo, we will put our troops in the impossible position of serving as jailers for men who are indefinitely detained with no ability to challenge their detention.

Think about that for a moment. If there were an American employee or an American citizen or an American soldier being held in a foreign place with no charges against them, indefinitely, with no recourse under the law, we would be protesting in the strongest terms.

The American people want us to bring the planners of 9/11 to justice. That should be the focus of our legislation, not giving amnesty to administration officials and not immunizing the administration's policies from judicial review.

These provisions fail two crucial tests. They are inconsistent with American values, and they would put our troops at risk. They must be changed.

I look forward to the consideration of this bill on the Senate floor with amendments to be offered to make these changes so that we can come forward with a bipartisan bill, a bill that will make America safer but not at the expense of our basic values.

I yield the floor.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 3962 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Mississippi.

MILITARY COMMISSIONS ACT OF 2006

Mr. LOTT. If I could speak on this very important issue addressed previously by the Senator from Illinois, the Military Commissions Act of 2006, I have been restrained in making comments on this process, although I admit I have had to bite my lip a few times because I believed the process that was underway was responsible.

Let me go back and talk a little bit about the beginnings of why this act is necessary and where we are now. We have been in some very difficult times and some uncharted waters when it comes to the war on terror since September 11. It has challenged us in many ways to deal with problems we have not had to deal with before, with an amorphous enemy which does not line up in uniform, in rank, but takes the vehicle of suicide bombers or roadside bombs—the worst of all possible attacks on innocent men and women and children—with no uniform, with no concern for what it does to these innocent people, not to mention those who are trying to bring about greater peace and democracy and opportunity and security in the world, in Afghanistan and Iraq and the Middle East and, yes, here at home.

We are working through this as we go forward. These are unique times. In this process, we have been able to capture and deter some of the worst of the worst jihadists in the world, intent on killing our soldiers and innocent men and women. We have had to deal with them. These are not people who ordinarily have been captured who would be covered by the Geneva Conventions. They are not serving in a country's military; they are murderers of the worst sort.

We have had to deal with this issue. This administration has dealt with it. They have done it responsibly. Have they made some mistakes? Why, of course; we are human beings.

All of this led to a very unfortunate Supreme Court decision, referred to—again, unfortunately—as the Hamdan decision. The Supreme Court clearly made a mistake. I must admit I was disappointed in some of the rulings of the judges, but it has forced our hand to try to make it clear in the law and with the administration how we are going to deal with this question of interrogating these terrorists, how we are going to deal with some of the evidence that is acquired through that process. The administration has been working with the lawyers, with the Congress, and with the Senate to try to work through this issue.

Some people were very distraught last week that we seemed to be having disagreement within our own ranks on the Republican side of the aisle where three or four Senators or some Senators had some concerns. I felt very differently. Finally, we were dealing with issues that really matter. Questions of law, how we deal with the terrorists, how we deal with the evidence—these are very serious discussions, the kinds of things the Senate should be doing a lot more of.

While one can disagree with who was doing what, we went through a process, took up legitimate questions of the law—how to deal with the Geneva Convention; how is it perceived—and came to an agreement. I still had my doubts. There are parts I still do not particularly like. I thought it was a very good process, with a lot of different people, a lot of lawyers, a lot of military people, a lot of leadership in the Congress, and they came up with a conclusion. I have had occasion now to take a look at what they came up with, had questions about, and it is pretty good. However, it is an area where we must act because if we do not act, we are not—the administration, the Government—going to know how to deal with interrogation or with the terrorists or how to deal with the evidence. This is a case where we do not have the luxury of not dealing with this issue. We have to do it.

In some other areas, we should act. The electronic wiretaps matter—we should deal with that, but we don't have it. We can go forward on the law as it is. In this case, we have to clarify the situation, or these people who are being held in Guantanamo Bay are going to be hanging in limbo. If you are worried about them, which I am not particularly, there needs to be a process of how we will deal with them.

That is how we got where we are. That is now pending as an amendment to the border security bill that provides for a fence along our southern border with Mexico. That is not the way it should be done. It should be considered clean. But it is typical of what has happened all year long in the Senate. The whole operation from the other side of the aisle is delay it, drag it out, don't cooperate. Why can't we at least debate? Why have we gone through a day and a half of nothingness instead of considering and debating the substance of the amendment which should be a bill and also the substance of border security? Does anyone here want to leave to go home for an election period—and that is what this is really all about—without having addressed how we do the military trials and without having done something more significant about border security? Not me, although I suspect there are some who say: Yes, let's don't let anything happen; then we can blame Senators, certain people, leaders, whatever, the administration, because nothing happened. Nice deal if you can pull it off. I don't believe the American people will buy that deal.

Also, in listening to some of the comments in the Senate, it stuns me. First of all, I am an attorney. I have not practiced for a long time. I find myself now involved in a lawsuit. Whenever they say, "Bring on the lawyers," look out, because now we are going to get into a huge, big discussion of the niceties of trials and evidence and all of that, and we are guaranteed to have a lot of confusion moving forward.

I wish to again emphasize what we are dealing with. We are dealing with, I believe Colin Powell was quoted as saying, the most vicious killers in the world. These are bad people. These are the people who admit they are jihadists. And if they get out, they would do everything to kill Americans, Europeans, Asians—anyone they think does not agree with their religious positions. These are not citizens, these are not employees of the government, and these are not soldiers. These are extremist jihadists of the worst sort.

Now we have people worrying about how they are going to be incarcerated or interrogated or what evidence would be admissible. Lawyers can work that out. I know enough about the law to know that judges and juries can decipher the legitimacy of evidence and how it was obtained. The parsing we have been through is a disgrace, in my opinion.

In terms of the interrogation, yes, we have to be concerned about our treaty obligations. Our President and our Government have to be concerned about that. Senators, too. We have already voted, and I voted, to clarify our position that we are opposed to torture. I voted for the McCain position. But now, what we are arguing over, I am concerned. What are we going to do in terms of interrogation to get information that can save one marine's life or thousands of innocent people? Are we going to ask them: Please, pretty please? When they let on like some of the techniques that have been used are such horrible things—being threatened by a dog? Come on. Have they never delivered laundry to someone's house and had a dog come after them? Have they never lived? Now being threatened by a dog is considered what—torture? Oh, by the way, we can't have them in stressful positions. What is that? You mean like standing up? Some of these complaints are absolutely ludicrous. Are we going to be careful not to insult them in some way? How are we going to get this information?

And by the way, now our men and women who have to find a way to get information from these worst of the worst vicious killers in the world could be liable, and even worse than that, when they thought they were complying with the law as they understood it and as their superiors told them, they could be liable to be tried—after the fact.

This legislation at least says that prospectively, here is going to be what is expected. If you exceed this, if you get over into the torture area, yes, you will be liable. But to go back and say, now, wait a minute, what you did could make you liable, when we have people trying to do their job for the American people—our soldiers in Iraq and Afghanistan now could be sued, and there are complaints that we are not going to make sure these people are not going to be, after the fact, ex post facto, tried? These same people are talking about amnesty for people illegally in America. Yet when they talk about amnesty for people doing their job as best they could, as they understood the law, no, we do not want to give them amnesty. That would be a horrible mistake, if we do not provide some clarity and some protection for those who may have exceeded that clarity in the past even though they understood what they were doing was wrong.

Now we have this huge discussion about habeas corpus. Bring on the lawyers. What a wonderful thing we can do to come up with words like this. Our forefathers were thinking about citizens, Americans. They were not conceiving of these terrorists who are killing these innocent men, women, and children. These are not citizens. These are not people in America. We want them turned loose arbitrarily and then on the other hand turn around and, say, criticize the administration because some people who were caught in this process were subsequently released when you find out maybe they shouldn't have been?

Ladies and gentlemen, this is the political season, I am sorry to say. I would have thought the Senate could rise above all this partisan political stuff. Everybody is trying to rewrite history or rewrite the law or prove a mistake was made or this intelligence was available which was different from that intelligence. Who is taking the time and looking at where we are now? Where do we want to be? How are we going to handle interrogations? How are we going to handle evidence? How are we going to do a better job for our men and women in the decisions we make in Iraq and Afghanistan? Who is looking for the future around here? No, we are all throwing political spears at each other. I don't think the American people appreciate that. It is embarrassing, quite frankly, to me.

I have been on the Intelligence Committee for 4 years, and for 4 years we have been going back trying to refigure the intelligence. We have found out the intelligence we were receiving in that committee—the Senators, Congressmen, and the President—was not as good as it should have been. Okay, good. Admit that. Now what are we going to do about it? How many hearings do we have where the CIA and the Director of National Intelligence were asked: What are you doing to implement the law we put in place to address the problems we found? Where are we going to be in the future? What have we done to actually go to meet with our CIA agents around the world and hear what the real country situation is in critical parts of the world? Not one time have we done that.

No, even the Intelligence Committee, which for years the Senate worked to make sure it stayed nonpartisan, bipartisan, and worked together for the good of the country, in close quarters, now is just another partisan committee. Staff fight each other; intelligence information is leaked; classified intelligence information is leaked to the New York Times and the Washington Post. No one is identified. No one is punished for that.

What worries me, this is not just about politics; this is about people's lives. People get killed based on the intelligence we get or don't get or the oversight we have.

I hope we can complete our work. Hopefully, it will be good work by the end of the week.

Let's go home and get this political period over with, but when we come back next year, I think it is time we assess where we are. How are we going to do a better job? What is America's agenda? What can we do together in a bipartisan way? Is there anything left? And if we do not, I think there will be a pox on all of our houses.

So on this particular subject of the Military Commissions Act of 2006, let's get it up, let's debate it, and let's have a vote. We have to do it. I think they have done pretty good work. If I could get in a room with my lawyers, yes, I would write it differently. I think more of that evidence should be admissable with less restraints. I think more of the techniques that have been used in the interrogation of terrorists should be used than are in this provision. Once again, it is not perfect, but it is good enough. It is the right thing to do.

Madam President, observing no Senator wishing to speak at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, I ask unanimous consent to be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEMANDING ACCOUNTABILITY

Mrs. MURRAY. Madam President, the hardest decisions we make in the Senate involve asking our fellow Americans to risk their health and their lives in defense of our country. The cost to our country, to our communities, and to our families is so great that in any war we have an obligation to make sure we are doing right by our service members, by our veterans, and by our country.

That is why we in this Congress need to ask questions. We need to ask questions such as: Do our troops have a clear mission? Is there a plan to achieve that mission? Do our troops have the support and equipment they need to succeed? Do we have the right people in place? And are we taking care of our veterans when they return home from military service?

For too long, this Congress has not done its job of asking those questions and demanding answers. Here in Congress, we have a responsibility. We have a responsibility to make sure the Bush administration, or any administration, is fulfilling those critical requirements. So today I rise to offer an update on where we stand on some of these questions and to share some disturbing news from recent reports. The evidence I am going to share with my colleagues today points to five disappointing conclusions, and they all demand hearings and they demand accountability.

First of all, the Bush administration misled Congress about its failures in planning for the care of America's veterans.

Secondly, the Bush administration still does not have a plan to care for our veterans.

Third, we do not have a clear mission in the war in Iraq. And that fight has greatly impacted our ability to prosecute the broader war on terror and, according to the latest intelligence estimate, has helped to fuel new terrorist recruits.

Fourth, the Bush administration has put politics over progress in Iraq and at home. In Iraq, it sent political cronies to staff the provisional government instead of experienced professionals who could get the job done. From "Brownie" at FEMA to new reports about the HUD Secretary, the Bush administration put politics over competence.

Finally, Congress—us—we are not doing our job of oversight. Unless we hold hearings, until we demand answers, and until we require accountability, we will just keep muddling through with the same poor results.

We can do a lot better. We can be safer. And we can be more successful. But it has to start with an honest assessment of what is working, what is not, and what we need to change.

In that spirit, I want to discuss those five conclusions I mentioned, starting with the fact that the Bush administration misled Congress about its inadequate efforts to care for our veterans.

Over the past 2 budget years, the Bush administration was dramatically wrong in its planning for veterans health care. The result was a $3 billion shortfall last summer. And this was not just a failure in planning. It meant failing to get our veterans the services they required in a timely fashion. It meant veterans had to face long waits to see a doctor. And it meant they did not get the care they deserved.

That horrible planning is no way to care for the veterans who have sacrificed so much for us. We can do better. That is why after that failure I joined with Senators AKAKA, DURBIN, and SALAZAR. Together we asked the Government Accountability Office to investigate what happened at the VA. Well, this is the report we got back. Frankly, the answers are pretty damning, and they cast doubt on whether we can rely on this VA for accurate numbers and straight answers.

I wish to focus on the four findings in this report.

First of all, the GAO found that the VA knew it had serious problems with its budget, but they failed to notify Congress, all of us here. Even worse, they misled us. The report suggests that the VA could still, today, be sending us inaccurate information in its quarterly reports.

Secondly, the GAO found that the VA was basing its budgets on "unrealistic assumptions, errors in estimation, and insufficient data."

Third, the Pentagon failed to give the VA up-to-date information about how many service members would be coming down the pipeline and into the VA.

Finally, the GAO found that the VA did not adequately plan for the impact of service members coming home from Iraq and Afghanistan.

For me, I think one of the most disturbing findings is that the VA kept assuring us here in Congress that everything was fine, while inside the VA—at the same time it was assuring us things were fine—it was very clear that the shortfalls were growing. The VA, in fact, became aware it would have a problem. In October of 2004, inside the VA, they knew they had problems, but they did not admit those problems until June of 2005. Veterans were telling me of long lines and delays in care. For months, I tried to give the VA more money, but the administration fought me every step of the way. And who paid the price for those deceptions? America's veterans, and that was just wrong.

Let me walk through some of the deceptions found in this GAO report. It shows a very troubling gap between what the VA knew and what the VA told us.

According to the GAO report, starting back in October 2004, the VA knew that money was tight. It anticipated serious budget challenges, and it created, inside the VA, a "Budget Challenges" working group.

Two months later, in December of 2004, that budget group made internal recommendations inside the VA to deal with the shortfall they knew they had. They suggested delaying new initiatives and shifting around funding.

Two months later, in February of 2005, the Bush administration released its budget proposal for 2006. The GAO found that budget was based on "unrealistic assumptions, errors in estimation, and insufficient data."

A week later, at a hearing on February 15, here, I asked the VA Secretary if the President's budget was sufficient. He told me:

> I have many of the same concerns, and I end up being satisfied that we can get the job done with this budget.

Let's remember what was happening back at that time. I was hearing from veterans that they were facing delays in care and that the VA system was stretched to capacity. But the VA kept saying: Everything is fine.

On March 8, Secretary Nicholson told a House committee that the President's fiscal year 2006 budget "gives VA what it needs." Well, I was hearing a much different story as I spoke with veterans in my home State and around the country. So that is why on March 10 I offered an amendment in the Senate Budget Committee to increase veterans funding by 3 percent so we could hire more doctors and provide faster care for our veterans. Unfortunately, the Republican majority said no.

Now, that same month, while that was happening, the VA's internal monthly reports showed that demand for health care was exceeding projections. That was another warning sign that the VA should have shared with us, but it did not.

On March 16, Senator AKAKA and I offered an amendment here on the Senate floor to increase veterans funding by $2.85 billion. Once again, the Republican majority said no.

The next month, on April 5, Secretary Nicholson wrote to Senator HUTCHISON:

> I can assure you that the VA does not need emergency supplemental funds in FY 2005.

A week later, on April 12, I offered two amendments on the Senate floor to boost veterans funding. First, I asked the Senate to agree that the lack of veterans funding was an emergency and we had to fix it. The Republican majority said no. So I asked the Senate to agree that supporting our veterans ought to be a priority. Again, the Republican majority said no. As a result, veterans did not get the funding they needed and the deception continued.

On June 9, I asked Secretary Nicholson at a hearing if he had enough funding to deal with the mental health challenges of veterans returning from Iraq and Afghanistan. He assured me the VA was fine.

So for 6 months, we had happy talk that everything was fine within the VA. Then, in June, just 2 weeks after the Secretary's latest assurance, the truth finally came out.

On June 23, the VA revealed a massive shortfall of $3 billion. Well, I went to work with my colleagues and we came up with the funding. But we could have solved that problem much earlier and saved our veterans the delays they were experiencing.

By misleading us the entire time, the Bush administration hurt our American veterans. We could have provided the money when it was needed. We could have been hiring the doctors and nurses we needed. We could have been buying the medical equipment that was needed. And we could have been helping thousands of veterans who were sitting on waiting lists waiting for care.

Here is the bottom line. The Bush administration knew about this problem in October of 2004. They saw it getting worse month by month, but here in the Senate, in the House, they assured us everything was fine. They worked adamantly to defeat my amendments to provide funding, and they did not come clean until June of 2005.

That is unacceptable. I think our veterans deserve real answers.

This GAO report shows that the VA was not telling us in Congress the truth and was fighting those of us who were trying to help. I think we need to bring Secretary Nicholson before the Veterans Affairs' Committee so we can get real answers. We need to ensure that the VA doesn't repeat the same mistake of the past 2 years. We owe that to our current and future veterans who sacrifice so much for us.

We need an explanation of why the VA lied to us about the so-called "management efficiency." The GAO found those alleged savings were nothing but "hot air." This report clearly shows the Bush administration misrepresented the truth to us in Congress for 4 fiscal years, through 4 budgets, and 4 appropriations cycles about those bogus savings. When they could not make these efficiencies a reality, they took the funds from veterans' health care. That, too, is unacceptable.

This report also suggests that even in its latest quarterly reports to us, the VA is slow to report and doesn't provide key information we required, such as the time required for veterans to get their first appointment.

The GAO report also says that the Department of Defense failed to provide the VA up-to-date information on how many service members would be separating from service and seeking care at the VA.

That is frustrating to me because I have been asking every general who comes up here if they are doing enough to ensure a smooth transition from the Pentagon to the VA. In fact, on February 16 of last year, I questioned Secretary Rumsfeld directly. I got him to agree that caring for our veterans is part of the cost of a war. But he had no real answer when I asked why his request for the war did not include funding to care for our veterans.

Finally, the GAO report verifies that the VA failed to plan for the impact of the veterans who are coming back from Iraq and Afghanistan. I am very concerned that the Bush administration still, today, right now, does not have a plan to meet the needs of our returning service members.

Look at the gap between what the VA told us it needs and what we are actually spending on veterans' health care. In July, a few months ago, the VA sent an estimate to the Congressional Budget Office. The VA said it would need $1 billion a year for 10 years to care for veterans from Iraq.

But here is the problem. We are already spending more than $1 billion this year, and we still have not seen the lion's share of veterans return home. There will be more veterans needing help, and $1 billion a year is not going to cut it.

I have heard some of my colleagues speak about the generous increases to VA programs, and I agree they have been helpful. But unless the dollars we provide meet the needs of our veterans, we will not have fulfilled our responsibility to those we have asked to go to war for us.

Let's focus on one area of veterans health care—support for mental health challenges, such as post-traumatic stress disorder. Here is what the Associated Press said recently:

> More than one-third of Iraq and Afghanistan veterans seeking medical treatment from the Veterans Health Administration report symptoms of stress or other mental disorders—a tenfold increase in the last 18 months, according to an agency study

That is from the Associated Press. It is a good thing that veterans are coming home and seeking help. I hope it means we have made it easier to get care and we have reduced the stigma associated with the invisible impacts of war. During the Vietnam war, I saw those challenges firsthand when I volunteered in the psychiatric ward of the Seattle VA hospital.

I think it is good that our veterans are coming home and asking for care, but we have to make sure it is our responsibility in this Congress that we have the funding to meet that need.

The AP article I mentioned talks about a soldier from Virginia Beach, VA, who was having a hard time sleeping when he came home from Iraq. Do you know what he was told? He was told he would have to wait 2½ months for an appointment at the VA facility.

Here is a service member who has gone to war in Iraq, done what his country asked, and he comes home and asks for help, and all he is told by the VA is to get in line and wait 75 days. I find that pretty disgraceful.

I have held a number of discussions in my home State of Washington with our veterans and with mental health experts. I was recently in Everett, WA, on August 17. I heard about the challenges they are facing on the ground.

Whether it is dealing with a large number of veterans with severe physical injuries, or traumatic brain injuries, the VA has no plan to deal with this.

Whether it is dealing with the 16 percent of wounded service members coming back from Iraq with eye injuries, which Walter Reed reported in August, the VA has no plan to deal with this.

Whether it is dealing with one-third of all service members to return home and separate from the military, who are seeking mental health services, the VA has no plan. And we in Congress are still not getting straight answers.

In that AP article, a VA official said he is not aware of problems with veterans getting mental health services. Dr. Michael Kussman is quoted as saying:

> We're not aware that people are having trouble getting services from us in any consistent way or pattern around the country.

A lot of our veterans advocates disagree with that. In fact, another VA official pointed to serious problems in meeting the mental health need of our veterans.

In the May edition of the Psychiatric News, Dr. Frances Murphy, the Under Secretary of Health Policy Coordination at the VA, said the agency is ill-prepared to serve the mental health needs of our Nation's veterans.

In that article, Dr. Murphy notes that some VA clinics don't provide mental health or substance abuse care, or if they do, "waiting lists render that care virtually inaccessible."

The Bush administration has failed to deliver our veterans the care they need, denying them the respect they deserve. Given the VA's bad track record and misleading statements, we need to demand in Congress a real plan from the VA to ensure that our veterans get the care they have earned.

Another question we need to be asking in the Senate is about our mission in Iraq today. Unless we have clarity and purpose of mission, we are not going to know when we have achieved it and when our troops can come home.

We all want the same thing in Iraq—for our troops to complete their mission successfully and come home safely. But today our troops' mission in Iraq lacks clarity. What are they accomplishing there today? Overthrowing Saddam Hussein? They already accomplished that. Looking for weapons of mass destruction? They looked: no weapons were found. Are they supposed to be setting up an Iraqi government? We have done that. The Iraqi people have created a constitution, elected leaders, and filled their Cabinet.

Our troops have done everything we have asked them to do. What is left? Will the President's policies get us there? That is the discussion we ought to be having in the Congress. But every time we ask these questions, we get the same empty response from the President, his Cabinet, and the Congress: Stay the course.

Stay the course is not a good plan, if the course you are on is not working. We also have to get to the truth about the relationship between Iraq and the broader war on terror.

On September 6, on the floor of the Senate, I warned that the President's focus on Iraq has distracted us from the larger war on terror. I said the President took a detour from the war on terror and invested the majority of our resources into Iraq—seemingly forever.

That weakens our ability to fight the broader war on terror and it leaves us vulnerable. We have not made the investments here at home to protect ourselves, and we have not finished our work against al-Qaida. Bin Laden is still on the loose. Afghanistan is a mess, and United States troops are imperiled.

Today, 3 weeks after I gave that speech on the Senate floor, we learned that the National Intelligence Estimate concluded that the war in Iraq helped to fuel the recruitment of new terrorists. The administration's failure to plan and face the truth in Iraq demands congressional hearings so we can chart a better course.

We also need to examine how the Bush administration bungled Iraqi reconstruction. On September 17, the Washington Post ran a story titled "Ties to GOP Trumped Know-How Among Staff Sent to Rebuild Iraq." That article describes how Americans were selected to work in Iraq for the Coalition Provisional Authority. That article said:

> Applicants didn't need to be experts in the Middle East or in post-conflict reconstruction. What seemed most important was loyalty to the Bush administration.

It goes on to say:

> The decision to send the loyal and the willing, instead of the best and the brightest, is now regarded by many people involved in the 3 and a half year effort to stabilize and rebuild Iraq as one of the Bush administration's gravest errors.
>
> Many of those selected because of their political fidelity spent their time trying to impose a conservative agenda on the postwar occupation, which sidetracked more important reconstruction efforts and squandered good will among the Iraqi people, according to many people who participated in the reconstruction effort.

They had a political loyalty test instead of a competence test, and that may be responsible for how long we have had to stay in Iraq and the problems we now face. Congress—us—we need to look at that and we need to hold people accountable.

Unfortunately, this pattern and practice of political favoritism within the administration extends beyond Iraq to how the Bush administration handles Government contracts here at home. Just last week, we got new evidence that a member of the President's Cabinet has made a series of statements that highlighted the importance of politics in awarding Government contracts in his agency.

In May, I asked the Inspector General at HUD to look into Secretary Alphonso Jackson's public statements that he deliberately denied a contract to a firm that had been critical of President Bush. Now, last week, the IG sent me the results of that investigation. This report is 340 pages long, with hundreds of pages of sworn testimony from dozens of HUD officials. This report includes sworn statements from HUD personnel, stating that Secretary Jackson told his staff to monitor the political affiliation of contract competitors and consider those affiliations in the awarding of contracts.

Secretary Jackson said that a HUD contractor had strong political affiliations that were not supportive of the President, and the Secretary said he did not want the contractor to receive any additional HUD contracts. As a result, the contractor's award was subjected to an unusual extent of delay and review.

So we have a Cabinet Secretary telling his staff to issue contracts based on politics, not based on who can do the best job for us, the American taxpayers. It is true that, in looking at the record, the Justice Department concluded:

> that no apparent criminal violation could be discerned based on evidence to date.

But the Justice Department came to that conclusion only because HUD staff actually ignored the Secretary's inappropriate instructions.

When you combine what has been going on at HUD with what happened at the CPA in Iraq and reports about similar issues at the Department of the Interior, it is clear that this Congress—all of us—needs to demand accountability.

That is why, last week, I wrote to White House Chief of Staff Josh Bolten and urged him to take immediate steps to ensure that political favoritism and discrimination do not play a role in Federal contracts.

I recognize we cannot rely on the White House Chief of Staff to clean up the Bush administration, which brings me to my final point this morning.

We need real oversight. In this Congress, there has been very little oversight of this administration. The President has basically had free reign because of this Republican-controlled Congress, and we have failed to do the job in asking tough questions and demanding answers.

Norman Ornstein is an expert on Congress at the conservative American Enterprise Institute, and he said this Congress is the worst he has seen in terms of oversight.

He told the Philadelphia Inquirer:

> These people have long thought of themselves as foot soldiers in the President's army, and their view is that oversight is something to avoid, lest they find something that might embarrass the administration. I don't see a single sign that this attitude will substantially change.

That was congressional expert Norman Ornstein on the Republican failure to oversee the Bush administration.

Democrats are trying to provide the oversight that Republicans so far have been unwilling to provide. On Monday, in fact, the Democratic Policy Committee held a hearing on preparations for the war in Iraq. Retired military leaders at that hearing told us that the Bush administration failed to plan for the war and that the administration misled the American people.

We had to hold those hearings under a policy committee banner because Republicans would not hold real committee oversight hearings. We have to have oversight here, no matter what the administration is, Republican or

Democratic, so that we as Members of this body who represent people across the country can learn the facts and we can fix things that are not going well. That is our job. If we never have real hearings, if we never demand real accountability, well, we will never get good results.

I believe America can do a lot better. I believe we can be more secure. I believe our troops can be safer. But it has to start with the truth, not rosy predictions of how things will be, not declarations of will that gloss over the facts on the ground, not corruption in politics holding back progress. Simply the truth. And, so far, this Congress has been unwilling to let our citizens learn the truth.

I think the American people deserve better, and I hope each one of us goes home and thinks about what our responsibility is to the people we represent and to the future of this country.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE) Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, for the information of our colleagues, we will engage in a unanimous consent request which will set out the activity for the afternoon and possibly early evening on the Supreme Court Hamdan decision.

I ask unanimous consent that the cloture motion with respect to amendment No. 5036 be withdrawn, and that further, the cloture vote scheduled in relation to H.R. 6061 be delayed to occur following the disposition of S. 3930, and that the Senate now proceed to the consideration of Calendar No. 634, S. 3930, relating to military tribunals; provided further, that the substitute amendment, the text of which is at the desk, be considered and agreed to as original text for the purpose of further amendment; provided further, that the only other amendments in order, other than any managers' amendments which are to be cleared by both managers and the two leaders, be the following:

Levin, substitute; Rockefeller, congressional oversight; Kennedy, interrogation; Byrd, sunset; Specter, habeas.

I further ask unanimous consent that the listed amendments be limited to 60 minutes equally divided between the two leaders or their designees, other than the Specter amendment and the Levin amendment which will be limited to 2 hours equally divided, as stated above, and that there be 3 hours for general debate equally divided, again, between the two leaders or their designees. I further ask unanimous consent that following the disposition of the above amendments and the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, this is in keeping with our agreement. I wanted the record to reflect—in case Senator LEAHY is watching us because he wanted to make sure he would have 45 minutes on his amendments and 15 minutes on the bill—it is my understanding Senator SPECTER will be giving him 15 minutes of his time, but if he doesn't, I will take it from the bill. So Senator LEAHY will have his 45 minutes, 15 minutes on this bill.

So I think this is an opportunity to improve this bill. We would all like to have had more time for hearings and debate on the floor, but we are where we are. I am thankful and grateful that we have an opportunity to improve this bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I will have an opening statement on the bill. But what we have done is set out, with a time agreement, a way to address a very important piece of legislation. I appreciate the Democratic leader and his caucus, our leadership and our caucus all agreeing upon this outline of how we will address an issue that will make us safer and more secure.

We will turn to the bill, and then I will make an opening statement, and then we will start right in with the amendment process following my opening remarks.

MILITARY COMMISSIONS ACT OF 2006

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3930) to authorize trial by military commission for violations of the law of war, and for other purposes.

The amendment (No. 5085) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, for 5 years we have been a nation at war. It is a war unlike any we have ever before fought. It is an ideological war against radicals and zealots. We are fighting a different kind of enemy—an enemy who seeks to destroy our values, to destroy our freedom, and to destroy our way of life, people who will kill and who will actually stop at nothing to bring America to its knees. It is a war against an enemy who won't back down, ever, telling interrogators: I will never forget your face. I will kill you. I will kill your brothers, your mother, your sisters. It is a war against an enemy who undertakes years of psychological training to consciously resist interrogation and to withhold information that could be critical to thwarting future threats, future attacks. But it is also a physical war. On the field of battle, it is a war that demands quick thinking and creativity. It demands tactics that entice the enemy to reveal his weaknesses.

As we learned 5 years ago, safety and security aren't static states; they are dynamic, constantly shifting, constantly moving. We consistently and repeatedly have to be able to adjust and take stock and reassess and, when necessary, implement changes in response.

In the past 5 years alone, in this body we have passed more than 70 laws and other bills related to the war on terror, but they haven't been enough. They haven't kept pace with the ever-changing field of battle. There is more we can do and, indeed, we must do. That is why over the last month we have focused the Senate agenda on security, and that is why today we address our Nation's security by debating one of the most serious and most urgent security issues currently facing the Nation: the detainment, questioning, and prosecution of enemy combatants—terrorists captured on the battlefield.

A few weeks ago, I traveled with several of my colleagues to Guantanamo Bay. That is where the mastermind of 9/11 currently resides—Khalid Shaikh Mohammed. This man, the man the 9/11 Commission calls the principal architect behind the 9/11 attacks, didn't stop with 9/11. Not 1 month after 9/11, he was busy again plotting and planning, orchestrating, scheming, and conspiring to strike us again while we were still down. His next plot targeted the tallest buildings on the west coast with hijacked planes, buildings that house businesses and organizations absolutely critical to our economic and our financial stability, including the Library Tower in Los Angeles, CA. But this time, we were ready. We thwarted that plot, and Khalid Shaikh Mohammed now resides at Guantanamo. But he wouldn't reside there and we wouldn't have stymied his evil designs at that Library Tower if not for the ability to question detainees.

Soon after 9/11, we detained an al-Qaida operative known as Abu Zubaydah. Under questioning, he yielded several operational leads. He revealed Shaikh Mohammed's role in the 9/11 attacks. Coupled with other sources, the information he gave up led to Shaikh Mohammed's capture and detainment. Khalid Shaikh Mohammed currently awaits prosecution. That prosecution cannot happen until we act. Our great Nation will know no justice—and his victims' families will know no justice—until Congress acts by passing legislation to establish these military commissions.

Before we recess this week, we will complete this bill. We could complete it possibly today but if not, in the morning. The bill itself provides a legislative framework to detain, question, and prosecute terrorists. It reflects the agreement reached last week: Republicans united around the common goal of bringing terrorists to justice. It preserves our intelligence programs—intelligence programs that have disrupted terrorist plots and saved countless American lives.

When we capture terrorists on the battlefield, we have a right to prosecute them for war crimes. This bill establishes a system that protects our national security while ensuring a full and fair trial for detainees. The bill formally establishes terrorist tribunals to prosecute terrorists engaged in hostilities against the United States for war crimes. Terrorist detainees will be tried by a 5- or 12-member military commission overseen by a military judge. They will have the right to be presumed innocent until proven guilty, the right to military and civilian counsel, the right to present exculpatory evidence, the right to exclude evidence obtained through torture, and the right to appeal.

The bill also protects classified information—our critical sources and methods—from terrorists who could exploit it to plan another terrorist attack. It provides a national security privilege that can be asserted at trial to prevent the introduction of classified evidence. But the accused can be provided a declassified summary of that evidence.

Moreover, the bill provides legal clarity for our treaty obligations under the Geneva Conventions. It establishes a specific list of crimes that are considered grave breaches of the Geneva Conventions.

Ultimately, these procedures recognize that because we are at war, we should not try terrorists in the same way as our uniformed military or common civilian criminals. We must remember that we are fighting a different kind of enemy in a different kind of war. We are fighting an enemy who seeks to destroy our values, our freedoms, and our very way of life.

To win this war, we must provide our military, intelligence, and law enforcement communities the tools they need to keep us safe. By formally establishing terrorist tribunals, the bill provides another critical tool in fighting the war on terror, and it provides a measure of justice to the victims of 9/11.

Until Congress passes this legislation, terrorists such as Khalid Shaikh Mohammed cannot be tried for war crimes, and the United States risks fighting a blind war without adequate intelligence to keep us safe. That is simply unacceptable, and that is why this bill must be passed.

I look forward over the next few hours to an open and civilized debate in the best traditions of the Senate. I urge my colleagues—Republican, Democrat, and Independent alike—to work together to pass this bill. The American people can't afford to wait. Even though we are in the midst of an election year, this issue—the safety and security of the American people—should transcend partisan politics. The time to act is now.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I yield myself 15 minutes off the bill itself.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first let me begin by commending our colleagues on the Armed Services Committee, Senator WARNER, Senator MCCAIN, and Senator GRAHAM, for their effort earlier this month to produce a military commissions bill that will protect our troops, withstand judicial review, and be consistent with American values. The administration of their own party had prepared a bill that would authorize violations of our obligations under international law, permit the abusive treatment of prisoners, and allow criminal convictions based on secret evidence. The three Senators drafted a different bill, in consultation with our senior military lawyers. When the administration objected to this bill, Senator WARNER scheduled a markup in the Senate Armed Services Committee anyway, and we reported that bill out with a bipartisan vote of 15 to 9.

Unlike the administration bill, the committee bill would not have allowed convictions based on secret testimony that is never revealed to the accused. The committee bill would not have allowed testimony obtained through cruel or inhuman treatment. The committee bill would not have allowed the use of hearsay where a better source of evidence is readily available. The committee bill would not have attempted to reinterpret our obligations under international law to permit the abuse of detainees in U.S. custody.

While the committee bill was not perfect—in particular, it included a very problematic provision on the writ of habeas corpus—the military commissions it established would have met the test of the Supreme Court's decision in the Hamdan case and provided for the trial of detainees for war crimes in a manner that is consistent with American values and the American system of justice. It provided standards we would be able to live with if other countries were to apply similar standards to our troops if our troops were captured. And, of course, the committee bill provided for the interrogation, for the detention, and for criminal trials of detainees.

Unfortunately, the committee bill was not brought to the Senate. Instead, the three Republican Senators entered into negotiations with an administration that has been relentless in its determination to legitimize the abuse of detainees and to distort military commission procedures to ensure criminal convictions. The bill before us now is the product of these negotiations. I will be offering the committee-approved bill as a substitute a little later today. The bipartisan committee bill, which came from our committee just about a week ago on a vote of 15 to 9, will be offered by me as a substitute to the bill which is now before us.

The bill before us does make a few significant improvements over the administration bill. I want to begin by outlining what those improvements are.

First, while the bill before us is not as clear as the committee bill in committing us to a standard that will protect our troops by conforming to our obligations under the Geneva Conventions, it is far preferable to the administration bill in this regard. In particular, the bill before us does not reinterpret U.S. obligations for the treatment of detainees under Common Article 3 of the Geneva Conventions. It does not place a congressional stamp of approval on an executive branch reinterpretation of those obligations. All it does in this regard is to state the obvious: that the President is responsible for administering the laws and that this gives him the authority to adopt regulations interpreting the meaning and application of the Geneva Conventions in the same manner and to the same extent as he can issue such regulations interpreting other laws.

Common Article 3 of the Geneva Conventions, the Detainee Treatment Act, and the new Army Field Manual all prohibit such interrogation abuses as forcing a detainee to be naked, to perform sexual acts or pose in a sexual manner; prevent such abuses as sensory deprivation, placing hoods or sacks over the head of a detainee, applying beatings, electric shock, burns, or other forms of physical pain; waterboarding, using military working dogs, inducing hypothermia or heat injury, conducting mock executions, or depriving the detainee of necessary food, water, or medical care. Nothing in this bill would change any of the standards of the Geneva Conventions, the Detainee Treatment Act, or the Army Field Manual. Nothing in this bill would authorize the President to do so.

Second, the bill does not permit the use of secret evidence that is not revealed to the defendant. Instead, the bill clarifies that information about sources, methods, or activities by which the United States obtained evidence may be redacted before the evidence is provided to the defendant and introduced at trial. Any material redacted from the evidence provided to the defendant cannot be introduced at trial. The defendant would have the right to be present for all proceedings and to examine and respond to all evidence considered by the military commission.

This approach is consistent with the approach taken to classified information in the Manual for Courts Martial, and it ensures that a defendant could not be convicted on the basis of secret evidence, evidence that is not known to him.

Those are two positive changes from the approach which the administration has argued for and demanded, in these two cases without success.

Unfortunately, at the insistence of the administration, the bill before us contains a great many ill-advised changes from the approved bill of the Armed Services Committee. For example, on coerced testimony, the committee-approved bill prohibited the admission of statements obtained through cruel, inhuman, or degrading treatment. The bill before us prohibits the admission of statements obtained after December 30, 2005, through "cruel, inhuman or degrading treatment," but, inexplicably, contains no such prohibition for statements that were obtained before September 30, 2005. As a result, military tribunals would be free to admit, for the first time in U.S. legal history, statements that were extracted through abusive practices.

On the question of hearsay, the committee bill permitted the admission of hearsay evidence not admissible at trials by court-martial, if direct evidence, which is inherently more probative, could be procured "through reasonable efforts, taking into consideration the unique circumstances of the conduct of military and intelligence operations during hostilities."

The bill before us makes hearsay evidence admissible unless the defendant can demonstrate that it is unreliable or lacking in probative value. Hearsay evidence is not only inherently less reliable, its use also deprives the accused of the ability to confront witnesses against him. The approach taken by this bill not only relieves the Government of any obligation to seek direct testimony from its witnesses, it also appears to shift the burden to the accused by presuming that hearsay evidence is reliable unless the accused can demonstrate otherwise.

On the question of search warrants, the committee bill, the bill which I will be offering as a substitute later on today—the committee bill provided that evidence seized outside the United States shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant. The bill before us deletes the limitation so that it no longer applies to evidence seized outside the United States. As a result, the bill authorizes the use of evidence that is seized inside the United States without a search warrant. This provision is not limited to evidence seized from enemy combatants; it does not even preclude the seizure of evidence without a warrant from U.S. citizens. As a result, this provision appears to authorize the use of evidence that is obtained without a warrant, in violation of the U.S. Constitution.

On the definition of unlawful combatant, the committee bill defined the term "unlawful combatant" in accordance with the traditional law of war. The bill before us, however, changes the definition to add a presumption that any person who is "part of" the "associated forces" of a terrorist organization is an unlawful combatant, regardless of whether that person actually meets the test of engaging in hostilities against the United States or purposefully and materially is supporting such hostilities.

The bill also adds a new provision which makes the determination of a Combatant Status Review Tribunal, or CSRT, that a person is an unlawful enemy combatant—it makes that determination dispositive for the purpose of the jurisdiction of a military commission, even though the CSRT determinations may be based on evidence that would be excluded as unreliable by a military commission.

On the issue of procedures and rules of evidence, the committee bill provided that the procedures and rules of evidence applicable in trials by general courts martial would apply in trials by military commission, subject to such exceptions as the Secretary of Defense determines to be "required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need." That approach, in our committee bill, was consistent with the ruling of the Supreme Court in the Hamdan case, but built in flexibility to address unique circumstances arising out of military and intelligence operations. The bill before us reverses the presumption. Instead of starting with the rules applicable in trials by courts martial and establishing exceptions, the Secretary of Defense is required to make trials by commission consistent with those rules only when he considers it practicable to do so. As one observer has pointed out, this provision is now so vaguely worded that it could even be read to authorize the administration to abandon the presumption of innocence in trials by military commission.

On the issue of habeas corpus, the habeas corpus provision in the committee bill stripped alien detainees of habeas corpus rights, even if they had no other legal recourse to demonstrate that they were improperly detained. It also stripped those detainees of any other recourse to the U.S. courts for legal actions regarding their detention or treatment in U.S. custody. If the committee bill had been brought to the floor, I would have joined in offering an amendment to address the obvious problems with this provision. But at least the court-stripping provision in the committee bill was limited to aliens who were detained outside of the United States. The bill before us expands that provision to eliminate habeas corpus rights and all other legal rights for aliens, including lawful permanent residents detained inside or outside the United States who have been determined by the United States to be the enemy. The only requirement is that the United States determine that the alien detainee is an enemy combatant—but the bill provides no standard for this determination and offers the detainee no ability to challenge it in those cases which I have identified.

Consequently, even aliens who have been released from U.S. custody, such as the detainee that the Canadian Government recently found was detained without any basis and was subjected to torture, would be denied any legal recourse as long as the United States continues to claim that they were properly held.

I yield myself an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. In other words, a determination by the United States could not be contested, even if there is overwhelming evidence that the claim was incorrect.

These changes in the committee bill, a bill which was approved on a bipartisan basis in our committee, the changes that appear in the bill which is now before us, taken together, will put our own troops at risk if other countries decide to apply similar standards to our troops if they are captured and detained. These changes in the bill before us from the committee bill are likely to result in the reversal of convictions on appeal, and that means that efforts to convict these people of crimes can be readily reversed on appeal because of the changes that were made in the committee bill and the fact, which seems to me to be quite clear, that they do not comply in many instances with the requirements set forth in Hamdan, and the changes in the bill before us from the committee bill are inconsistent with American values.

I particularly again highlight the search and seizure requirements of our fourth amendment and the way that seems to be abandoned in the bill before us.

I close by applauding, again, Senators WARNER, MCCAIN, and GRAHAM for their willingness to stand up to the administration and at least at the Armed Services Committee produce a bill that we were able to approve in the Armed Services Committee on a strong bipartisan vote.

However, the administration has been even more relentless in their effort to legitimize the mistreatment of detainees and to undermine some of the cornerstone principles of our legal system. While the bill before us is a modest improvement over the language originally proposed by the administration, it has adopted far too many provisions from the administration's bill. The substitute which we will be offering later on today is the committee-approved bill. That will do a much better job, if we adopt it, of protecting our troops who might become detainees in the future and does a much better job of upholding our values as a nation.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged to both sides.

The Senator from Michigan.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that of the time under the control of the Democratic leader, Senator REID, that 45 minutes be allocated to Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I suggest the absence of a quorum and ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Parliamentary inquiry: At this time the Senate is now proceeding on the Hamdi bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I rise to speak in support of the Military Commissions Act of 2006 which would authorize military commissions for the trial of an alien enemy unlawful combatant.

I take a moment to say my colleagues and others with whom I have served in the Senate for the last 28 years stand at a moment of critical importance in the history of our Nation. What we do today will impact how we conduct the war on terror for as long as it lasts. In the estimate of this humble Senator, that could be for decades. It will fundamentally impact our relationships with our allies. It will fundamentally impact the image of the United States of America in the eyes of the world. It is crucial to our ability to keep America safe. It will speak most loudly about the core values, the principles of this great Republic known as the United States of America.

From the outset, I make it clear I respect the views of all participants in this dialog, from the President and his team, to those particularly in the Congress, but elsewhere in the Congress, on both sides of the aisle. I have certain core principles I share with several of my colleagues. I have endeavored to see this particular bill reflects those principles to the best of my ability, as have they. Nevertheless, I respect the views of others who may differ.

The goal of this legislation, from my point of view, and I think it is shared by others, is first and foremost to meet the challenge for withstanding review by the Supreme Court. Out of respect for that Court, the Hamdan decision, which was quite an interesting decision in many of its findings, divided by different panels within that Court, it is quite likely in one or more instances, if this becomes law, the bill now presently before the Senate, that will likewise be taken to the Supreme Court. That is the way we do things in the United States of America.

We hope we who have labored to craft this, and the 100 Senators who will finally cast their votes, together with the other body, will give to the President a bill that will effectively enable him to do those things to keep America free, to fight the war on terrorism and, at the same time, pass the Federal court review—whether it is the district, appellate, or the Supreme Court—such as likely will take place.

In late June, the Supreme Court struck down the President's initial plan to try detainees by military commissions. In its opinion, Hamdan v. Rumsfeld, the Court held by a fractured five-Justice panel that the present system for trials by military commission violated both the Uniform Code of Military Justice and particularly Common Article 3 of the 1949 Geneva Conventions. There were some four conventions put together in 1949. In particular, the Common Article 3 was common to all four of those conventions.

That historic moment in world history was a culmination from the learning experience of what took place all across our globe during World War II in an effort to see that certain injustices, in terms of the basic core values of the free world, would never occur again.

It is my fervent hope and conviction that whatever the Congress does, the legislation we produce must be able to withstand further security review and scrutiny of the Federal court system, particularly the Supreme Court.

From my own personal perspective, it would be a very serious blow to the credibility of the United States—and I have said this a number of times in connection with the debate—not only in the international community but also at home, if the legislation as prepared by the Congress now and enacted by the President failed to meet another series of Federal court reviews.

To meet the mandate of the Court in its decision, Hamdan v. Rumsfeld, this legislation provides for a military commission that, in the words of Common Article 3, affords "all the judicial guarantees which are recognized as indispensable by civilized peoples."

That is what we are striving to obtain. The Military Commissions Act of 2006 provides these essential guarantees in the following ways. The bill generally follows the current military rule on the use of classified information at trial. That has been an area of concern probably to each and every Senator but most particularly to this Senator and others who worked closely in our group. We have, to the satisfaction of all interested parties, resolved that.

That is a very fundamental thing we must maintain; that is, the ability of our continued gathering of evidence, the protection of source and methods—nevertheless, to provide, on a real-time basis intelligence for our fighting men and women and, indeed, intelligence to protect us here at home.

However, our bill goes further by creating a privilege that protects classified information at all stages of a trial and prohibits disclosure of classified information, including sensitive intelligence sources and methods, to an alleged terrorist accused.

As a fundamental matter—and one we feel is crucial for this bill to survive judicial review—the bill would not allow an accused, however, to be tried and sentenced—perhaps even being given the death penalty—on evidence that the accused has never been allowed to see. That, in my judgment, and I think in the judgment of many, would be establishing a precedent that is without foundation in American jurisprudence or, indeed, the jurisprudence of the vast majority of nations in the world.

Further, the bill would prohibit the use of evidence that was allegedly obtained through the use of torture. A statement obtained before the date of enactment of the Detainee Treatment Act of 2005—December 30, 2005—in which the degree of coercion is in dispute could be used only—and I repeat—

only at trial if the military judge finds that it is reliable and tends to prove the point for which it was offered.

A statement obtained after the date of enactment of the Detainee Treatment Act of 2005, in which the degree of coercion is in dispute, may only be admitted in evidence if the military judge finds that the first two tests are met and finds that the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by the Detainee Treatment Act of 2005.

The bill would generally follow the rules of evidence that apply to courts-martial. However, the Secretary of Defense, in consultation with the Attorney General, would be authorized to make substantial exceptions due to the unique circumstances presented by the conduct of military and intelligence activities so long as those exceptions are not inconsistent with the statutory provisions provided by this new law.

Most importantly, this bill achieves the President's benchmark objective by clearly defining those grave breaches of Common Article 3 of the Geneva Conventions that would be a criminal offense under the U.S. domestic law in the War Crimes Act.

That term, "grave breaches," is set forth in that Convention of 1949. And in conjunction with working on this, we extensively examined the legislative history. Doing so allows our military and intelligence interrogators to know what conduct is prohibited under U.S. law. Moreover, this bill provides that no foreign sources of law may be used to define or interpret U.S. domestic criminal law implementing Common Article 3.

This bill does not provide as a matter of law that this legislation fully satisfies Common Article 3 of the Geneva Conventions. My colleagues and I feel that to make such a statement a matter of statute would amount to a reinterpretation of our obligations under the Geneva Conventions some 57 years after the United States signed those treaties. Such an action could open the door to statutory reinterpretation by a host of other nations with less regard for human rights than the United States, and would result in possibly our U.S. troops being put at greater risk should they become captives in a future conflict.

However, in addition to clearly defining grave breaches of Common Article 3 that are war crimes under the War Crimes Act, this bill acknowledges the President's authority under the Constitution to interpret the meaning and application of the Geneva Conventions, and to promulgate administrative regulations for violations of our broader treaty obligations which are not grave breaches of the Geneva Conventions. To ensure transparency, such interpretations are required to be published in the Federal Register and are subject to congressional and judicial oversight.

We have had a robust discussion of these issues among Members and with administration officials for some several months, most particularly the last few weeks. I strongly believe this bill achieves the best balance for our country. It will allow terrorists to be brought to justice in accordance with the founding principles and values that have made our Nation the greatest democracy in the world.

This bill will also provide the clarity needed to allow our essential intelligence activities to go forward—I repeat: go forward—under the law. And this bill is consistent with the Geneva Conventions, which have helped protect our own forces in conflicts over the past 57 years.

I thank my colleagues for their support. I wish at this time to thank the many staff members who have worked on this thing tirelessly. And I might add, in my 28 years here I have never known the legislative counsel's office to literally work 24 hours around the clock. Perhaps they have, but certainly they did in this instance. I want to give a special recognition and thanks to that office for assisting the Senate in preparing this bill.

Now, Mr. President, my understanding is the Senator from Michigan may well have an amendment he would like to bring forward.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 5086

(Purpose: In the nature of a substitute)

Mr. LEVIN. Mr. President, I now call up amendment No. 5086, which is an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 5086.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LEVIN. Mr. President, the amendment which I have just called up would substitute a bill which was adopted by the Senate Armed Services Committee on a bipartisan vote of 15 to 9 for the pending language.

Before I outline the differences between the bill which the committee adopted and the bill before us, I want to thank my good friend from Virginia for the work he and a number of other colleagues on the Republican side put into the committee bill to make it possible for that bill to be adopted.

In my earlier statement, when the Senator was not on the floor, I commended him and Senator McCAIN and Senator GRAHAM for their effort earlier this month to produce a military commissions bill that would protect our troops in the event they were captured at some point down the road that would withstand judicial review and be consistent with our values.

They produced this bill in the committee, despite huge administration opposition. The chairman of the committee actually scheduled a markup, as I indicated in my prior statement, despite the opposition of the administration. The administration did then and continues to want to permit the treatment of prisoners which is abusive. They did then and they still want to allow criminal convictions to be based on secret evidence.

But what the chairman and a number of other Republican Senators were able to do was to make some accomplishments in those two areas: in the area of secret evidence, and in the area, to an extent, of coercive statements, statements that were obtained by coercion, depending on when the statement was obtained. I will get into that in greater detail because there is a distinction in the bill that is on the floor now as to whether the statement was obtained before or after December 30, 2005, as to whether certain types of coercive treatment would be allowed and that statement, nonetheless, be admitted into evidence. I think that distinction between a statement obtained by coercion before or after December 30, 2005, is a distinction which is totally unsustainable. But I will get into that again in a moment.

But before I begin, because my friend, Senator GRAHAM, who is also on the floor now, and my friend from Virginia were not on the floor before—before I list a number of major differences with the pending bill that I and a number of others have with the pending bill—I want to again compliment my good friend from Virginia, Senator McCAIN, and Senator GRAHAM because they had to withstand a huge amount of administration pressure to get the bill out of committee. It is a far better bill than the one which is now before us. That is why I am going to attempt to substitute it for the bill that is now before us. But, nonetheless, their effort has produced some significant gains over the administration language. I acknowledge that and I thank them for that effort before I proceed to offer the committee bill that is a substitute.

Mr. WARNER. Mr. President, will the Senator kindly yield for me to address his comments?

Mr. LEVIN. I am happy to.

The PRESIDING OFFICER. Without objection.

Mr. WARNER. Mr. President, the Senator has recited that our committee had a markup on a bill. That was after receiving from the administration its own bill. So in a sense, the Senate had before it two bills. Perhaps the formalities I will not go into. But the Senate had the administration's bill and the draft of the committee bill at the time we went into the markup.

The Senator referred to the administration's huge pressure, but those are matters we can go into at another time. But I want you to know the group I was working with, and other Senators, were working with the administration right up until the hours before the markup started.

As the Senator proceeds with his amendment, I am going to ask that the Senator from South Carolina, at the conclusion of your remarks on the amendment, be recognized for the purpose of giving his statement which, indeed, addresses the current bill in the context of the bill that was drafted by the committee, as I understand it from the Senator from South Carolina. And then we will proceed further with discussion on your bill.

We have 3 hours to consider matters here. But I point out, we have your substitute bill, which is basically a 60-minute proposition; the Rockefeller congressional oversight, which is 60 minutes; the Kennedy interrogation, which is 60 minutes; the Byrd sunset which is 60 minutes; and the Specter-Leahy habeas corpus—and I expect you might be a part of that habeas corpus amendment—which is 120 minutes.

Mr. LEVIN. If the Senator will yield?

Mr. WARNER. Yes.

Mr. LEVIN. Without losing his right to—

The PRESIDING OFFICER. Without objection.

Mr. LEVIN. The time limit on the substitute amendment is also 120 minutes.

The PRESIDING OFFICER. Correct.

Mr. WARNER. Yes, correct. I don't know if I stated that, but it should be here as a part of it.

Mr. LEAHY. Will the Senator yield, without losing his right to the floor?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. My understanding is the Senator from Vermont has an hour reserved on the bill, with up to 45 minutes of that on the Specter-Leahy habeas amendment.

Mr. WARNER. Mr. President, I would have to inquire of the Chair if the Chair has knowledge of that.

The PRESIDING OFFICER. That is not part of the agreement.

Mr. WARNER. Does the Senator from Michigan wish to address that request?

Mr. LEVIN. I know that I did ask unanimous consent to protect the Senator from Vermont for 45 minutes on the habeas amendment.

The PRESIDING OFFICER. The Senator from Michigan is correct. Under the consent agreement, 45 minutes has been reserved to the Senator from Vermont out of the leadership time.

Mr. LEVIN. That is on the bill itself. And on the habeas amendment, that would be up to you and Senator SPECTER—right?—to control.

Mr. LEAHY. No. Mr. President, I am confused by this. It was my understanding the Senator from Vermont had up to 45 minutes specifically reserved, not from anybody else's time, but from his own time, on the Specter-Leahy, et al., amendment, and a total—out of which the 45 minutes would have to come—of 1 hour on the bill. Is that incorrect?

Mr. WARNER. Mr. President, I would suggest the following to work our way through this: I call on the Chair to inform the Senate as to the time agreement which I understand has been agreed upon by our leaders.

The PRESIDING OFFICER. Under the previous order, there is to be 2 hours equally divided for the Levin amendment, 2 hours equally divided for the Specter amendment on habeas, 1 hour equally divided on the Rockefeller, Kennedy, Byrd amendments each; general debate is 3 hours equally divided, 90 minutes on each side, of which 45 minutes on the minority side had been allocated to the Senator from Vermont.

Mr. WARNER. At this time, I advise my colleagues that I would oppose any change to that unanimous consent and ask any Members who so desire to address the UC to do so to their respective leadership.

Mr. LEAHY. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. LEAHY. The senior Senator from Virginia has an absolute right to object to anything further. This is not what I understood had been agreed to. It is the unanimous consent that the Chair has so stated. I will not seek to change it. I don't suggest that it is the fault of the Senator from Virginia. This is not what I understood the agreement to be.

I ask unanimous consent that the senior Senator from Connecticut, Mr. DODD, be added as an original cosponsor to the Specter-Leahy habeas amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Virginia controls the floor.

Mr. WARNER. Do I see another Senator wishing to speak?

Mr. DORGAN. Mr. President, I ask unanimous consent to be added as an original cosponsor to the Specter-Leahy-Dodd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I will yield the floor, and the Senator from Michigan will regain his right to the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, on September 14, the Senate Armed Services Committee favorably reported S. 3901, the Military Commissions Act of 2006, to the Senate floor with a bipartisan vote of 15 to 9. Supporters of the committee bill on both sides of the aisle emphasized that the bill met two critical tests:

First, that we would be able to live with the procedures we established if the tables are turned and our own troops were subject to similar procedures.

Second, that the bill was consistent with our American system of justice and would stand up to scrutiny on judicial review.

On the first point, the committee bill did not authorize departure from the requirements of the Geneva Conventions, did not authorize the abuse of prisoners in U.S. custody, did not authorize the use of testimony obtained through abusive practices, because the standards for detention, interrogation, and trial in the bill were consistent with international norms. The bill contained no procedures that we could not live with if they were applied to our own troops who might be captured at some future time.

On the second point, the committee bill established legal procedures consistent with basic principles of the American system of justice, such as the right to examine and respond to all evidence presented, and the exclusion of unreliable categories of evidence, such as coerced statements. Because the bill took the approach outlined by the Supreme Court in the Hamdan case, a trial process based on rules and procedures applicable in trials by courts martial, subject to such exceptions as might be required by the unique circumstances of military and intelligence operations in an ongoing conflict, committee members could have confidence that these provisions would be upheld by the courts on appeal.

The committee bill was not brought to the Senate floor. Indeed, the majority leader reacted to the action of the Armed Services Committee by telling the press he would filibuster the bill if the Senate Armed Services Committee bill was brought to the Senate floor. Consequently, the three Republican Senators who had drafted the committee bill, Senators WARNER, McCAIN, and GRAHAM, entered into negotiations with an administration that has been unrelenting in its determination to legitimize the abuse of detainees and to distort military commission procedures to ensure convictions.

The bill before us, which is the product of those negotiations, has been changed from the committee bill in so many ways that the bill is a very different bill from the one that was adopted by the Armed Services Committee. It is the Armed Services Committee bipartisan bill that I have now offered as a substitute to this new version that is being offered today.

Let me give you some examples of the differences between the committee-adopted bill and the bill that is before us. On coerced testimony, the committee bill prohibited the admission of statements obtained through cruel, inhuman, or degrading treatment. The bill before us prohibits the admission of statements obtained after December 30, 2005, through "cruel, inhuman, or degrading treatment" but inexplicably contained no such prohibition for such statements that were obtained before December 30, 2005.

As a result, military tribunals would presumably be free to admit, for the first time in U.S. legal history, statements that were extracted through cruel or inhuman practices.

By the way, on that issue, if anybody wants to read the actual difference in the way in which the December 30, 2005, date was provided in this bill as a dividing line between statements that could be admitted into evidence, although they were obtained through cruel and inhuman treatment, they can refer to sections 948(R)(c), on a statement obtained before December 30, 2005, the date of the enactment of the Detainee Treatment Act of 2005, which says:

> The degree of coercion in dispute may be admitted if the military judge finds the following: Totality of the circumstances renders the statement reliable in possessing sufficient probative value; and, 2, the interest of justice would best be served by the admission of the statement into evidence.

But subsection (d) reads:

> If the statement is obtained after December 30, 2005, the date of the enactment of the Detainee Treatment Act of 2005, the degree of coercion may be disputed and may be admitted under those same two circumstances.

It then adds a third finding that is required:

> That the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment, prohibited by section 1003.

So if the statement is obtained after December 30, 2005, then if it is obtained through cruel and inhuman treatment, it is not allowable into evidence. But because that requirement is missing relative to statements obtained prior to December 30, 2005, presumably, even though a statement is obtained through cruel and inhuman treatment, it is nonetheless admissible into evidence if it meets the other two tests provided. That is an unsustainable provision. It would be the first time in American legal history that we would, in effect, be authorizing statements that were obtained through that type of coercion—cruel treatment, inhuman treatment—to be admitted into evidence. That is something we should not accept.

On the issue of hearsay, the committee bill permitted the admission of hearsay not admissible at trials by court-martial if direct evidence, which is inherently more probative, could be procured "through reasonable efforts," taking into consideration the unique circumstances of the conduct of military and intelligence operations during hostilities.

The bill before us, unlike the committee bill, makes hearsay evidence admissible, unless the defendant can demonstrate that it is unreliable or lacking in probative value. Well, hearsay evidence is not only inherently unreliable, it is used to deprive the accused of the ability to confront the witnesses against him.

The approach taken by this bill not only relieves the Government of any obligation to seek direct testimony from its witnesses, it also appears to shift the burden to the accused by presuming that hearsay evidence is reliable, unless the accused can demonstrate otherwise.

Relative to search warrants, the committee bill provided that evidence seized outside of the United States shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant. The bill before us deletes the limitation to evidence seized outside of the United States. As a result, the bill authorizes the use of evidence that is seized inside the United States without a search warrant. I note that the chairman of the Judiciary Committee is on the floor. I particularly point out this provision to him—that because the words "outside of the United States" were deleted, the bill before us would allow into evidence, for the first time in history, I believe—it authorizes the use of evidence seized inside the United States without a search warrant. It is not limited to evidence seized from enemy combatants. It does not even preclude the seizure of evidence without a warrant from U.S. citizens. That is a major departure from the committee-adopted bill. It would appear to authorize the use of evidence obtained without a warrant, in violation of the United States Constitution.

The next problem I want to address is the definition of "unlawful combatant." The committee bill defines the term "unlawful combatant" in accordance with the traditional law of war. The bill before us changes the definition to add a presumption that any person who is "part of" the associated forces of a terrorist organization is an unlawful combatant, regardless of whether that person actually meets the test of engaging in hostilities against the United States or purposefully and materially supporting such hostility.

In addition, the bill also adds a new provision which makes the determination of a Combatant Status Review Tribunal, CSRT, that a person is an unlawful enemy combatant, dispositive for the purpose of the jurisdiction of a military commission, even though CSRT determinations may be based on evidence that would be excluded as unreliable by a military commission.

We should not make those findings dispositive, particularly where the CSRT findings can be based on such very unreliable evidence.

Next is procedures and rules of evidence. The committee bill provided that the procedures and rules of evidence applicable in trials by general courts-martial would apply in trials by military commissions, subject to such exceptions as the Secretary of Defense determines to be "required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need."

So the committee bill starts with the courts-martial, the manual, and then says that the Secretary of Defense may make such exceptions as he determines are "required by the unique circumstances of the conduct of military and intelligence operations or by practical need."

This approach is consistent with the ruling in Hamdan. It builds in some flexibility to address unique circumstances arising out of military and intelligence operations. The bill before us reverses the presumption, and instead of starting with the rules applicable in trials by court-martial and establishing exceptions, the Secretary of Defense is required to make trials by commission consistent with those rules only when he considers it practicable to do so. As one observer has pointed out, this provision is now so vaguely worded that it could even be read to authorize the administration to abandon the presumption of innocence in trials by military commission.

On the issue of habeas corpus, the habeas corpus provision in the committee bill stripped alien detainees of habeas corpus rights, even if they have no other legal recourse to demonstrate that they were improperly detained. It also stripped those detainees of any other recourse to U.S. courts for legal actions regarding their detention or treatment in U.S. custody.

If the substitute amendment we are offering is approved, a further amendment will be necessary to address the obvious problems with the committee habeas corpus amendment. That habeas corpus amendment is going to be offered in either event, whether or not the bill before us remains or whether or not the committee bill is substituted for it. But at least in the committee bill, the court-stripping provision was limited to aliens who were detained outside the United States. The bill before us expands that provision to eliminate habeas corpus rights and all other legal rights of redress for wrongs committed by aliens, including lawful permanent residents detained inside or outside the United States who have been determined by the United States to be enemies.

The only requirement under the bill before us is that the Government determines that the alien detainee is an enemy combatant, but the bill provides no standard for this determination and offers the detainee no ability to challenge it. Consequently, even aliens who have been released from U.S. custody, such as the detainee that the Canadian Government recently found was detained without any basis and subjected to torture, even those kinds of aliens, such as that Canadian citizen, would be denied any legal recourse as long as the United States continues to claim in a way which cannot be contested that they were properly held.

No matter how overwhelming the evidence, there is no way to contest it, and there is no legal recourse under the bill before us. That was not true of the committee bill.

The committee bill had lots of problems, in my judgment, on habeas corpus, but the bill before us, for the reasons I just outlined, goes way beyond what the committee bill provided.

As a result of these changes, the bill that is before us does not meet either of the two tests used by the majority of members at the Armed Services Committee markup. The two tests that are not met: The bill before us places our own troops at risk if others apply similar standards, and it is likely to result in convictions by military commissions that are overturned on appeal.

For example, the provision in the bill addressing coerced testimony would prohibit the use of statements that are obtained through cruel and inhuman treatment if those statements were obtained after December 30, 2005, but again, it inexplicably contains no such prohibition on statements obtained through those same methods prior to this date. This provision, in other words, expressly authorizes military commissions to consider evidence that was obtained through cruel and inhuman treatment of defendants and other witnesses.

By expressly omitting the principle that statements obtained through cruel and inhuman treatment of detainees should be precluded from evidence—even if they were obtained before December 30, 2005—this provision would set an absolutely unacceptable and frightening standard if the rest of the world adopts this same standard. This is a standard under which our own troops could be subjected to abuse and mistreatment of all kinds in order to force them to sign statements that would then be used to convict them of war crimes.

The provision also sets a standard which will be used by our terrorist enemies as evidence of U.S. hypocrisy when it comes to proclamations of human rights. Our failure to conclusively exclude statements obtained through cruel and inhuman methods are all too likely to be seen through much of the world as a confirmation of negative views of Americans and what we stand for and that have been shaped by their views of what happened at Abu Ghraib and Guantanamo.

The administration and its supporters have argued that our military judges can be counted on to exclude statements that are based on extreme forms of abuse. That may be; that may be. We have many fine military judges, and I share the hope that these judges will be willing to stand up for the humane treatment of detainees, even where Congress has failed to do so and even when the administration is unwilling to do so.

Indeed, our top military lawyers have told us that evidence obtained through coercive techniques is inherently unreliable. The Army Deputy Chief of Staff for Intelligence, LTG John Kimmons, said the same thing when he released the new Army Field Manual on interrogation procedures. He stated:

> No good intelligence is going to come from abusive practice. I think history tells us that. I think the empirical evidence of the last five years, hard years, tell us that. And moreover, any piece of intelligence which is obtained under duress . . . through the use of abusive techniques would be of questionable credibility.

I am hopeful that our military judges will likewise reject testimony that is obtained through abusive techniques as inherently unreliable and of questionable credibility.

However, our military judges cannot protect our troops in future conflicts. If an American soldier, sailor, airman, or marine is put on trial by a hostile power, he or she will not have an American military judge to stand up for his or her rights. Our troops will face foreign judges, and if the standard applied by those judges is similar to the one proposed in this bill for statements obtained prior to December 30, 2005, they are a lot less likely to get either fair treatment or fair trials.

If statements obtained through cruel and inhuman treatment of detainees are allowed into evidence, as this provision provides, any resulting convictions are unlikely to withstand scrutiny on judicial review in our own courts.

The Supreme Court specifically addressed this issue in the Hamdan case earlier this year. In that case, the Court pointed out that Common Article 3 of the Geneva Conventions prohibits the passing of sentences "without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

The Supreme Court concluded that "[t]he regular military courts in our system are the courts-martial established by congressional statutes" and "can be 'regularly constituted' by the standards of our military justice system only if some practical need explains deviations from court-martial practice"; and the language requiring "judicial guarantees which are recognized as indispensable by civilized peoples" must require, at a minimum, that any deviation from procedures governing courts-martial be justified by "evident practical need."

The rules of evidence reviewed by the Supreme Court in the Hamdan case, such as the rules we are considering today, would have permitted the admission of statements obtained through coercion—other than torture—into evidence if a military commission determines the statements to be probative and reliable. The plurality opinion of the Court notes that under these procedures, "evidence obtained through coercion [is] fully admissible." Similarly, Justice Kennedy's concurring opinion observes that the procedures in place "make no provision for exclusion of coerced declarations save those 'established to have been made as a result of torture.'"

The Supreme Court expressly rejected those procedures. The procedures established by the President, according to the Supreme Court, "deviate from those governing courts-martial in ways not justified by any 'evident practical need,' and for that reason, at least, fail to afford the requisite guarantees" that are recognized as indispensable by civilized peoples.

Like the procedures previously rejected by the Supreme Court, this bill would make evidence obtained through coercion, other than torture, admissible, at least in the case of evidence obtained prior to December 30, 2005. Given that the Supreme Court has already struck down procedures that similarly failed to preclude coerced testimony once, it is surely likely that the Court will strike them down again. Whatever minimal due process may be required in the case of an alien enemy combatant, it certainly cannot be met by procedures that, as a majority of the Supreme Court has already determined, fail to provide the "judicial guarantees which are recognized as indispensable by civilized people."

We should also reject this provision because it is inconsistent with American values and what we stand for as a nation. During the Revolutionary War, the British mistreated many American prisoners. But as described by David Hackett Fischer in his book "Washington's Crossing," General Washington "ordered that . . . the captives would be treated as human beings with the same rights of humanity for which Americans were striving," and those "moral choices in the War of Independence enlarged the meaning of the American Revolution."

We have always believed that we hold ourselves to a higher standard than many other nations. Others may abuse prisoners; we do not. Others may engage in cruel and inhuman practices;

we do not. Others may believe that the ends justify the means; we do not. It is contrary to what we stand for as a nation.

Former Navy general counsel Alberto Mora bravely fought against efforts by others in this administration to approve cruel and inhuman interrogation techniques. Mr. Mora explained his stand when he was awarded the 2006 John F. Kennedy Profile in Courage Award on May 22. He said:

> We need to be clear. Cruelty disfigures our national character. It is incompatible with our constitutional order, with our laws, and with our most prized values. Cruelty can be as effective as torture in destroying human dignity, and there is no moral distinction between one and the other. To adopt and apply a policy of cruelty anywhere within this world is to say that our forefathers were wrong about their belief in the rights of man because there is no more fundamental right than to be safe from cruel and inhuman treatment. Where cruelty exists, law does not.

If we enact this provision into law, giving a congressional stamp of approval to the use of cruel and inhuman methods to extract testimony from detainees, we will diminish ourselves as a people and, as Colin Powell stated in a recent letter to Senator MCCAIN, add to the world's doubts about the moral basis of our fight against terrorism.

The bill, as reported by the Armed Services Committee, will protect our troops, will be more likely to result in convictions that are upheld on appeal, and will be more in keeping with our values as a nation. That bill allows for interrogation, it allows for detention, it allows for prosecution, and it allows for conviction.

The issue isn't whether we interrogate or detain people. We are going to do it. We need to do it. The question is whether we do it in a way which is in keeping with our values, which is in keeping with rules we have established in the Army manual, for instance, for the treatment of people who are captured by our Army. It is whether we do it in a way that is in keeping with what we would insist others follow if they capture our people, what we insist upon in the committee substitute—that committee bill which we adopted on a bipartisan basis—our standards and rules for which we will argue if our people are captured or detained by others.

We cannot make the distinction this bill before us makes—that cruel and inhuman treatment which leads to a statement or confession is not going to be the basis for excluding a statement if that statement is made before December 30, 2005. Only after December 30, 2005, are statements excluded where they are the product of cruel and inhuman treatment. But before December 30, 2005, according to the bill in front of us now, those statements are not excluded unless they meet two other tests. We have to be very clear on this issue. After December 30, 2005, any of three tests, if met, will result in the exclusion of those statements but not before December 30, 2005, when we know as a fact that so much of the abuse took place.

So I urge our colleagues to support the substitute amendment. Again, I wish to make clear that this substitute amendment is the Senate Armed Services Committee bill which the chairman and others labored so hard to produce. It is a bill which avoids many of the pitfalls of the bill that is before us. I hope our colleagues will vote to substitute that bill for the pending language.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. MARTINEZ). Twenty-four minutes 10 seconds.

Mr. LEVIN. I thank the Chair, and I yield the floor.

Mr. WARNER. Mr. President, I was particularly taken by Senator LEVIN's reference to General Washington and what General Washington said with regard to prisoners. But we must be mindful that General Washington was facing the King's Army. Those were uniformed individuals. Those were individuals acting on behalf of the Crown. That is totally different—totally different—from what we as a nation and many other nations today are facing with these terrorists.

Consequently, as a part of the evolution of this extraordinary proliferation of terrorism across the world has come the definitions and terms relating to the unlawful enemy combatant—I repeat, unlawful—because those individuals are not wearing uniforms, they are not following any code of laws or conduct that has overseen much of warfare in the history of the world. They are not affiliated with any state. They are driven, in my judgment, by convictions, much of it religious convictions which are totally antithetical to their own religion, and willing to sacrifice their own lives to foster their ambitions and goals.

We expanded this definition of "unlawful enemy combatant" when we went from the committee bill to a bill that was worked on by, again, Senator MCCAIN, Senator GRAHAM, and myself, and in conjunction with the White House and our leadership and other colleagues.

It was pointed out to us that perhaps our bill is drawn so narrowly that we would not be able to get evidence and support convictions from those who are involved in hiding in the safe houses, wherever they are in the world, including here in the United States.

It is wrong to say that this provision captures any U.S. citizens. It does not. It is only directed at aliens—aliens, not U.S. citizens—bomb-makers, wherever they are in the world; those who provide the money to carry out the terrorism, wherever they are—again, only aliens and those who are preparing and using so many false documents.

There were a lot of categories which we, with the best of intentions, perhaps did not fully comprehend when we were working through that markup session. So at this time, I yield the floor because I see my distinguished colleague from South Carolina. I thank the Senator. He is recognized for his knowledge as an officer in the U.S. Air Force, a colonel who has practiced and studied military law for many years, and we are fortunate to have had his services and continue to have them in addressing this legislation.

I would also point out to my colleagues that Senator MCCAIN, who worked with us throughout this process, is away attending a funeral of a very dear and valued colleague, and he will be returning later this afternoon and will be fully engaged from that point on.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as he may consume to the Senator from South Carolina.

Mr. GRAHAM. Mr. President, I would like to return the compliment that Senator LEVIN gave to myself, Senator MCCAIN, and Senator WARNER. I have found Senator LEVIN and his staff to be very good to work with. Sometimes we reach agreement and sometimes we don't, but all the time we try. As to my staff, I appreciate the tons of time they have spent trying to give us the best product we can get in the legislative process that will adhere to our values and allow the war effort to move forward in an effective way.

As to the difference between the committee bill, which we wrote and supported, and the compromise we reached with the White House, which we wrote and support, there are some differences. I think some of them we have addressed with Senator LEVIN's staff. They were very helpful. He found some language which was dropped inadvertently which made the bill stronger.

I would just like to suggest that whatever military experience I have had pales in comparison to the men and women who are in charge of today's military legal system. I am a reservist. I come in and out of military law. I spent 6½ years on active duty, and I really enjoyed my time. I dealt a lot in the court-martial process as a prosecutor and a defense attorney. But as a reservist and Guard member, it has been a part-time job. But those who do this full time supported the administration's proposal when it came to the admission of evidence by the military judge. I will, at an appropriate time, introduce that into the RECORD.

I believe the JAGs are a good source of advice. That doesn't mean they are the only source of advice. That doesn't mean that because the Judge Advocate Generals of all four branches say so, we need to do what they say. It would be wise to just listen, and I have tried to listen. Sometimes I agree; sometimes I don't. But they have said unanimously, it is my understanding, that the evidentiary standards in terms of admission of evidence, where the judge will determine whether the evidence is reliable and probative using the totality of circumstances to create justice, was a sufficient legal standard, and they were supportive of that standard. So this idea that we are going to allow coerced evidence into a trial purposely, that we made a conscious decision from the committee bill to the compromise to change course and take everything we had said before and just throw it over in a ditch, quite honestly, makes no sense.

Whatever motives you would like to attribute to the effort here, I can assure my colleagues I want to create a process that would be acceptable if our troops found themselves subject to it. And every military Judge Advocate, every admiral, and every general, believes the evidentiary standard in this committee bill is legally acceptable and appropriate.

Why the difference between December 30, 2005, and before? The reason we have a two-tiered system is because in 2005, due to the hard work of Senator MCCAIN and Senator LEVIN—who was a champion in trying to bring this about on the Democratic side—we were able to make a policy statement of the United States that says: Cruel and inhumane and degrading treatment as a policy will be forbidden. And we referenced the 5th, 8th, and 14th amendments standard called "shock the conscience" that existed in the convention on torture. All bills have excluded evidence that violates the torture statute. It is a per se exclusion. If the military judge, in their discretion, believes that the conduct in front of the court amounts to torture, in violation of the torture statute, it does not come into evidence.

The committee bill had a per se exclusion for a violation of the Detainee Treatment Act, and it has been changed, and here is why: The Detainee Treatment Act is a policy statement, not an evidentiary standard. The Detainee Treatment Act says that the Government and its agents and agencies will not engage in cruel, inhumane, and degrading treatment. I would argue that to exclude evidence in a military commission that may run afoul of degrading treatment would create a higher standard for a terrorist than our own military members have in their own courts-martial. So I think the policy statement "cruel and inhumane and degrading" should not be an evidentiary standard, and it is not.

But what we did do to bolster that policy statement is we took the 5th, 8th, and 14th amendment "shock the conscience test" and said: From the date of the Detainee Treatment Act forward, that will be an area that the judge has to make an inquiry into regarding the admission of evidence. The reason we didn't want to go backward is because before the Detainee Treatment Act passed in 2005, no one had recognized the 5th, 8th, and 14th amendment concepts applying to enemy combatants. So what we are trying to do is start over after Hamdan and incorporate into the military commission model as many protections as we can that also protect America. So going forward, from the Detainee Treatment Act forward, any evidence gathered after the Detainee Treatment Act will have to comply with the 5th, 8th, and 14th amendments requirements that make up the heart and soul of the Detainee Treatment Act. To make it retroactive and exclude statements where that concept was not known, was not part of our legal system regarding enemy combatants, in my opinion, was unwise.

So we are going forward, reinforcing the Detainee Treatment Act, and the standard of admission of evidence of reliable and probative meets the standards of justice and totality of the circumstances test, stays in place, covers all statements before and after. Our Judge Advocate Generals, to a person, have said that if you take the Detainee Treatment Act out of the equation, what is left still is acceptable. And the courts will make that decision.

I am confident that the standard that we had, the administration had when it came to the admission of evidence, was acceptable, and the judge advocates who have objected to many things did not object to that.

So the idea that we made a conscious decision to allow cruel and inhumane treatment to become a player defies what we did in totality.

The title 18, War Crimes Act, was rewritten. One of the crimes that we put in title 18 that would constitute a grave breach of the Geneva Conventions, a felony under our own law, is cruel or inhumane treatment: The act of a person who commits or conspires or attempts to commit an act intended to inflict severe or serious physical or mental pain or suffering, other than pain or suffering incidental to lawful sanctions, including serious physical abuse upon another within his custody or control. And we defined those terms. It is a felony in U.S. law to engage in cruel or inhumane treatment, not just torture. It is a felony in U.S. law to mutilate or maim.

What we did—intentionally causing serious bodily harm, rape, sexual assault or abuse, taking hostages—what we did is we took what the Geneva Conventions have defined as being a grave breach of the conventions, we put it in title 18 of the War Crimes Act, and made it a felony. So if you are a military member or CIA agent and you run afoul of the title 18 War Crimes Act, you can be prosecuted. When it comes time for the military judge to rule upon the admissibility of evidence in a military commission, the standard that we will be using has been blessed by every Judge Advocate General that we have, those in charge of our military legal system.

So I think it is a good standard. I think the fact that we put the DTA 5th, 8th and 14th amendment standard into the statute in a perfective way enhances and emboldens what we are trying to do with the DTA and will make us a better nation.

The other areas of concerns: enemy combatant definition. The enemy combatant definition that is changed from the compromise and committee bill allows us to, subject to military commission, try those people who intentionally and knowingly aid terrorism; materially support terrorism. To me, that makes sense. I want to prosecute the person who sells the guns to al-Qaida as much as the people who use the weapons. I want to go after the support network that supports terrorism. To me, that makes perfect sense. I am glad we expanded the definition because those who are assisting terrorists in a knowingly purposeful way should be held accountable for their actions.

Under no circumstance can an American citizen be tried in a military commission. The jurisdiction of military commissions does not allow for the trial of American citizens or lawful combatants, and those who say otherwise, quite frankly, have not read the legislation because there is a prohibition to that happening.

The hearsay rules that are in the compromise very much mirror the committee bill, but that we are allowing a burden shift, to me, makes sense given the global nature of the war. I can spend a lot of time explaining the differences between the two bills, but I will basically summarize by saying that the purpose of the committee bill has been met by the compromise. If it were not so, I would not vote for it. We are not allowing into evidence coerced statements unless the judge makes the decision they are reliable, probative, and in the totality of circumstances they meet the ends of justice.

At the end of the day you are going to have a judge applying a legal standard to a request to admit evidence. The administration, in my opinion, in their first product, was trying to legislate a conviction. In many ways they were trying to set up the rules when it came to the military commission format that would allow evidence to go to the jury never seen by the accused. That would make it very hard to defend yourself.

We have changed that. Anything the jury gets to convict, the accused can examine and rebut. To me, that was a huge accomplishment that put the trials back on sound footing within our value system, and legally I think they will pass muster now.

So at the end of the day, in my opinion we do not need to try to legislate how the judge should rule. Everybody has their pet peeve about where the administration has failed or succeeded, about how the CIA has conducted its business. I have found an effort to tie the judges' hands to the point that we have no flexibility when it comes to admitting evidence. The judge is in the best place—better than anybody here—to make a decision as to what should come into that trial. What are we asking the judges to do? To use their experience, their knowledge of the law, their sense of right or wrong to determine: Is that statement reliable? Is it probative? Given everything around it, would the interests of justice be met if it came into the trial?

That is an acceptable legal standard, not only to every Judge Advocate General who serves today in our military, it should be a standard that every American is proud of because I am proud of it.

I bet you dollars to doughnuts when the Supreme Court gets hold of our work product they are going to approve it.

Finally, Hamdan is about applying the Geneva Conventions to the war on terror. Everybody I know of in the administration believed that the Geneva Conventions did not apply to these unlawful enemy combatants. I shared that belief. We were wrong. The Supreme Court—whether I agree or not—ruled. After their ruling, we had two things that we had to accomplish to get this country back on track within the rule of law. We had a challenge: to take the CIA interrogation program that existed and will exist and make sure that it was Geneva Conventions compliant.

What do the Geneva Conventions require of every country that signs the document? It requires that, domestically, that country will outlaw, within its own domestic law, grave breaches of the treaty. Every country has an affirmative duty to set out within their laws and prosecute their own people for grave breaches of the Geneva Conventions.

Title 18 is the War Crimes Act. Under title 18 we have listed nine crimes that would be considered grave breaches of the Geneva Conventions. To the CIA: Your program, whatever it may be in classified form, must comply with the War Crimes Act. And the War Crimes Act runs the gamut from torture to cruel, inhumane treatment, intentional infliction of serious bodily injury, or mental pain.

We have taken nine well-defined felonies and told the CIA and every other agency in the country: Whatever you do, if you violate these statutes you will be subject to being prosecuted.

I want a CIA program to be classified when it comes to interrogating high-value terrorist targets. I think it would be foolhardy to tell the terrorist community everything that comes your way when you join al-Qaida or some other terrorist organization. But it is important to tell every American, every CIA agent, their family, and the international community what we do will not only be within the Geneva Conventions, it is going to be beyond what the Conventions require, and I think we have accomplished that.

There are six specified events in article 129 and article 130 of the Geneva Conventions that constitute grave breaches. We have adopted all six, and we have added to that list. Whatever the CIA is doing and wherever they do it, whatever the Department of Defense is doing and wherever they do it, they now have the notice and the clarity that they did not have before to do their job within the law.

This idea that we have rewritten the statute and given immunity to people who have violated the statute is absurd. There is nothing in the compromise or the committee bill that would give immunity or amnesty to someone who violated the felony provisions. But what we did do, that I am proud of, is that we took a 1997 War Crimes Act that was so ill-defined that no one understood it and gave clarity and purpose to it so those whom we are asking to defend us from the most vicious people in the world will have a chance to know the law.

Abu Ghraib was about policies that cut legal corners, that migrated from one side of the Government to the other, that got everybody involved confused as to what you could and could not do. It was a mixture of individual deviance and bad policy, poorly trained people, not enough folks to do the job, and not trained well enough to understand what the job was. It was a mess. For 2 years we have been trying—and I have been as helpful as I know how to be—to create some sense of balance to bring order out of chaos, and we are on the verge of doing it.

This is a product, not only that I support, that I had but one that I am proud of. Every military lawyer who sits on the top of our military legal system has had input on every issue. They have had the guts to go to the House and Senate and say some things about the President's proposal are flat wrong. That took a lot of guts, and I am here to tell you the final product took their input and what their concerns were and has been changed.

But if you want a CIA program that is not classified, you lost. I want the program to be classified. But I want it to run within the obligations of the Geneva Conventions, and we have accomplished that.

Finally, what did we do in the compromise that we didn't do in the committee bill? We said that every obligation under the Geneva Conventions that our country has, outside of the War Crimes Act, will be fulfilled by our President. Under our constitutional democracy, it is the obligation of the executive branch to implement and interpret treaties. This whole debate, what I have been working on for 2 weeks and getting beat up on in every talk radio show in the country, was about how can you comply with the Geneva Conventions in a way that will be seen by the world as not getting out of the Conventions.

The proposal for the Congress to redefine the treaty terms, in my opinion, would have created a precedent for every other country, in a war that they are in the middle of, to change the treaty in the middle of a war. The conventions have been closed for years. It would have been wrong, ill-advised for the Congress to sit down with the President and rewrite the treaty obligations for domestic purposes because clearly then we would have been changing the treaty terms without notifying the other parties.

What we did to avoid that is we, Congress, defined nine crimes that would constitute grave breaches, honoring our commitment under the Geneva Conventions, to outlaw grave breaches, felonies. We have done our job, and we turned to the Executive and said in this legislation: It is your job, Mr. President, consistent with our constitutional democracy, to implement and fulfill the obligations of the treaty outside of title 18. And when you make a decision, publish what you have decided. And any decision you make cannot take power away from the courts or the Congress that we have in the same arena.

Those people who want to overturn the election, who do not like President Bush, are upset that we recognized he has a role to play. Let me tell you, he does have a role to play. Any President has the same role that we are going to give President Bush—to implement a treaty, not change a treaty.

So I think we have done a very good job of putting into law our obligations under the Geneva Conventions defining, constitutionally, who has what responsibility so that no reasonable person could say the United States has abandoned its longstanding obligations to the Geneva Conventions because we have not. And that is what we have been sweating over for weeks. No reasonable person can say that this compromise condones torture, cruel, or inhumane treatment because we make it a felony. What we have done is given the military judge the tools he or she will need to render justice. And I have tried to embolden and strengthen the Detainee Treatment Act in a way that I think makes sense.

The military court-martial system will be the model. The military commission will deviate. And the authority given to the Secretary is the same authority given to the President: to make differences between the district courts and the military justice system as a whole. It is compliant with article 36 of the Uniform Code of Military Justice. This compromise is compliant with Hamdan. It is compliant with the values we are fighting for. And it has the flexibility we need to fight an enemy that knows no bounds.

The work product is the result of give and take, is the result of being more than one branch of Government, is the result of having to deal with a court decision that was new and novel. I can say from my point of view that not only will I vote for the compromise, I am very proud of it.

I yield the floor.

Mr. WARNER. Mr. President, my distinguished colleague from South Carolina will be placing in today's RECORD the correspondence from the judge advocate generals. I think that is very important. I think for those following this debate, it would be of great interest to give an example of how in response to the letter sent by the distinguished Senator from Michigan to a judge advocate they respond. I ask unanimous consent to have printed in the RECORD first at this juncture a letter from Senator LEVIN to Bruce MacDonald, Judge Advocate General of the Navy, on this point of what we call the two categories of evidence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, September 25, 2006.

Rear Admiral BRUCE MACDONALD,
The Judge Advocate General, Department of the Navy, Washington, DC.

DEAR ADMIRAL MACDONALD: The Senate will soon begin consideration of a bill entitled the Military Commissions Act of 2006, which would add a new Chapter 47A to title 10, United States Code, addressing trials by military commission. Section 948r of the proposed new chapter would address the issue of compulsory self-incrimination and statements obtained by torture or other methods of coercion.

Under this provision, a copy of which is attached, a statement obtained on or after December 30, 2005 through coercion that is less than torture would be admissible if the military judge finds that: (1) the totality of the circumstances renders it reliable and possessing sufficient probative value; (2) the interests of justice would best be served by admission of the statement into evidence; and (3) the interrogation methods used do not violate the cruel, unusual, or inhumane treatment of punishment prohibited by the 5th, 8th, and 14th Amendments to the United States Constitution.

Under the same provision, a statement obtained before December 30, 2005 would be subject to the first two requirements, but not the third. Consequently, a statement obtained before December 30, 2005 through cruel, unusual or inhumane treatment prohibited by the U.S. Constitution would be admissible into evidence, as long as the other conditions in the provision are met.

I would appreciate if you would provide your personal views and advice as a military officer on the merits of this provision and the impact that it would have on our own troops, should they be captured by hostile forces in the future. Because this issue will be debated on the Senate floor this week, I request that you provide your views by no later than the close of business on Tuesday, September 26, 2006.

Thank you for your assistance in this matter.

Sincerely,

CARL LEVIN,
Ranking Member.

DEPARTMENT OF THE NAVY, OFFICE
OF THE JUDGE ADVOCATE GENERAL
Washington, DC, September 26, 2006.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: Thank you for your letter of September 25, 2006, requesting my personal views on the admissibility of coerced statements at military commissions.

My consistent position before the Congress is and has been that the presiding military judge should have the discretion and authority to inquire into the underlying factual circumstances and exclude any statement derived from unlawful coercion, in order to protect the integrity of the proceeding.

This approach is consistent with the practice of international war crimes tribunals sanctioned by the United States and United Nations and addresses the concern regarding reciprocal treatment of U.S. armed forces personnel in present or future conflicts.

Sincerely,

BRUCE MACDONALD,
Rear Admiral, JAGC, U.S. Navy.

Mr. WARNER. Mr. President, it is a clear indication by those who are currently given the responsibility of defending the men and women of the United States military how this provision in the bill now before the Senate is consistent with their understanding of international and domestic law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. WARNER. Mr. President, I inquire of our distinguished colleague, is he now drawing time on the Levin amendment?

The PRESIDING OFFICER. The Senator's time is from the Democratic leader's time on the measure itself.

Mr. LEAHY. Mr. President, how much time is there to the Democratic leader on this?

The PRESIDING OFFICER. The Senator from Vermont has 47 minutes; 45 minutes of the 57 minutes remaining to the Democratic leader.

Mr. LEAHY. Mr. President, as I said earlier, I understood that the consent agreement was to give me 45 minutes on the Specter-Leahy-Dodd amendment and 15 minutes on the bill. That seems to not have been the agreement entered into by leadership. I ask that I take 10 minutes from the Democratic leader's time and the remaining time from my own 45 minutes of time.

I see the concern by the Senator from Michigan. I will take it from my 45 minutes. I also note that I will not consent to any other time agreements on this bill insofar as the time agreement I understood I had was not entered into. I will take the 45 minutes.

Mr. President, this administration has yet to come clean to the Congress or the American people in connection with the secret legal justifications it has generated and secret practices it has employed in detaining and interrogating hundreds if not thousands of people in the war on terror. Even they cannot dismiss the practices at Guantanamo as the actions of a few "bad apples." With Senate adoption of the anti-torture amendment last year and the recent adoption of the Army Field Manual, I had hoped that 5 years of administration resistance to the rule of law and to the U.S. military abiding by its Geneva obligations might be drawing to a close. Despite the resistance of the Vice President and the administration, the new Army Field Manual appears to outlaw several of what the administration euphemistically calls "aggressive" tactics and that much of the world regards as torture and cruel and degrading treatment. Of course, the President in his signing statement undermined enactment of the anti-torture law, and now the administration is seeking still greater license to engage in harsh techniques in connection with the military tribunal legislation before us now.

What is being lost in this debate is any notion of accountability. Where are the facts of what has been done in the name of the United States? Where are the legal justifications and technicalities the administration's lawyers have been seeking to exploit? Senator LEVIN's amendment, which restores the bipartisan legislation passed by the Senate Armed Services Committee, would maintain some accountability for this administration's actions and some standards of justice and decency. The Republican leadership's legislation which is before us now strips away all accountability and erodes our most basic national values.

If the administration had answered me when I asked over and over about the Convention Against Torture and about rendition, we could have come to grips with those matters before they degenerated, as they have, into international embarrassment for the United States. As Secretary Colin Powell wrote recently, "The world is beginning to doubt the moral basis of our fight against terrorism." It did not need to come to that.

If FBI Director Mueller had been more forthcoming with me at or after the May 2004 hearing in which I asked him about what the FBI had observed at Guantanamo, we could have gotten to a detention and interrogation policy befitting the U.S. years sooner than we have.

If the administration would have responded to my many inquiries over the years regarding the rendition of Maher Arar, I would not have had to send yet another demand for information to the Attorney General this week, and we would not have been embarrassed by the Canadian commission report about his being sent by U.S. authorities to Syria where he was tortured. Mr. Arar is the Canadian citizen who was returning to Canada through New York when he was arrested by American authorities at JFK airport and held for 12 days without access to a Canadian consular official or lawyer. He was then rendered, not to Canada, but to Syria, without the knowledge or approval of Canadian officials, where he was tortured. Last week, a Canadian commission inquiry determined that Mr. Arar had no ties to terrorists, he was arrested on bad intelligence, and his forced confessions in Syria reflected torture, not the truth. Sadly, the administration is still seeking to avoid accountability by hiding behind legal doctrines. The administration continues to thwart every effort to get to the facts, to get to the truth and to be accountable. I am worried that the legislation before us is one more example of that trend.

Unfortunately, Senator LEVIN's amendment, like the Armed Services Committee's bill, retains the extremely troubling habeas provision. I will be submitting an amendment to strip that provision.

We are rushing through legislation that would have a devastating effect on our security and on our values, and we need to step back and think about what we are doing. The President recently said that "time is of the essence" to pass legislation authorizing military commissions. Time was of the essence when this administration took control and did not act on the dire warnings of terrorist action. Time was of the essence in August and early September 2001 when the 9/11 attacks could still have been prevented. This administration ignored warnings of a coming attack and even proposed cutting the anti-terror budget. It focused on Star Wars, not terrorism. Time was of the essence when Osama bin Laden was trapped in Tora Bora.

After 5 years of unilateral actions by this administration that have left us less safe, time is now of the essence to take real steps to keep us safe from terrorism like those in the Real Security Act, S. 3875. Instead, the President and the Republican Senate leadership call for rubberstamping more flawed White House proposals in the run up to another election. I hope that this time the U.S. Senate will act as an independent branch of the government and finally serve as a check on this administration.

We need to pursue the war on terror with strength and intelligence, but also to do so consistent with American values. The President says he wants clarity as to the meaning of the Geneva Conventions and the War Crimes Act. Of course, he did not want clarity when his administration was using its twisted interpretation of the law to authorize torture, cruel and inhumane treatment of detainees and spying on Americans without warrants and keeping those rationales and programs secret from Congress. The administration does not seem to want clarity when it refuses even to tell Congress what its understanding of the law is following the withdrawal of a memo that said the President could authorize and immunize torture. That memo was withdrawn because it could not stand up in the light of day.

It seems that the only clarity this administration wants is a clear green light from Congress to do whatever it wants. That is not clarity; it is immunity. That is what the current legislation would give to the President on interrogation techniques and on military commissions. Justice O'Connor reminded the nation before her retirement that even war is not a "blank check" when it comes to the rights of Americans. The Senate should not be a rubberstamp for policies that undercut American values and make Americans around the world less safe.

In reality, we already have clarity. Senior military officers tell us they know what the Geneva Conventions require, and the military trains its personnel according to these standards. We have never had trouble urging other countries around the world to accept and enforce the provisions of the Geneva Conventions. There was enough clarity for that. What the administration appears to want, instead, is to use new legislative language to create loopholes and to narrow our obligations not to engage in cruel, degrading, and inhuman treatment.

In fact, the new legislation muddies the waters. It saddles the War Crimes Act with a definition of cruel or inhuman treatment so oblique that it appears to permit all manner of cruel and extreme interrogation techniques. Senator MCCAIN said this weekend that some techniques like waterboarding and induced hypothermia would be banned by the proposed law. But Senator FRIST and the White House disavowed his statements, saying that they preferred not to say what techniques would or would not be allowed. That is hardly clarity; it is deliberate confusion.

Into that breach, this legislation throws the administration's solution to all problems: more Presidential power. It allows the administration to promulgate regulations about what conduct would and would not comport with the Geneva Conventions, though it does not require the President to specify which particular techniques can and cannot be used. This is a formula for still fewer checks and balances and for more abuse, secrecy, and power-grabbing. It is a formula for immunity for past and future abuses by the Executive.

I worked hard, along with many others of both parties, to pass the current version of the War Crimes Act. I think the current law is a good law, and the concerns that have been raised about it could best be addressed with minor adjustments, rather than with sweeping changes.

In 1996, working with the Department of Defense, Congress passed the War Crimes Act to provide criminal penalties for certain war crimes committed by and against Americans. The next year, again with the Pentagon's support, Congress extended the War Crimes Act to violations of the baseline humanitarian protections afforded by Common Article 3 of the Geneva Conventions. Both measures were supported by a broad bipartisan consensus, and I was proud to sponsor the 1997 amendments.

The legislation was uncontroversial for a good reason. As I explained at the time, the purpose and effect of the War Crimes Act as amended was to provide for the implementation of America's commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals whoever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define "us" and "them." As Justice Jackson said at the Nuremberg tribunals, "We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."

In that regard, I am disturbed that the legislation before us narrows the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and, perhaps more disturbingly, to retroactively immunize past violations. Neither the Congress nor the Department of Defense had any problem with the War Crimes Act as it now stands when we were focused on using it to prosecute foreign perpetrators of war crimes. I am concerned that this is yet another example of this administration overreaching, disregarding the law and our international obligations, and seeking to immunize others to break the law. It also could well prevent us from prosecuting rogues who we all agree were out of line, like the soldiers who mistreated prisoners at Abu Ghraib.

The President said on May 5, 2004 about prisoner mistreatment at Abu

Ghraib: "I view those practices as abhorrent." He continued: "But in a democracy, as well, those mistakes will be investigated, and people will be brought to justice." The Republican leader of the Senate said on the same day: "I rise to express my shock and condemnation of these despicable acts. The persons who carried them must face justice."

Many of the despicable tactics used in Abu Ghraib the use of dogs, forced nudity, humiliation of various kinds do not appear to be covered by the narrow definitions this legislation would graft into the War Crimes Act; of course, despite the President's calls for clarity, the new provisions are so purposefully ambiguous that we cannot know for sure. If the Abu Ghraib abuses had come to light after the perpetrators left the military, they might not have been able to be brought to justice under the administration's formulation.

The President and the Congress should not be in the business of immunizing people who have broken the law, making us less safe, turning world opinion against us, and undercutting our treaty obligations in ways that encourage others to ignore the protections those treaties provide to Americans. We should be very careful about any changes we make.

If we lower our standards of domestic law to allow outrageous conduct, we can do nothing to stop other countries from doing the same. This change in our law does not prevent other countries from prosecuting our troops and personnel for violations of the Geneva Convention if they choose; it only changes our domestic law. But it could give other countries a green light to change their own law to allow them to treat our personnel in cruel and inhuman ways.

Let me be clear. There is no problem facing us about overzealous use of the War Crimes Act by prosecutors. In fact, as far as I can tell, the Ashcroft Justice Department and the Gonzales Justice Department have yet to file a single charge against anyone for violation of the War Crimes Act. Not only have they never charged American personnel under the act, they have never used it to charge terrorists either.

We can address any concerns about the War Crimes Act with reasonable amendments, as the Warner-Levin bill did, without gutting the Act in a way that undermines our moral authority and makes us less safe. Senator LEVIN's amendment goes back to the Warner-Levin bill's formulation, and I urge Senators of both parties to support it.

The proposed legislation would also allow the admission into military commission proceedings of evidence obtained through cruel and inhuman treatment. This provision would once again allow this administration to avoid all accountability for its misguided policies which have contributed to the rise of a new generation of terrorists who threaten us. Not only would the military commission legislation before us immunize those who violated international law and stomped on basic American values, but it would allow them then to use the evidence gotten in violation of basic principles of fairness and justice.

Allowing in this evidence would violate our basic standards of fairness without increasing our security. Maher Arar, the Canadian citizen sent by our government to Syria to be tortured, confessed to attending terrorist training camps. A Canadian commission investigating the case found that his confessions had no basis in fact. They merely reflected that he was being tortured, and he told his torturers what they wanted to hear. It is only one of many such documented cases of bad information resulting from torture. We gain nothing from allowing such information. The Armed Services Committee bill, which the Levin amendment restores, would not allow the use of this tainted evidence.

The military commissions legislation departs in other unfortunate ways from the Warner-Levin bill. Early this week, apparently at the White House's request, Republican drafters added a breathtakingly broad definition of "unlawful enemy combatant" which includes people—citizens and non-citizens—alike—who have "purposefully and materially supported hostilities" against the United States or its allies. It also includes people determined to be "unlawful enemy combatant" by any "competent tribunal" established by the President or the Secretary of Defense. So the government can select any person, including a U.S. citizen, whom it suspects of supporting hostilities—whatever that means—and begin denying that person the rights and processes guaranteed in our country. The implications are chilling. We should go back to the reasonable definition the Senate Armed Services Committee came up with. That is what the Levin amendment does.

I hope that we will take the opportunity before us to consider and pass bipartisan legislation that will make us safer and help our fight on terrorism, both by giving us the tools we need and by showing the world the values we cherish and defend, the same values that make us a target. We should amend the legislation before us to keep the War Crimes Act strong and to require some accountability from the administration. The Levin amendment does just that, and I urge all senators to vote for it. Let us join together on behalf of real security for Americans.

Mr. President, before we stand here congratulating ourselves too much about all the wonderful things we did in these closed-door meetings and these back-room meetings and the Bush-Cheney statements about what we are allowed to do or not allowed to do in what has become an increasingly rubberstamp Congress—the most rubberstamp Congress I have ever seen in 32 years here—I want to talk about the habeas stripping provisions, what I call un-American provisions, which are regrettably in the bill before us and unfortunately contained in the committee bill, and even included in the amendment before us now. The Specter-Leahy-Dodd amendment will eliminate those provisions from the bill pending before the Senate.

It will be interesting to see whether the Bush-Cheney administration will allow Republican Senators to vote for it. Lord knows there have not been many votes made here that have been by independent Senators.

As currently drafted, section 7 of the military commissions bill would wrongfully, and in my view, unconstitutionally eliminate the writ of habeas corpus for anyone detained by this administration on suspicion of being what they call an "enemy combatant," which is a dangerous concept that is being expanded by a vague and ever-expanding definition.

The President could basically say I think you are an enemy combatant, and lock you up, and you can't even contest it.

I think of the hundreds of pages of statements made by Senators on both sides of the aisle when other countries have done something this arbitrary, or this vague, and locked up people inside their borders, and we said how un-American it is. If we pass this, we can no longer call it un-American. We can call it codified American law.

Important as the rules for military commissions are, they will apply to only a few cases. In this war on terror, you may wonder how many people have been brought to justice. We are holding about 500 people in Guantanamo. We are so committed to this war that we have charged a total of 10 people in the nearly 5 years that the President declared his intention to use military commissions. That is two a year. They just announced plans to charge an additional 14 men. At this rate, I will be about 382 years old when they get around to charging all the people they are detaining. But for the vast majority of the almost 500 prisoners at Guantanamo, and the thousands it has detained over the last 5 years, the administration's position remains as stated by Secretary of Defense Donald Rumsfeld 3 years ago: There is no interest in trying them.

It is not just a question of we have no interest in trying those we have determined to be enemy combatants. If we have dozens and dozens or even hundreds of people who are picked up by mistake or turned over by bounty hunters to get the bounty and not because they might have done something, we are not going to try them either. Sorry, we are just going to lock them up.

Perhaps the single most consequential provision of the so-called military commissions bill can now be found buried nearly 100 pages in to curtail judicial review and any meaningful accountability. This provision would perpetuate the indefinite detention of hundreds of individuals against whom the Government has brought no charges and presented no evidence, without any recourse to justice whatsoever. Maybe some of them are guilty. If they are, try them. But we have to understand that there may be people in there who have no reason to be there and there are no charges and no evidence. This is un-American, it is unconstitutional, and it is contrary to American interests. This is not what a great and wonderful nation should be doing.

Going forward, the bill departs even more radically from our most fundamental values. I am proud to be an American, and I am proud to be a Senator. But mostly I am proud of what has been in the past our American values. Provisions that were profoundly troubling a week ago when the Armed Services Committee marked up the bill have gotten much worse in the course of the closed-door revisions over the past 5 days, including the last round of revisions, which were put in behind closed doors and sent around late yesterday, and that the majority now demands we pass immediately. Five years they sit, doing nothing, and then all of sudden, whoops, the polls look bad this fall for the election: Quick, pass anything, no matter how unconstitutional it might be.

For example, the bill has been amended to eliminate habeas corpus review even for people inside the United States, and even for people who have not been determined to be enemy combatants. Quick, pass it; quick, do it now; quick, pass it out of here so we can rubberstamp it in a signing ceremony before anybody reads the fine print.

We have done this in the past. As a witness said before our committee this week, we did this in the past. We did it with the Tonkin Gulf Resolution. We did it with the internment of Japanese Americans. Now we are about to do it again.

As the bill now stands, it would permit the President to detain indefinitely—even for life—any alien, whether in the United States or abroad, whether a foreign resident or a lawful permanent resident, without any meaningful opportunity for that person to challenge his detention. The administration would not even need to assert, much less prove, that the alien was an enemy combatant; it would suffice to say that the alien was awaiting a determination on that issue, even though they may wait 20, 30, 40 years and wait until the grave gives them their escape.

In other words, the bill would send a message to the millions of legal immigrants living in America, participating in American families, working for American businesses, and paying American taxes. Its message would be that our Government may at any minute pick them up and detain them indefinitely without charge and without any access to the courts or even to military tribunals unless and until the Government determines that they are not enemy combatants—even though they have no ability to help in that determination themselves. In turn, the bill now defines the term enemy combatants in a tortured and unprecedented broad manner.

Detained indefinitely, and unaccountably, until they are proven innocent; even though they have no right to stand up and offer proof. It is like the Canadian citizen Maher Arar, shipped off to a torture cell in Syria by the Bush-Cheney administration, despite what the Canadian Government recently concluded, that there is no evidence that he ever committed a crime or posed a threat to either the United States or Canadian security. Pick him up. He looks bad. Ship him to Syria. Torture him. Maybe he will confess to something and prove we were right.

Now it has been documented the Bush-Cheney administration did the wrong thing to the wrong man. When asked about it, what do they do? As usual, they evade all accountability. This is an administration that makes no mistakes. A rubberstamp Congress will never ask them what they did, they make no mistakes, and they hide behind a purported State secrets privilege.

The administration's defenders would like to believe Mr. Arar's case is an isolated blunder, but it is not. We have numerous press accounts that have quoted administration officials themselves who believe a significant percentage of those detained at Guantanamo Bay have no connection to terrorism. They have been held by the Bush-Cheney administration for several years and the administration intends to hold them indefinitely without trial or any recourse to justice, even though a substantial number of them are innocent people who were turned in by anonymous bounty hunters or picked up by mistake in the fog of war.

The most important purpose of habeas corpus is not to give people extra rights. No one is asking to give people special rights. Habeas corpus does not do that. Habeas corpus is intended to correct errors such as this to protect the innocent. It is precisely to prevent such abuses that the Constitution prohibits the suspension of the writ of habeas corpus "unless when in cases of rebellion or invasion public safety may require it."

I would assume the Bush-Cheney administration is not saying we are handling this question of terrorists so poorly that we are under invasion now. And I have no doubt this bill, which will permanently eliminate the writ of habeas corpus for all aliens within and outside the United States whenever the Government says they might be enemy combatants, violates that prohibition. I believe even the present Supreme Court, seven of the nine members now Republican, would hold it unconstitutional.

When former Secretary of State Colin Powell wrote of his concerns with the administration's bill, he wrote: "The world is beginning to doubt the moral basis of our fight against terrorism."

Talk to anyone who travels around the world anywhere, even among some of our closest allies, our best friends. We are asked, What are you doing? Have you lost your moral compass? And these are countries that faced terrorist attacks long before we did.

General Powell, former head of the Joint Chiefs of Staff, was right.

We have heard from current and former diplomats, military lawyers, Federal judges, law professors, law school deans, and even a former Solicitor General under the first President Bush, Kenneth Starr, that they have grave concerns with the habeas corpus stripping provisions of this bill. I have letters that come from across the political and legal spectrum saying this is wrong.

I ask unanimous consent that some of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 25, 2006.

To United States Senators and Members of Congress.

DEAR MADAMS/SIRS: This letter is written in the name of the former members of the diplomatic service of the United States listed below.

We urge that the Congress, as it considers the pending detainee legislation, not eliminate the jurisdiction of the courts to entertain habeas corpus petitions filed on behalf of those detainees.

There is no more central principle of democracy than that an officer of the executive branch of government may restrain no one except at sufferance of the judiciary. The one branch is vital to insure the legitimacy of the actions of the other. Habeas corpus is the "Great Writ." It is by habeas corpus that a person—any person—can insure that the legality of his or her restraint is confirmed by a court independent of the branch responsible for the restraint. Elimination of judicial review by this route would undermine the foundations of our democratic system.

We are told that the central purpose of our engagement in that "vast external realm" today is the promotion of democracy for others. All nations, we urge, should embrace the principles and practices of freedom and governance that we have embraced. But to eliminate habeas corpus in the United States as an avenue of relief for the citizens of other countries who have fallen into our hands cannot but make a mockery of this pretension in the eyes of the rest of the world. The perception of hypocrisy on our part—a sense that we demand of others a behavioral ethic we ourselves may advocate but fail to observe—is an acid which can overwhelm our diplomacy, no matter how well intended and generous. Pretensions are one thing; behavior another, and quite the more powerful message. To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interests in the larger world.

This is the first and primary reason for rejecting the proposal. But the second is almost as important, and that is its potential for a reciprocal effect. Pragmatic considerations, in short, are in this instance at one with considerations of principle. Judicial relief from arbitrary detention should be preserved here else our personnel serving abroad will suffer the consequences. To deny habeas corpus to our detainees can be seen as prescription for how the captured members of our own military, diplomatic and NGO personnel stationed abroad may be treated.

As former officials in the diplomatic service of our nation, this consideration weighs particularly heavily for us. The United States now has a vast army of young Foreign Service officers abroad. Many are in acute and immediate danger. Over a hundred, for example, are serving in Afghanistan. Foreign service in a high-risk post is voluntary. These officers are there willingly. The Congress has every duty to insure their protection, and to avoid anything which will be taken as justification, even by the most disturbed minds, that arbitrary arrest is the acceptable norm of the day in the relations between nations, and that judicial inquiry is an antique, trivial and dispensable luxury.

We urge that the proposal to curtail the reach of the Great Writ be rejected.

Respectfully submitted.

William D. Rogers, former Under Secretary of State; Ambassador J. Brian Atwood; Ambassador Harry Barnes; Ambassador Richard E. Benedick; Ambassador A Peter Burleigh; Ambassador Herman J. Cohen; Ambassador Edwin G. Corr; Ambassador John Gunther Dean; Ambassador Theodore L. Eliot, Jr.; Ambassador Chas W. Freeman, Jr.; Ambassador Robert S. Gelbard.

Ambassador Lincoln Gordon; Ambassador William C. Harrop; Ambassador Ulric Haynes, Jr.; Ambassador Robert E. Hunter; Ambassador L. Craig Johnstone; Ambassador Robert V. Keeley; Ambassador Bruce P. Laingen; Anthony Lake, former National Security Advisor; Ambassador Princeton N. Lyman; Ambassador Donald McHenry; Ambassador George Moore.

Ambassador George Moose; Ambassador Thomas M. T. Niles; Ambassador Robert Oakley; Ambassador Robert H. Pelletreau; Ambassador Pete Peterson; Ambassador Thomas R. Pickering; Ambassador Anthony Quainton; Helmut Sonnenfeldt, former Counselor of the Department of State; Ambassador Roscoe S. Suddarth; Ambassador Phillips Talbot; Ambassador William Vanden Heuvel; Ambassador Alexander F. Watson.

TO MEMBERS OF CONGRESS: The undersigned retired federal judges write to express our deep concern about the lawfulness of Section 6 of the proposed Military Commissions Act of 2006 ("MCA"). The MCA threatens to strip the federal courts of jurisdiction to test the lawfulness of Executive detention at the Guantanamo Bay Naval Station and elsewhere outside the United States. Section 6 applies "to all cases, without exception, pending on or after the date of the enactment of [the MCA] which relate to any aspect of the detention, treatment, or trial of an alien detained outside of the United States . . . since September 11, 2001."

We applaud Congress for taking action establishing procedures to try individuals for war crimes and, in particular, Senator Warner, Senator Graham, and others for ensuring that those procedures prohibit the use of secret evidence and evidence gained by coercion. Revoking habeas corpus, however, creates the perverse incentive of allowing individuals to be detained indefinitely on that very basis by stripping the federal courts of their historic inquiry into the lawfulness of a prisoner's confinement.

More than two years ago, the United States Supreme Court ruled in Rasul v. Bush, 542 U.S. 466 (2004), that detainees at Guantanamo have the right to challenge their detention in federal court by habeas corpus. Last December, Congress passed the Detainee Treatment Act, eliminating jurisdiction over future habeas petitions filed by prisoners at Guantanamo, but expressly preserving existing jurisdiction over pending cases. In June, the Supreme Court affirmed in Hamdan v. Rumsfeld, 126 S. Ct. 2749 (2006), that the federal courts have the power to hear those pending cases. These cases should be heard by the federal courts for the reasons that follow.

The habeas petitions ask whether there is a sufficient factual and legal basis for a prisoner's detention. This inquiry is at once simple and momentous. Simple because it is an easy matter for judges to make this determination—federal judges have been doing this every day, in every courtroom in the country, since this Nation's founding. Momentous because it safeguards the most hallowed judicial role in our constitutional democracy—ensuring that no man is imprisoned unlawfully. Without habeas, federal courts will lose the power to conduct this inquiry.

We are told this legislation is important to the ineffable demands of national security, and that permitting the courts to play their traditional role will somehow undermine the military's effort in fighting terrorism. But this concern is simply misplaced. For decades, federal courts have successfully managed both civil and criminal cases involving classified and top secret information. Invariably, those cases were resolved fairly and expeditiously, without compromising the interests of this country. The habeas statute and rules provide federal judges ample tools for controlling and safeguarding the flow of information in court, and we are confident that Guantanamo detainee cases can be handled under existing procedures.

Furthermore, depriving the courts of habeas jurisdiction will jeopardize the Judiciary's ability to ensure that Executive detentions are not grounded on torture or other abuse. Senator John McCain and others have rightly insisted that the proposed military commissions established to try terror suspects of war crimes must not be permitted to rely on evidence secured by unlawful coercion. But stripping district courts of habeas jurisdiction would undermine this goal by permitting the Executive to detain without trial based on the same coerced evidence.

Finally, eliminating habeas jurisdiction would raise serious concerns under the Suspension Clause of the Constitution. The writ has been suspended only four times in our Nation's history, and never under circumstances like the present. Congress cannot suspend the writ at will, even during wartime, but only in "Cases of Rebellion or Invasion [when] the public Safety may require it." U.S. Const. art. I, §9, cl. 2. Congress would thus be skating on thin constitutional ice in depriving the federal courts of their power to hear the cases of Guantanamo detainees. At a minimum, Section 6 would guarantee that these cases would be mired in protracted litigation for years to come. If one goal of the provision is to bring these cases to a speedy conclusion, we can assure you from our considerable experience that eliminating habeas would be counterproductive.

For two hundred years, the federal judiciary has maintained Chief Justice Marshall's solemn admonition that ours is a government of laws, and not of men. The proposed legislation imperils this proud history by abandoning the Great Writ to the siren call of military necessity. We urge you to remove the provision stripping habeas jurisdiction from the proposed Military Commissions Act of 2006 and to reject any legislation that deprives the federal courts of habeas jurisdiction over pending Guantanamo detainee cases.

Respectfully,

Judge John J. Gibbons, U.S. Court of Appeals for the Third Circuit (1969–1987), Chief Judge of the U.S. Court of Appeals for the Third Circuit (1987–1990).

Judge Shirley M. Hufstedler, U.S. Court of Appeals for the Ninth Circuit (1968–1979).

Judge Nathaniel R. Jones, U.S. Court of Appeals for the Sixth Circuit (1979–2002).

Judge Timothy K. Lewis, U.S. District Court, Western District of Pennsylvania (1991–1992), U.S. Court of Appeals for the Third Circuit (1992–1999).

Judge William A. Norris, U.S. Court of Appeals for the Ninth Circuit (1980–1997).

Judge George C. Pratt, U.S. District Court, Eastern District of New York (1976–1982), U.S. Court of Appeals for the Second Circuit (1982–1995).

Judge H. Lee Sarokin, U.S. District Court for the District of New Jersey (1979–1994), U.S. Court of Appeals for the Third Circuit (1994–1996).

William S. Sessions, U.S. District Court, Western District of Texas (1974–1980), Chief Judge of the U.S. District Court, Western District of Texas (1980–1987).

Judge Patricia M. Wald, U.S. Court of Appeals for District of Columbia Circuit (1979–1999), Chief Judge of the U.S. Court of Appeals for District of Columbia Circuit (1986–1991).

MALIBU, CA,
September 24, 2006.

Hon. ARLEN SPECTER,
Chairman, Senate Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN SPECTER: I write to express my concerns about the limitations on the writ of habeas corpus contained in the compromise military commissions bill, The Military Commissions Act of 2006 (S. 3930). Although S. 3930 contains many laudable improvements to military commission procedure, section 6 of the bill effectively bars detainees at the U.S. Naval Base at Guantanamo Bay, Cuba from applying for habeas corpus review of their executive detention. I am concerned that limitation may go too far in limiting habeas corpus relief, especially in light of the apparent conflict between the holdings of *Rasul* v. *Bush*, 124 S. Ct. 2684 (2004), and *Johnson* v. *Eisentrager*, 339 U.S. 763 (1950).

Although the *Rasul* Court limited its holding to statutory habeas rights, which may be limited by the Congress, the Supreme Court nevertheless viewed Guantanamo Bay, Cuba as a territory within the control and jurisdiction of the United States. Accordingly, the *Eisentrager* case may no longer be relied upon with confidence to rule out constitutional habeas protections for Guantanamo detainees. One of the *Eisentrager* factors that limited constitutional habeas rights for aliens in military custody was whether the detainee was held outside of the United States. Based on the finding of the *Rasul* case that Guantanamo Bay falls within U.S. territorial jurisdiction. Guantanamo detainees likely have a different constitutional status than the alien detainees in *Eisentrager*, who were held in Landsberg, Germany.

Article 1, section 9, clause 2 of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." The United States is neither in a state of rebellion nor invasion. Consequently, it would problematic for Congress to modify the constitutionally protected writ of habeas corpus under current events.

I encourage the Senate Judiciary Committee to study the constitutional implications of S. 3930 on the habeas corpus rights of detainees in United States territory. Although no one wants the War on Terror to be litigated in the courts, Congress should act cautiously to strike a balance between the need to detain enemy combatants during the present conflict and the need to honor the historic privilege of the writ of habeas corpus. I thank you for holding a hearing on this topic and hope that it helps to strike that balance.

Sincerely,

KENNETH W. STARR.

Mr. LEAHY. Monday we rushed to hold a hearing before the Judiciary committee on this important issue, and what happens? The surrogate for the administration, former White House associate counsel Brad Berenson, who testified before us, defends the habeas corpus stripping provisions of this bill by arguing that the United States has been and still is suffering from an invasion that requires the suspension of habeas corpus.

What are we doing? What is going on? That is outrageous. That is running scared. That is so wrong. Is he saying that for 5 years this administration has been allowing an ongoing invasion in the United States and we are not aware of it? Are we going to suspend the great writ on this basis?

To quote Kenneth Starr:

> The United States is neither in a state of rebellion nor invasion. Consequently, it would [be] problematic for Congress to modify the constitutionally protected writ of habeas corpus under current events.

I suppose the administration would say we are not modifying it. Heck, no, we are eliminating it. We are not modifying the writ of habeas corpus, we are knocking it out for all aliens.

I agree with those from the right to the left, we should not modify, and we certainly should not eliminate, the great writ of habeas corpus. I agree with hundreds of law professors who described an earlier, less extreme version of the habeas provisions of this bill as "unwise and contrary to the most fundamental precepts of American constitutional tradition." And I agree with the former ambassadors and other senior diplomats who wrote to us saying that eliminating habeas corpus for aliens does not help America, it does not make America safer, but rather it harms our interests abroad and makes us less safe.

Maybe some of those who want to pretend how powerful they have been in military matters ought to talk to those who have been in the military and actually understand a time when we are reaping the mistakes of our folly in Iraq. Let us not expand it further. The United States, especially since World War II and the Marshall Plan, has been a beacon of hope and freedom for the world. How do we spread a message of freedom abroad if our message to those who come to America is that they may be detained indefinitely without any recourse to justice?

In the wake of the attack of September 11, and in the fact of the continuing terrorist threat, now is not the time for the United States to abandon its principles. Admiral Hutson was right to point out that when we do, there would be little to distinguish America from a banana republic or the repressive regimes against which we are trying to rally the world and the human spirit.

Now is not the time to abandon American values and to shiver and quake as though we are a weak country and we have to rely on secrecy and torture. We are too great a nation for that. Those are the ways of weakness. Those are the ways of repression and oppression. Those are not the ways of America. Those are not the ways of this Nation I love.

The habeas provisions of this bill are wrongheaded. They are flagrantly unconstitutional. Tinkering with them would not make them less wrongheaded but might make them less flagrantly unconstitutional. I see no reason to save the administration from itself and from the inevitable defeat when the Supreme Court strikes them down.

Why should those who take our oath to uphold the Constitution seriously, who understand the fundamental importance of habeas to freedom, find ourselves compromising with such an irresponsible provision?

That is why at the appropriate point the chairman of the Senate Judiciary Committee and I will offer just one amendment, to remove the habeas provisions from the bill in their entirety. That is the right thing to do. I should also add, that is the American thing to do. We would still be left with the disgraceful but less extreme habeas stripping provisions that we enacted earlier this year in the Detainee Treatment Act. But we would at least not make one bad mistake even worse. By not totally eliminating habeas for all aliens, we can reduce the damage to America's credibility as a champion of freedom and show the American people and the courts that Congress is not entirely cavalier when it comes to its constitutional obligations. We can show the world that this great Nation is not so frightened and so shaky and so quaky that we are going to have to give up the principles that made us a great nation.

Our amendment would reduce the grave harm that will be done if the bill before the Senate passes. It was not too late last night for the Republicans to make yet more revisions to this unconstitutional bill. It is not too late today for the Senate to make the bill a little less bad, a little less offensive to the values and freedom for which America stands.

This is one American who is not going to run and hide. This is one American who is not willing to cut down the laws of our Nation. This is one American who thinks these laws and our protections have made us great not only here but abroad. This is one American who thinks that our freedoms, our laws, our protections, are what attracted people from other countries, people from other countries who have fled oppression in their own country and fled a lack of rule of law in their own country, to come to America, where we have a rule of law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we are anxious to go on with the matters before the Senate this afternoon in connection with this pending bill.

As I understand it, the amount of time remaining on the Levin substitute amendment is how much?

The PRESIDING OFFICER. The Senator from Michigan has 24 minutes 10 seconds; the Senator from Virginia has 24 minutes.

Mr. WARNER. It had been my hope we could set this amendment aside pending instructions from the leadership as to a time of vote and proceed to another amendment.

At this point in time, I see another colleague who is seeking recognition.

I yield the floor.

Mr. REED. Mr. President, I ask for 12 minutes from the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, we are engaged in a very important debate about the way we will bring to justice very heinous individuals who committed terrorism. I will put in context first what I think the situation is.

First, our most essential mission in the war on terror is to find these individuals, to attempt to capture them, and if they have refused to be captured, to take extreme measures to eliminate them as terrorist threats to the United States.

If they are in our hands as detainees or in any capacity, we have an obligation to interrogate them and we have to be consistent with international norms while also recognizing that as we treat people in our custody we can expect if our military personnel fall in the hands of a military power, they will be similarly treated. We must be very conscious of this.

But an important point that is often overlooked in the entire debate, all of the individuals we are talking about today—the 14 detainees at Guantanamo Bay and others—are enemy combatants. Under international law, they can be held indefinitely. There is a big difference between an individual who is an enemy combatant and someone who is in a criminal justice situation someplace else. Even if these individuals are acquitted of their crimes, they are still in the custody of the United States and still will remain in the custody of the United States.

So as we debate this issue of military tribunals, we have to recognize what we are talking about is not allowing people to walk out the door because our procedures are inadequate, because some clever attorney can take advantage of the rules of evidence. They will never walk out the door. What we are talking about is whether we will have legitimacy to impose the most difficult sanction on an individual, the most severe sanction. To be consistent with our value as a nation, I believe we have to have procedures that are procedurally legitimate, that are fair and are perceived that way.

There is another issue here, not just in terms of our moral standing. It is a very practical one. I have suggested it before. How we treat these people will be the standard with which our military personnel will be treated overseas. We will surrender the right to condemn those people who may in the future hold our soldiers if they choose to use procedural gimmicks, if they want to stage show trials rather than real trials, if they want to punish an American fighting man or woman without any regard for the principles and practices of international law. That is, I think, the issue before us today.

The substitute Senator LEVIN has offered today is one we supported on a bipartisan basis in the committee. It was a strong, good bill. It represented not only our best principles, but it recognized that these principles could also and would also be applied in the future—we hope not—but certainly we have to recognize the possibility that American military personnel will be in the hands of hostile forces in the future.

The bill we had in the Armed Services Committee did things this legislation before us undoes. For example, the committee bill prohibited the admission of statements obtained through cruel, inhuman, or degrading treatment. The bill before us prohibits the admission of statements obtained after December 30, 2005, through "cruel, inhuman or degrading treatment," but it contains no prohibition against using statements so obtained prior to December 30, 2005.

I do not think the Geneva Conventions were in abeyance up until December 30, 2005. I do not think the standards we should insist upon did not exist there. And very practically speaking, ask yourself, would we accept the response from a foreign power who said: Oh, of course, we are going to follow the Geneva Conventions. Of course we are not going to use abusive treatment to obtain a confession, prior to December 30, 2020 or 2015? I think this seriously weakens not only the legitimacy of this approach but also our ability to argue with compelling legal and moral force in the future that other nations have to play by the rules.

There are other provisions here in this bill, and there are many of them that I think alter dramatically what we accomplished on a bipartisan basis, what was applauded by General Powell and General Vessey and others.

For example, the committee bill provided that evidence seized outside of the United States shall not be excluded from trial by military commissions on the grounds the evidence was not seized pursuant to a search warrant. That was a very practical provision. We are not going to require a soldier, a special forces operator who is running through the woods of some foreign land, to produce a search warrant when he picks up valuable intelligence material.

But the bill before us deletes the limitation to evidence seized outside the United States. As a result, the bill authorizes the use of evidence that is seized inside the United States without a search warrant. This provision is not limited to evidence seized from enemy combatants. It does not even preclude the seizure of evidence without a warrant when that evidence is seized from United States citizens.

If you want an invitation to irresponsible conduct within the United States, disregarding our principles of justice and the Constitution of the United States, it might be found here because, frankly, we have the obligation to establish rules we can live with. No one is arguing with trying to create some type of situation in which a soldier has to pull out his Black's Law Dictionary and have his warrant and do all these things, but it is quite a bit different from police authorities here in the United States.

Additional problems with this bill: The committee bill, the one we supported in the Armed Services Committee, provided that the procedures and rules of evidence applicable in trials by general courts martial would apply in trials by military commissions, subject to such exceptions as the Secretary of Defense determines to be "required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need." Establish a rule saying: Listen, we are going to use the procedures for courts martial except if the Secretary says there is some expedient circumstance. Because of hostilities, we have to make changes. This approach is consistent with Hamdan and the Supreme Court.

The bill before us reverses the presumption. Instead of starting with the rules applicable in trials by courts martial as the governing provision, and then establishing exceptions, the Secretary of Defense is required to make trials by commission consistent with those rules only when he considers it is practical. The exception has swallowed up the rule.

As one observer has pointed out, this provision is now so vaguely worded that it could even be read to authorize the administration to abandon the presumption of innocence in trials by military commissions, with the claim that military expedience requires a determination that the individual is guilty, and then he or she may prove their innocence. That, I think, is a significant retreat from the standards we established.

There is another major issue here that is so important, and it is often confused; and that is with respect to Common Article 3. In Hamdan, the Supreme Court held that Common Article 3 applies to all members of al-Qaida, terrorists, anyone who comes into our control, not only in the areas of fair trials, but also in the areas of treatment.

But I want to clarify this because this is often, I think, distorted and perhaps deliberately so. Many opponents of this legislation have stated that "terrorists should not be given the same rights as our military personnel." What they are, I think, imprecisely but deliberately, perhaps, suggesting is that we are attempting to treat these individual terrorists as prisoners of war. And that is not the case. There are four Geneva Conventions. The first two protect sick and injured soldiers. The fourth protects civilians in areas of hostilities.

The third convention—not the third Common Article—the third Geneva Convention deals with prisoners of war, our soldiers who fall into the hands of hostile forces. These provisions are very clear about how POWs must be treated. You only have to give your name, rank, and serial number. That is it. Beyond that, there is no question. You cannot have any mental or physical coercion. "[P]risoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind."

That is the way soldiers should be treated—all of our soldiers. But the Supreme Court never said that is the way we have to treat these terrorists. What they said is Common Article 3, which is in every Convention. It establishes a general baseline of the treatment of individuals. POWs are treated at a much higher status because of their uniformed participation in armed conflict, because of their discipline, because of the fact that we expect them to follow rules, too. But people who fall into our hands who are enemy combatants do not deserve that treatment. They are not going to get it here. But they have to be afforded Common Article 3 protection. It has been described as "a convention within a convention."

Common Article 3 of the Geneva Conventions mandates that all persons taking no active part in hostilities, including those who have laid down their arms or been incapacitated by capture or injury, are to be treated humanely and protected from "violence to life and person," and any "outrages upon personal dignity, in particular, humiliating and degrading treatment." Anyone in our custody has to be afforded the protections of Common Article 3.

The PRESIDING OFFICER. The Senator has used 12 minutes.

Mr. REED. Mr. President, I know there are others who wish to speak. I ask unanimous consent for 2 additional minutes to simply summarize.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. We have to follow Common Article 3. However, the bill we are considering today authorizes the President to interpret the Geneva Conventions and provides that such interpretations "shall be authoritative . . . as a matter of U.S. law, in the same manner as other administrative regulations." I think we are verging on a situation where the President, by definition, by clarification, and by regulation, could eviscerate these Common Article 3 protections.

As I mentioned before, Secretary Powell and others have stated this is the core ideal, principle, we have to use in dealing with all of these individuals.

Let me simply conclude, there is, I think, the presumption here that if we do not establish procedures that basically make it a slam dunk case, that we somehow are going to see these terrorists walk away, snub their noses at us, and start actively conspiring against us again.

They will never see the light of day. No President will release these individuals. And no President will be forced under any international law to do so. But we will be judged whether, when we impose punishment—not detention, punishment—on these individuals, we have done it according to our principles that we can argue before the world and the American people represent our values; and we can insist that other nations that may hold our forces or civilians abide by the same principles. That is the issue here today. That is why I support Senator LEVIN's substitute amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). Who yields time?

Mr. LEVIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Ten minutes 16 seconds.

Mr. LEVIN. Mr. President, I yield 9 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 9 minutes.

Mr. BINGAMAN. Mr. President, I thank my colleague from Michigan for yielding me time and I also thank him for bringing forth this amendment.

I strongly support his proposal, essentially, to take the legislation, the agreement that was worked out in the Armed Services Committee by our colleagues, and to substitute that for what is now before us.

This overall military commissions bill has three general areas of focus: first, the rules pertaining to the interrogation of prisoners; second, the procedures we should have in place for the trial of individuals who are brought before military commissions; and, third, the rights of those prisoners who under this bill will continue to be held without being charged at Guantanamo or elsewhere in the world, or even in this country.

Let me take a moment to briefly comment on these first two issues before I discuss the third issue, which I believe has not received the attention that it deserves.

With regard to interrogation techniques, I have been deeply troubled by the administration's insistence on weakening the prohibition on the use of torture and cruel and inhumane treatment. I strongly believe that we can give our military and intelligence officers the tools they need to protect the American public without abandoning our basic decency. The use of torture and other abusive techniques are not only morally repugnant, but they are ineffective and do great damage to our Nation's credibility with respect to our commitment to human rights. They also put our soldiers at risk of being subjected to similar treatment.

Rather than redefining the Geneva Conventions to permit harsh interrogation techniques by the CIA, as the administration had proposed, the Republican compromise legislation retroactively revises the War Crimes Act so that criminal liability does not result from techniques that the United States may have employed, such as simulated drowning, exposure to hypothermia, and prolonged sleep deprivation.

Under the Detainee Treatment Act, which we passed last year to reaffirm the prohibition on torture, the military is clearly prohibited from engaging in torture or cruel, degrading or inhumane treatment, as specified in the recently issued Army Field Manual. However, under the bill we are debating today, the CIA would be allowed to continue to subject detainees to harsh interrogation techniques without fear of criminal liability. As the President has stated, the "program" can continue.

In essence, the legislation defines prisoner abuse and criminal liability in such a way that the administration is able to argue that it is complying with international and domestic legal restraints while at the same time continue to use techniques that amount to abuse under international treaty obligations.

There is also a fundamental lack of clarity with respect to what conduct this legislation forbids. For example, when asked if water-boarding is permitted under this bill, Senator McCAIN has said that it would not be allowed. But if one asks the administration, it will only say CIA interrogation techniques are classified and that the bill allows the CIA to continue to use so-called alternative interrogation techniques—techniques which our military is prohibited from employing.

I think there is little doubt that these disturbing practices continue. This type of legal ambiguity has not served us well with respect to the treatment of detainees, and we should be taking this opportunity to provide greater legal clarity, not further muddying the water.

I am also concerned about the rules and procedures of the newly constituted military commissions. The bill permits statements allegedly derived through coercive means to be used if the statements are probative and were obtained prior to December 2005, which coincides with the enactment of the Detainee Treatment Act. Statements obtained after the enactment of the Detainee Treatment Act cannot be admitted as evidence if they have been derived through interrogation techniques that amount to cruel, unusual, or inhumane treatment as prohibited by the fifth, eighth, and fourteenth amendments to the U.S. Constitution. Essentially we are saying that you can't admit statements derived from coercive methods except for those statements derived when we were using coercive methods. Having these two different standards may be beneficial from the prosecution's perspective in terms of increasing the likelihood that statements will be found admissible, but it is not exactly the clarity we should have with regard to standards of justice.

There are also a variety of problems regarding the rules on hearsay, the appeals process, the definition and retroactive application of crimes, and the admission of secret evidence, among others. Overall, the rules and procedures contained in the proposed legislation fall short of the basic fairness required in any criminal trial.

I wish to talk about the provisions that relate to habeas corpus. One of the most disturbing provisions in the underlying legislation pertains to the disposition of those prisoners who will never be charged before a military commission or any court but who, instead, will be held indefinitely—or at least that option exists for our executive and our military to hold those individuals indefinitely in confinement.

The current bill endorses the administration's practice of designating people, including U.S. citizens, I would point out, as "enemy combatants." It eliminates the ability of aliens—non-U.S. citizens—to bring habeas claims or other claims related to their detention or their treatment or their conditions of confinement.

Whereas the previous attempt to strip the Federal courts of jurisdiction over these individuals under the Detainee Treatment Act applied only to individuals held by the Department of Defense at Guantanamo, this current legislation applies to any alien who is detained by the United States anywhere in the world, including those who are held within the United States. The current language also makes it clear that the elimination of judicial review is retroactive. It applies to all cases involving the detention of individuals since September 11, 2001.

Various of my colleagues have already talked about the right of habeas corpus and its importance in our system of justice. Simply stated, the ability to file a writ of habeas corpus is the right of a person to challenge the legal basis for their detention.

Habeas, which is also known as the Great Writ, is one of the most fundamental protections against arbitrary governmental power. This right dates back to the Magna Carta of 1215, and is enshrined in Article I, section 9, clause 2 of the U.S. Constitution. Filing a habeas petition doesn't entitle a person to a full-blown trial, but it does provide a means to ask whether the person's confinement is in compliance with the law. It doesn't confer any additional constitutional rights; it simply allows a person to ask whether their depravition of liberty is consistent with the Constitution.

One of the principal arguments proponents for removing this protection have put forward in the past was that maintaining habeas rights leads to unnecessary and frivolous litigation. The fact is that these arguments misconstrue the nature of habeas petitions. The reality is, in my view, that court-stripping provisions will not, in fact, lead to less litigation. For example, if this measure is passed, the courts will be forced to consider whether this provision amounts to a suspension of the writ of habeas corpus. If it is determined that it does suspend the writ of habeas corpus, the courts will determine whether the suspension clause of the Constitution has been satisfied. Our Constitution is very clear. It says Congress is afforded the authority to suspend habeas in cases of rebellion and invasion. At a time when our courts are open and functioning, I think a person would be hard-pressed to argue that public safety requires removing judicial review. One would be hard-pressed to argue that we are in a period of rebellion, or that we have suffered an invasion, as that phrase was intended by our Founding Fathers.

The one other issue, of course, that I think is important is that the Constitution gives Congress the power to suspend the writ. Here we are not just suspending the writ; this proposal is to abolish the writ, to permanently eliminate this right, this protection for this group of individuals. In my view, it makes more sense to simply allow the courts to hear the cases that are pending in the courts and determine the legality of the detention that is occurring. It makes more sense to do that than it does to litigate over whether those individuals who are incarcerated, in fact, have a right to have their cases heard.

If what the administration says is true and the indefinite imprisonment of individuals at Guantanamo or elsewhere is legal, then why does the administration continue to fight so hard to eliminate the ability of the courts to hear those cases? If these individuals are in fact "the worst of the worst," which we have been assured; then why is it so difficult to provide some factual basis for continuing to detain them?

The likelihood is that some, and maybe many, of these prisoners have very little to do with terrorism. According to a 2002 CIA report, most of the Guantanamo prisoners "did not belong there." According to a Wall Street Journal article earlier this year, an estimated 70 percent of the individuals held at Guantanamo were wrongfully imprisoned. BG Jay Hood, the former commander at Guantanamo, was quoted as saying, "Sometimes, we just didn't get the right folks."

I don't believe that all of those being held at Guantanamo are innocent. Clearly, they are not. Those who are a threat need to be held accountable for their actions, need to be tried before properly constituted military commissions or criminal courts. Those who are not a threat need to be released and returned to their country of origin. The point is that judicial review allows us to sort the good from the bad and focus our efforts on those who in fact do pose a threat to our country.

It is during times like these that our Founding Fathers envisioned habeas corpus rights needed to be preserved. If judicial review is not required as a matter of law, it makes sense from a policy standpoint to preserve these essential rights in the law. Having a court determine whether a person's detention by the executive branch is consistent with our Constitution and laws does not inhibit this Nation's ability to fight terrorism. To the contrary, ensuring that we are holding the right people not only allows us to focus on those who truly pose a threat, it also will help to reduce criticism in the world community that the United States is not complying with its own laws and Constitution.

In a letter I received from over 30 former diplomats, they stated:

> To proclaim democratic government to the rest of the world as the supreme form of government at the very time that we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interest in the larger world.

I agree with that statement.

It is also important to note that should the current habeas language be removed from the bill, Guantanamo prisoners would still be prohibited from bringing habeas claims in the future under current law. In the Rasul decision, the Supreme Court held that U.S. courts have jurisdiction to hear habeas claims of Guantanamo prisoners. Congress subsequently passed the Detainee Treatment Act, which contained the Graham-Levin compromise language regarding the elimination of habeas. Graham argued that the language was retroactive and barred all pending cases, and Levin argued that the language only eliminated cases initiated after the enactment of the act.

In assessing whether the Supreme Court had jurisdiction to hear the Hamdan case, the Court found that because congressional intent was unclear it would be inappropriate to view the statute as retroactive. As such, if the status quo is maintained, we would still have language on the books that prohibits any future habeas claims from being filed on behalf of Guantanamo prisoners. Although I disagree with the law as it currently stands, Senators should know that if the language in the existing bill is removed, this Congress has already drastically limited judicial review.

It is important to look at the big picture. As general matter, this bill puts in place procedures to try suspected terrorist by military commissions whereby the only ones who will have an opportunity to prove their innocence will be the high-level prisoners. The suspected low-level prisoners will continue to linger in indefinite imprisonment without charges. Before the previous military commissions were found unconstitutional, the administration charged approximately 10 detainees with crimes. None were ever tried. The President has indicated that he now intends to charge the 14 CIA prisoners, or at least some of them, under the newly constituted military commissions.

Therefore, the reality is that of the approximately 450 prisoners now at Guantanamo only about 25 will likely receive trials. Under the compromise legislation, the remaining prisoners, many of whom have been imprisoned for more than 4 years, will not be held accountable nor will they be able to prove their innocence—instead, they will be denied the right to challenge the legality of their continued confinement.

As Rear Admiral John Hutson, Rear Admiral Guter, and Brigadier General Brahms, pointed out in a letter to the Senate Armed Services Committee, the effect of this legislation would be to give greater protections to the likes of Khalid Sheikh Mohammed than to the vast majority of the Guantanamo detainees, who claim that they have nothing to do with al-Qaida or the Taliban.

Mr. President I ask unanimous consent that this letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. BINGAMAN. Most troubling of all, with this legislation Congress is giving its consent to the executive branch to continue to unilaterally designate individuals as enemy combatants and imprison them indefinitely. We are saying that the President can pick up whoever he wants, designate them an enemy combatant and hold them without substantive judicial review.

I know that many of my colleagues have worked to ensure that the military commission procedures comply with our international legal obligations under the Geneva Conventions and that our Nation's soldiers are not put at risk by diminished standards. I support these efforts, and believe that the trial of these suspected terrorists is long overdue. However, passing this flawed bill is not the solution.

Mr. President, this debate is about who we are as a people and whether we are going to continue to adhere to the rule of law and basic human rights. It is about our fundamental values as a people. The U.S. Constitution was crafted by men who were keenly aware of the potential abuse that could result from providing the executive branch with unrestrained powers with respect to individuals' liberties. The Constitution was crafted to be relevant in the good times, as well as in the times when our Nation faces domestic or foreign threats.

It deeply concerns me that with this bill we are sanctioning the indefinite imprisonment of people without charges. This is wrong. Should this legislation pass as currently drafted, history will not look kindly on this mistaken endeavor.

Frankly, the notion that Congress is willing to provide the President with the authority to indefinitely imprison people without ever having to charge them is quite astonishing. What is more amazing is that the Senate appears prepared to do so after one brief hearing in the Senate Judiciary Committee on the issue and with little substantive debate on the Senate floor.

We must also remember that in establishing these military commissions we are not solving the Guantanamo problem. This legislation will result in a flurry of legal challenges. The administration's handling of detainee issues has brought us Guantanamo, Abu Griab, and a series of Supreme Court decisions rejecting the administration's legal positions. Let us not complicate the problem by enacting the provisions.

Mr. President, I yield the floor.

EXHIBIT 1

SEPTEMBER 12, 2006.

Senator JOHN WARNER,
Chairman, U.S. Senate Committee on Armed Services, U.S. Senate, Washington, DC.
Senator CARL LEVIN,
Ranking Member, U.S. Senate Committee on Armed Services, U.S. Senate, Washington, DC.

We find it necessary yet again to communicate with you about issues arising out of our policies concerning detainees held at Guantanamo Bay. It would appear that each time the U.S. Supreme Court speaks, efforts are taken to reverse by legislation the decision of the Court. We refer, of course, to the Supreme Court's *Rasul* and *Hamdan* decisions and to the provision in the Administration's proposed Military Commissions Act of 2006 that would strip the federal courts of jurisdiction over even the pending habeas cases that have been brought by the detainees at Guantanamo to challenge the basis for their detention. We urge you to reject any such habeas-stripping provision.

As we have argued and agreed since 9/11, it is necessary for Congress to enact legislation to create military commissions that recognize both the basic notions of due process and the need for specialized rules and procedures to deal with the new paradigm we call the war on terror. This effort must cover those already charged with violating the laws of war and those newly transferred to Guantanamo Bay.

But the military commissions we are now fashioning will have no application to the vast majority of the detainees who have never been charged, and most likely never will be charged. These detainees will not go before any commissions, but will continue to be held as "enemy combatants." It is critical to these detainees, who have not been charged with any crime, that Congress not strip the courts of jurisdiction to hear their pending habeas cases. The habeas cases are the only avenue open for them to challenge the bases for their detention—potentially life imprisonment—as "enemy combatants."

We strongly agree with those who have argued that we must arrive at a position worthy of American values, i.e., that we will not allow military commissions to rely on secret evidence, hearsay, and evidence obtained by torture. But it would be utterly inconsistent, and unworthy of American values, to include language in the draft bill that would, at the same time, strip the courts of habeas jurisdiction and allow detainees to be held, potentially for life, based on CSRT determinations that relied on just such evidence. The effect would be to give greater protections to the likes of Khalid Sheikh Mohammed than to the vast majority of the Guantanamo detainees, who claim that they had nothing to do with al Qaeda or the Taliban.

We are on a course that should have been plotted and navigated years ago, and we might be close to consensus. We ask that, in the closing moments of your consideration of this vital bill, you restore the faith of those who long have been a voice for simple commitment to our longstanding basic principles, to our integrity as a nation, and to the rule of law. We urge you to oppose any further erosion of the proper authority of our courts and to reject any provision that would strip the courts of habeas jurisdiction.

As Alexander Hamilton and James Madison emphasized in the Federalist Papers, the writ of habeas corpus embodies principles fundamental to our nation. It is the essence of the rule of law, ensuring that neither king nor executive may deprive a person of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved. Fair hearings do not jeopardize our security. They are what our country stands for.

Sincerely,

JOHN D. HUTSON,
Rear Admiral, JAGC, USN (Ret.).
DONALD J. GUTER,
Rear Admiral, JAGC, USN (Ret.).
DAVID M. BRAHMS,
Brigadier General, USMC (Ret.).

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, we are prepared to yield back the time on this side. First, I simply say to my colleagues that this has been a good debate. But I assure colleagues that the bill now before them has been very carefully reviewed by the Department of Justice, and I have even reached out to scholars—lawyers who I know have a considerable depth of knowledge about international matters as well as our own fabric of law as it relates to criminal prosecution. I myself served as assistant U.S. attorney for close to 5 years.

We bring before this Chamber a work product which we believe is consistent with international as well as domestic law. It strikes a balance. We have no intention to try to accord aliens engaged as unlawful combatants with all the rights and privileges of American citizens, but we recognize that they are human beings, and this country has standards that respect life and human beings. But at the same time, we are engaged in a war on terror. Let there be no mistake about that.

One of the challenges in this war on terror is with these individuals who are willing to act as human bombs. It doesn't have a lot of precedent. We have been very careful to try to strike a balance between the standards and principles that guide this Nation, at the same time recognizing that we need the tools to fight this war on terror—fighting it in a way that not only enables our men and women in the Armed Forces in forward deployments to carry out their missions but to preserve and protect us here at home from tragic incidents like we experienced on 9/11.

As I have worked through each of these provisions and consulted with my colleagues, I always bring up the images of 9/11. I think our President has done his best to try to prepare this Nation, in many ways, to protect ourselves from the repetition of that or any incident like it—a lesser incident or a greater incident. It is a constant challenge.

But the bill before this body represents our best product that we could achieve, working together and in consultation with a wide range of individuals who have an expertise in these complicated legal matters and can provide to us their own corroboration of our judgments as to how best to structure this legal document and strike the balance that we must between our standards of law and our recognition of international law. I think that is the hallmark of what Senators MCCAIN, GRAHAM, and myself set out to do—to make sure this Nation cannot be perceived as trying to rewrite in any way Common Article 3, which is the law of our land, I remind citizens who are following this debate. It is the international treaties to which we, with the advice and consent of the Senate and that of the President, acceded and signed, and it has become part of the law of the land. I am proud of the work we have done, certainly, in that complicated area, as well as others.

Mr. President, at this time, I am prepared to yield back all the time on this side and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, there is no question that we have to fight the war on terrorism, and we can win that war, but we can do so without compromising the very principles that govern this Nation and have given us strength and attract us to so many other nations. Those principles are compromised in the bill before us. They were not compromised in the committee bill that passed on a bipartisan vote.

Here are two quick examples of how our basic principles are compromised in this bill: Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant. In other words, in the United States of America, evidence can be seized from an American citizen, not an enemy combatant—it can be seized from any one of us without a search warrant and used in one of these trials. This language in the bill which is before us would authorize the use of that evidence so seized. That is a fundamental compromise with the principles that have governed this Nation. We have never allowed testimony and statements that have been obtained through cruel and inhuman treatment to be introduced into evidence. Yet that is the way the bill is written.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, I ask unanimous consent for 30 additional seconds to finish that statement.

Mr. WARNER. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair.

A second example of how a fundamental principle is compromised in the bill before us is, if a statement is obtained through cruel and inhuman treatment of somebody, for the first time in American jurisprudence, this bill would apparently say that statement is allowable in evidence if it was acquired before December 30, 2005. That is unlike statements that are acquired after December 30, 2005, where there are no ifs, ands, or buts, there are no other tests that need to be applied—if it was obtained through cruel and inhuman treatment, it is not admissible into evidence. That is a fundamental principle which is not followed for statements obtained before December 30, 2005, in the bill before us. That is another example of why the substitute, I hope, will be adopted, which is the committee bill—a bipartisan bill—that is now before us.

Mr. WARNER. Mr. President, I ask to reclaim about 6 minutes of my time so that I can engage my colleague in a colloquy.

The PRESIDING OFFICER. The Senator has that right and may reclaim his time.

Mr. WARNER. Mr. President, I wish to make clear that category of evidence cannot reach those established standards of torture. No evidence that was gained by means that are tantamount to the torture can be admitted.

Mr. President, I ask my colleague, am I not correct in that statement?

Mr. LEVIN. That is correct. That is not in dispute.

Mr. WARNER. Does the Senator concur in that statement?

Mr. LEVIN. I surely do. We are talking here about cruel and inhuman treatment.

Mr. WARNER. Correct, but the judge of the court is going to look at that evidence. We have set forth certain standards that have to be met, but one standard that judge cannot violate is the standard of torture. If that case can be made, then that judge has no ability to admit any evidence which is tantamount to torture. I ask my colleague, is that not correct?

Mr. LEVIN. The statement is correct. The issue, of course, which we are debating is why, relative to statements obtained prior to December 30, 2005, is another test omitted, which is present for statements obtained after December 30, 2005, which are statements that are obtained through cruel and inhuman treatment. That is the issue which I raised.

Mr. WARNER. Lastly, Mr. President, I ask my colleague, he makes reference to the illegal searches and seizures, which is the fourth amendment to the U.S. Constitution. That Constitution does not give protection to aliens who are the subject of these trials; am I not correct in that?

Mr. LEVIN. I think that is true. It may or may not protect aliens, but it does protect American citizens. And the language on page 21 does not protect American citizens from seizures that are illegal. It says:

> Anything which is seized without a search warrant is allowable into these trials.

It is not limited to material that is seized from aliens or material which is seized from enemy combatants. It says illegally obtained material can be admitted into this trial, period.

We had such a restriction in the bill which came out of committee so that it was limited to evidence which was seized abroad, for instance. That would be fine because they may not have the fourth amendment that we do. But in the bill which is now before us, there is no such limitation.

I will read the one sentence:

> Evidence shall not be excluded—

Shall not be excluded—

> from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

In the substitute bill, that allowance of illegally seized evidence is limited to evidence which is not seized from American citizens here. So that distinction has been obliterated in the bill which is before us.

Mr. WARNER. Mr. President, we have clearly debated it, but I want to make, in conclusion, the observation that no evidence which is the consequence of torture can be admitted. The aliens are not entitled to the constitutional provisions of the fourth amendment and, therefore, I urge our colleagues to think carefully through those arguments which we believe we have fully answered and carefully written this bill to be in conformity with our Constitution.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 5086. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Arizona (Mr. McCAIN) and the Senator from Maine (Ms. SNOWE).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lott
Lugar
Martinez
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Inouye
McCain
Snowe

The amendment (No. 5086) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers, working with our leadership, of course, have a designated number of amendments. My understanding at this time is that the Senator from Pennsylvania will be recognized for the purpose of proposing an amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 5087

(Purpose: To strike the provision regarding habeas review)

Mr. SPECTER. Mr. President, I call up amendment No. 5064.

The PRESIDING OFFICER. The Senator is advised we have No. 5087 at the desk?

Mr. SPECTER. The amendment which I seek to call up, Mr. President, is one which proposes to strike section 7 of the Military Commission Act entirely.

Mr. WARNER. Mr. President, if the Senator will yield for a moment, I ask the Chair to recite the unanimous consent agreement with regard to the amendment of Senator SPECTER, the time limitation being?

The PRESIDING OFFICER. The amendment has 2 hours equally divided on it.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. LEAHY, Mr. DODD, and Mr. FEINGOLD, proposes an amendment numbered 5087:

On page 93 strike line 9 and all that follows through page 94, line 13.

Mr. LEAHY. Mr. President, will the Senator yield for a couple of clarifications?

Mr. SPECTER. I do yield.

Mr. LEAHY. Mr. President, in stating the time, isn't there also the remainder of the time? I did not use my full 45 minutes this afternoon. Doesn't the Senator from Vermont have some remaining time on this amendment?

The PRESIDING OFFICER. The Senator from Vermont has remaining time on the bill.

Mr. LEAHY. How much time is that?

The PRESIDING OFFICER. The Senator from Vermont has 23 minutes on the bill.

Mr. LEAHY. Mr. President, am I correct that the amendment is offered on behalf of the distinguished senior Senator from Pennsylvania and myself, the distinguished senior Senator from Connecticut, and the distinguished Senator from Wisconsin, Mr. FEINGOLD?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask and also the distinguished Senator from North Dakota, Mr. DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. If the Senator from Pennsylvania will yield just for a question?

Mr. SPECTER. I do.

Mr. REID. I have had conversations—I have not spoken with the Senator from Pennsylvania, but I have spoken with his staff on a number of occasions. I had the understanding that the Senator would be able to give Senator LEAHY a few minutes off of his time to speak on this amendment?

Mr. SPECTER. I will consider that, depending on how the argument goes. I appreciate very much the contribution of the distinguished ranking member. I do not know how many people on this side are going to seek time, but I do believe we can accommodate the request of Senator LEAHY. But I want to see how the argument goes before making a commitment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, substantively, my amendment would retain the constitutional right of habeas corpus for people detained at Guantanamo. The bill before the Senate strips the Federal district court of jurisdiction to hear these cases. The right of habeas corpus was established in the Magna Carta in 1215 when, in England, there was action taken against King John to establish a procedure to prevent illegal detention.

What the bill seeks to do is to set back basic rights by some 900 years. This amendment would strike that provision and make certain that the constitutional right and the statutory right—but fundamentally the constitutional right of habeas corpus—is maintained. The core provision is contained in article I, section 9, clause 2 of the U.S. Constitution, which states:

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

We do not have either rebellion or invasion, so it is a little hard for me to see, as a basic principle of constitutional law, how the Congress can suspend the writ of habeas corpus in the face of that flat language. When you have an issue of constitutionality, how can constitutionality be determined and interpreted except in the Court?

We had a very extended discussion of this in the confirmation of Chief Justice Rehnquist, and the Chief Justice said that the Congress of the United States lacked the authority to remove the jurisdiction of the Federal courts on issues involving the first amendment.

The same thing would apply generally. It is a constitutional question. But here you have it buttressed in addition by an express provision by the Framers, focusing on the writ of habeas corpus in and of itself, and saying you can't suspend it, so that anyone who can make an argument about stripping jurisdiction—I don't think it lies on a constitutional issue generally because if it does, who is going to interpret the Constitution if the Court does not have jurisdiction? But the writ of habeas corpus is so important and so fundamental and so deeply ingrained in our tradition, going back to 1215 against King John, that the Framers made it expressed and explicit.

It appears to me that this is really dispositive and you don't really need several hours to develop it. But I shall proceed on the matter as to how we got where we are and what the Supreme Court has had to say in four major cases in the course of the last 18 months.

The Congress of the United States has the express responsibility under article I, section 8 of the U.S. Constitution to establish rules governing people captured on land and sea. But the Congress of the United States did not act after 9/11, and we had people detained at Guantanamo. Legislation was introduced by many Senators. Senator DURBIN and I introduced a bill. Senator LEAHY introduced a bill. Many Senators introduced legislation, but the Congress did not act on it. Congress did not act on it because it was too hot to handle. What resulted is what results many times—Congress punted. It didn't act, left it to the Supreme Court of the United States. That took a long time, to have these cases come through the judicial process.

Finally, in June of 2005 the Supreme Court ruled in three major cases: Hamdan v. Rumsfeld, Rasul v. Bush, and Rumsfeld v. Padilla. The Supreme Court of the United States rejected the argument of the Government that the President had inherent power under article 2 and could act on that constitutional authority, and the Supreme Court said that habeas corpus was effective.

In Rasul v. Bush, the Supreme Court said that it applied even to aliens. It didn't have to be a citizen; that the Constitution draws no distinction between Americans and aliens held in custody and said the writ of habeas corpus applied.

In the case of Hamdi v. Rumsfeld, Justice O'Connor had this to say: All agree that absent suspension, the writ of habeas corpus remains available to every individual detained within the United States.

That was held to apply to Guantanamo, since the United States controlled Guantanamo.

Justice O'Connor went on to say that under the U.S. Constitution, article I, section 9, clause 2:

> The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Justice O'Connor then goes on to delineate statute 2241, which sets the outline of the procedures, and then says habeas petitioners would have the same opportunity to present and rebut facts that court cases like this retain some ability to vary the ways in which they do so as mandated by due process.

What has happened in Guantanamo with respect to the proceedings under the Combat Status Review Tribunal, referred to as CSRT, demonstrates the importance of having some impartial judicial review to find what, in fact, has happened. These tribunals operate with very little information. Somebody is picked up on the battlefield. There is no record preserved as to what that individual did. If there was a weapon involved, it has been placed with many other weapons, and it can't be identified. The proceedings simply do not comport with basic fairness because the individuals do not have the right to know what evidence there is against them.

Repeatedly, the Combat Status Review Tribunal said the information is classified and the individual can't have it.

There was specific reference to the proceedings in the CSRT in the case action en re: Guantanamo Detainee Cases, 355 Fed. Sup. Section 443, 2005. The U.S. District Court for the District of Columbia criticized the way CSRTs required detainees to answer allegations based on information that cannot be disclosed to the detainees. The Court described what might be referred to as a comical scene, where the detainee said he couldn't answer the allegations whether the detainee associated with a known al-Qaida operative because the tribunal could not provide the alleged operative's name.

The detainee said: Give me his name.

The tribunal said: I do not know.

The detainee said: How can I answer this?

The detainee's frustration reportedly led to laughter among all of the tribunal's participants. And the District Court then said:

> The laughter reflected in the transcript is understandable, and this exchange might have been humorous had the consequences of the detainee's enemy combatant status not been so terribly serious and had the detainee's criticism of the process not been so piercingly accurate.

How can you sanction that kind of a proceeding? If it is not a sham, it certainly is insufficient. As I reflect on it, it is more than insufficient. It is, in fact, a sham.

When it was apparent that both the committee bill and the administration's position was going to strike habeas corpus, the Judiciary Committee held on short notice a hearing on Monday. We had a distinguished array of witnesses appear. LCDR Charles Swift was present. The attorney who represented Hamdan before the Supreme Court gave very compelling evidence as to why habeas corpus was indispensable in order to have basic justice. Bruce Fein, ranking member of the Reagan administration in the Justice Department, was emphatic on his conclusion about the need to retain habeas corpus. The very distinguished retired U.S. Navy rear admiral, John Hutson, who is now the dean of the Franklin Pierce Law Center, testified about his experience and the importance of retaining habeas corpus. We called, as a matter of balance, other witnesses: David Rivkin and Bradford A. Berenson.

I commend to my colleagues the testimony of Thomas P. Sullivan, LCDR Charles D. Swift, Bruce Fein, David B. Rivkin, Jr., Bradford A. Berenson, and John D. Hutson.

Mr. President, the testimony that was given by Thomas P. Sullivan was especially poignant. Mr. Sullivan is a man in his late seventies. He was U.S. Attorney for 4 years in the late 1970s. He has a distinguished law practice with Jenner & Block. He has been to Guantanamo on many occasions and has represented many people who are detained in Guantanamo.

His testimony was, as I say, especially poignant when he said that long after all of those in the hearing room are dead, there would be an apology made if habeas corpus is denied, just as the apology was made after the detention of the Japanese in World War II being a denial of basic and fundamental fairness, where we in the United States pride ourselves on the rule of law.

He made reference to a number of individual cases where the proceedings before the Combat Status Review Tribunal were just totally insufficient, reflecting hearings where individuals were called in, they did not speak the language, they did not have an attorney, they did not have access to the information which was presented against them, and they were detained.

Mr. President, documentation presented to the committee speaks eloquently and emphatically about the procedures which lack the most fundamental of due process. These individuals did not know what their charges were; they were so vague and illusory, just like the detainee who was alleged to have an al-Qaida associate. They wouldn't even produce the man's name. How do you know what the charge is? Then they don't have attorneys. Then they don't know what the evidence is. It is classified, and they are not told what the evidence is.

This goes back, again, to Justice O'Connor's opinion where she says:

> Habeas petitioners would have some opportunity to present and rebut facts.

Well, how can you rebut facts when you do not know what the facts are? How can you rebut facts when the material is classified and you are not told what the alleged facts are? That is why it is so important that the courts be open.

I have had considerable experience with habeas corpus when I was a prosecuting attorney. When a habeas corpus petition is presented, it requires the government—the Commonwealth of Pennsylvania when I was DA—to take a close look at the case and to focus on it.

One of the matters that was inserted into the RECORD from Mr. Sullivan, after he filed the petition for a writ of habeas corpus and was proceeding to gather evidence to present it, he says:

> Several months ago without notice to me and without explanation, compensation, or apology, the United States Government returned Mr. Abdul-Hadi al Siba to Saudi Arabia.

So when the Government had to defend, apparently they found out what the case was about. When they had to find out what the case was about, they sent the detainee back to Saudi Arabia.

But here we have a very explicit statement by Justice O'Connor about the right to rebut the facts. It simply is not present in the proceedings which happened before the Combat Status Review Tribunal.

Kenneth Starr, formerly Solicitor General, formerly judge on the Court of Appeals for the District of Columbia, could not be present at our hearing on Monday but submitted this letter dated September 24. I will not read it in its entirety but only the first sentence where he says:

> I write to express my concerns about the limitation on writ of habeas corpus contained in the comprehensive military commissions bill.

Then, in the third paragraph, he cites article I, section 9, clause 2, which I have referred to, about the privilege being suspended only in the case of invasion or rebellion, and again notes the obvious—that we do not face either an invasion or rebellion.

Mr. President, how much time of my hour remains?

The PRESIDING OFFICER. The Senator has consumed 21 minutes.

Mr. SPECTER. Mr. President, that states the essence of the proposition.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, if I could just use such time as I want, I will not take much because I am anxious for my colleagues to address this issue.

The distinguished Senator from Pennsylvania made the statement that they have constitutional rights. I wish to respectfully sort of differ with the Senator. The Supreme Court, in the Rasul case, ruled that rights of aliens held at Guantanamo Bay, Cuba, 28 U.S.C. 2241—the Court did not reach the question of the constitutional right of habeas corpus that applies to a U.S. citizen; of course, they being aliens. In the Rasul case, the Court interpreted the habeas corpus statute, section 2241, to apply to an alien held at Guantanamo Bay. That holding is based in large part due to the unique long-term lease that the Court took judicial notice of and other evidence brought before the Court, the long-term lease tantamount to U.S. territory.

For more than 50 years, the Court held that aliens in military detention outside the United States had no right to petition the Federal courts for review of their military detention. So I question whether you can elevate that to a constitutional status.

Mr. SPECTER. If I may respond, Mr. President, I didn't cite Rasul v. Bush for a constitutional proposition. I cited Hamdan v. Rumsfeld, and I cited the opinion of Justice O'Connor. But let me repeat it because it is the core consideration. She said:

> All agree that absent suspicion the writ of habeas corpus remains available to every individual detained within the United States. Of course, that does include Guantanamo.

Then Justice O'Connor goes on to say:

> United States Constitution, article I, section 9, clause 2, privilege of writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety requires it.

Then she says that all agree that suspension of the writ has not occurred here. Then she deals with the statute, 2241, and makes the comment that it sets the procedures, but Justice O'Connor puts detention in the Hamdi case squarely on constitutional grounds.

Mr. WARNER. There are a variety of divided opinions on that point.

At this time, I will regain the floor and discuss this issue. I am anxious to hear from my two colleagues, one from South Carolina and one from Texas, who seek recognition.

Mr. SPECTER. If I might be recognized.

Mr. WARNER. I yield the floor on my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, what the distinguished chairman says is accurate about Rasul, but you have Hamdi, which puts it on constitutional grounds. It is that simple.

I yield the floor.

Mr. WARNER. I yield such time as the distinguished Senator from South Carolina desires.

Mr. GRAHAM. Mr. President, this debate is a strength, not a weakness, in our country.

In my opinion, the fundamental question for the Senate to answer when it comes to determining enemy combatant status is. Who should make that determination? Should that be a military decision or should it be a judicial decision?

I am firmly in the camp that when it comes to determining who an enemy of the United States is, one who has taken up arms and who presents a threat to our Nation, that is not something judges are trained to do, nor should they be doing. That is something our military should do.

For as long as I have been a military lawyer, Geneva Conventions article 4, where it talks about a competent tribunal to decide whether a person is a civilian—lawful, unlawful, combatant—that competent tribunal has been seen in terms of military people making those decisions.

I have a tremendous respect for our courts. We will follow whatever they tell Congress to do because we are a rule-of-law nation, but this Congress has a role to play.

Unlike my chairman, Senator SPECTER, I believe the question before the Congress is not whether an enemy combatant noncitizen alien has a constitutional right to habeas corpus because I don't believe that is what the court has said. The issue for the Congress is whether habeas corpus rights should be given to an enemy combatant noncitizen under section 2241 and whether the military should make the determination of who an enemy combatant is versus judiciary.

What happens now is that when someone is brought to Guantanamo Bay, very shortly after they arrive, the military will create a combat status review tribunal that is supposed to be compliant with article 4 of the Geneva Conventions, a competent tribunal.

When we look at the history of competent tribunals, normally they are one person. We will have three people. Of the three people will be a military intelligence officer—and it could be other officers within our military who have expertise in determining what the battlefield situation is and who is involved with the enemy forces and who is not. That tribunal has an evidentiary standard to meet. The tribunal must make a finding by a preponderance of the evidence that the person before them indeed fits within the definition "enemy combatant." There is a rebuttal of presumption in favor of the Government's evidence.

Our Federal courts will have the opportunity shortly to determine whether the combat status review tribunal is constitutional due process. The reason I say that is because under the Detainee Treatment Act we passed last year, every detainee at Guantanamo Bay will have their day in Federal court.

After the military renders their decision that they are an enemy combatant, as a matter of right each person can go to the DC Circuit Court of Appeals, and the Federal DC Circuit Court of Appeals will look at that case with two issues before them: Does this CSRT process, the annual review board, does it constitutionally pass muster as being adequate due process not only under the Geneva Conventions but under our Constitution to the extent it applies? Second, was the decision rendered by that board finding the person enemy combatant by the preponderance of the evidence—the standards and procedures involved, do they pass muster? And in the individual case, did they get it right? That is the structure for them to decide the issue set up in a constitutionally sound manner.

The reason I oppose my chairman, for whom I have great respect, is because the habeas process is a doctrine that is normally associated with criminal law, and we are in a war. The Japanese and German prisoners we interred in World War II never had access to our Federal courts to bring lawsuits against the people who confined them our own troops—for a reason: it was a right not given in international law to an enemy prisoner, and it was not a right we gave to any prisoner we have held in the history of our country consciously as Congress.

The problem in this case is the Government argued that Guantanamo Bay was outside the jurisdiction of the United States. Why is it important? It is clear that our habeas statutes do not apply overseas. The Government lost that argument. Chairman SPECTER is absolutely right. The court said that for legal purposes, Guantanamo Bay falls within the confines of the United States. Section 2241, the habeas statute, unless Congress says otherwise, will apply to this environment.

Now it is time for Congress to decide, in its wisdom, whether the Federal courts should be determining who an enemy combatant is through a habeas action. Do we want that to reside in the military, where it has been for our whole history, and allow Federal courts to review the military decision, not substitute their judgment for the military?

It is not about who loves America and who is un-American. Mr. Sullivan came to my office yesterday. He is a lawyer representing detainees at Guantanamo Bay. He is a great American. He gave me four or five stories about how his client appeared before the Combat Status Review Tribunal, and he had nothing but bad things to say about the way his client was treated and the procedures in place.

Once a week, I get a call from somebody from South Carolina who says their family member was screwed in court. And then what I try to do is to make sure we listen to them respectfully but understand that there are a lot of complaints about any system.

Mr. Sullivan's complaints got me thinking, and I think there is a way to provide some remedies that do not exist now without substituting judges for military officers when it comes to wartime decisions. I will privately talk to him about that.

I urge this Senate to think in broad terms. Do we really want to allow the Federal judiciary to have trials over every decision about who an enemy combatant is or is not, taking that away from the military? Do we really want the people who have been housed by our military to bring every known lawsuit to man against the people fighting the war and protecting us?

I compliment Senator SPECTER because in this new version they take the conditions of confinement lawsuits off the table. There are 400-something cases that have been filed arising from Guantanamo Bay detention. There is a $300 million lawsuit against Secretary Rumsfeld. There are allegations that people do not get enough exercise. It goes on and on and on. Never in the history of warfare has the host country allowed an enemy prisoner to bring a court case against those people who are fighting the enemy on behalf of the host country. That needs to stop.

I am urging this Senate to dismiss under 2241 the right of habeas actions by enemy prisoners so that judges will not take the role of the military. Adopt anew what we did last year, allowing the military to use a process that I believe is Geneva Conventions compliant, and then some, and have as a backstop judicial review, where the DC Circuit Court of Appeals can review the military's decision. That way, we will have due process unknown to any other war. That will keep the roles of the responsible parties intact. The role of the military in a time of war, I earnestly believe, is to control the battlefield and to designate who is in bounds and out of bounds when it comes to the battlefield. The role of the courts in a time of war is to pass muster and judgment over the processes we create—not substituting their judgment for the military but passing judgment over the infrastructure the military uses to make these decisions.

The problem with this war—there is no capital to conquer, no navy to sink, no army to defeat. The people we are fighting owe an allegiance to an idea, not to a piece of property. They have no home to defend. They have an idea they would like to sell, and they are selling that idea, whether you want to buy it or not. They are selling it in a very brutal way. They are trying to get good and decent people accepting their view of the world because they are terrified of the way the enemy behaves. This is a war unlike other wars in this regard. People do not wear uniforms, but the ideas the terrorists represent are not unknown to mankind. Hitler wore a uniform. He had the same view of mankind as these people do: there are some people not worth living because they are different.

We have to adjust, but we do not need to change who we are. I am not asking this Senate to change who America is because we are fighting barbarians. Quite honestly, we will never win this war if we move in their direction. Our goal is to get the world to move in our direction by practicing what we preach.

I believe the way to balance the interests of our need to protect ourselves and to adhere to the rule of law is to apply the law of armed conflict, not criminal law.

The act of 9/11, in my opinion, was an act of war, not a crime. And the problem with this country is the people we are fighting were at war with us a long time before we knew we were at war with them. Now we are at war.

This administration, on occasion, in my opinion, has tried to cut the corners of the law of armed conflict. I embrace the law of conflict. I want to fully apply the actions of the United States. I embrace the Geneva Conventions. I want to apply it fully to the war we are fighting even though our enemy will not. But I am insistent, with my vote and with my time in this Senate, that we fight the war and not criminalize the war.

No enemy prisoner should have access to Federal courts—a noncitizen, enemy combatant terrorist—to bring a lawsuit against those fighting on our behalf. No judge should have the ability to make a decision that has been historically reserved to the military. That does not make us safer.

There is due process in place for the enemy combatants at Guantanamo Bay, Afghanistan, and Iraq that I believe is Geneva Conventions compliant. There is judicial review consistent with the military being the lead agency. I urge this Senate to adopt that and to reject this amendment.

I yield the floor.

Mr. SPECTER. Will the Senator from South Carolina respond to a question?

Mr. GRAHAM. I will try.

Mr. SPECTER. I direct an inquiry to my colleague from South Carolina. Would the Senator respond to the question?

Mr. GRAHAM. Yes. I will try my best.

Mr. SPECTER. I didn't want you to yield for a question because I didn't want to interrupt your presentation.

I begin by complimenting the Senator from South Carolina for his excellent work. He and Senator WARNER and Senator MCCAIN have done exemplary work in maintaining the Geneva Conventions and appropriate rules and to classify evidence.

When you talk about constitutional issues and you talk about section 2241, I agree with the Senator, but how do you deal with the flat terms of the Constitution, "the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion public safety may require it"? How do you deal with that if you do not have rebellion?

Mr. GRAHAM. Mr. Chairman, I guess one could make that argument. I have been assuming something from the beginning—that the Court's decision in Rasul and Hamdi is a statement by the Court that because Guantanamo Bay falls within the jurisdiction of the United States, it is section 2241 that we are dealing with. It is a statutory right of habeas that has been granted to enemy combatants. And if there is a constitutional right of habeas corpus given to enemy combatants, that is a totally different endeavor, and it would change in many ways what I have said.

I do not know what the Court will decide, but if the Court does say in the next round of legal appeals there is a constitutional right to habeas corpus by those detained at Guantanamo Bay, then the Senator is absolutely right. We would have to make a different legal determination. We would have to make a different legal analysis. And if the Court does that, I will sit down with the Senator and we will figure out how to work through that.

I am just being as honest with the Senator as I know how to be. I think this is a statutory problem, not a constitutional problem.

Mr. SPECTER. Well, Mr. President, the distinguished chairman of the Armed Services Committee says he does not want to come back and legislate again. If this bill is passed, we will be right back here at a later date.

When the Senator from South Carolina says it is not on constitutional grounds, the plain English of the decision says it is. But let me ask the Senator one further question; that is, you fought hard to have classified evidence available in the trials, albeit a war crimes trial. And you have Justice O'Connor saying they have to have the opportunity to rebut facts. When these proceedings are handled so much on classified information the detainees cannot see, would it not be consistent with your approach on classified information generally to at least have them know something about the charge so they can rebut the facts?

Mr. GRAHAM. If I may, I would invite the chairman—I cannot remember what paragraph the language is in, but Justice O'Connor gave some guidance to the military—I think it is Army Regulation 190-dash-something—that she indicated would be a proper mechanism or at least a guide of how to set up due process rights for this administrative determination. So after that decision, I know the military looked at the Army regulation that she cited and built the CSRT process off that concept. I am of the opinion that the Combat Status Review Tribunal does afford the rights Justice O'Connor indicated and is more than the Army regulation would allow that she cited, and it is fully compliant with article 5 of the Geneva Conventions—competent tribunal—but if you look in that decision, she mentions an Army regulation as a guide as to how to do this. I think the military, the Department of Defense, has gone beyond that.

Mr. SPECTER. Well, Mr. President, there is flexibility, I agree, but the determination as to whether that flexibility is adequate is up to the Court. That is what the Supreme Court has said.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

I would say to my colleague, there is an interesting thing we best watch here as we are trying to determine the rights of these people because it seems to me if there is such a fundamental right of constitutionality attached to this thing, then someone might argue: Well, if it is actionable in Guantanamo—this lease thing is to me a fairly weak basis on which to do it—what about 18,000 in our custody in Iraq now? So we just better exercise a little caution as we begin to use that because if we begin to extend habeas corpus to 18,000 in Iraq, we have a problem.

Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I stipulate that Senator WARNER is right about Iraq on this point.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I have a longer presentation, but what I would like to do is respond specifically to the argument Senator SPECTER is now making, and then Senator CORNYN has longer remarks to make.

Let me begin by saying that I have the utmost respect for the chairman of the committee, my friend, the Senator from Pennsylvania. And he is entitled to be wrong once in a while. In this matter, he is wrong. It was testimony before the committee on Monday that verifies that this is not a constitutional issue with respect to aliens. It is only a constitutional issue with respect to citizens.

This legislation has nothing to do with citizens. The decision cited by the Senator from Pennsylvania is the Hamdi decision, which dealt with a U.S. citizen. And, of course, the writ of habeas corpus applies to U.S. citizens. Our legislation does not.

Here is what David Rivkin, a partner at Baker & Hostetler law firm, testified to on Monday. He said in this legislation:

> We are giving [alien enemy combatants] a lot more . . . than they are legally entitled to under either international [law] or the law in the U.S. constitution.

Now, let me just proceed from that. Our Supreme Court has held that U.S. constitutional protections do not apply to aliens held outside of our borders. The Johnson v. Eisentrager case, for example, rejected the view that the U.S. Constitution applies to enemy war prisoners held abroad, saying:

> No decision of this Court supports such a view. None of the learned commentators on our Constitution has ever hinted at it. The practice of every modern government is opposed to it.

In 1990, the Supreme Court reaffirmed this view in the Verdugo case, saying:

> [W]e have rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States.

That case also makes it clear that constitutional protections do not extend to aliens detained in this country who have no substantial connection to this country. The Supreme Court there said that aliens "receive constitutional protections when they have come within the territory of the United States and developed substantial connections with this country."

The Verdugo Court further clarified that "lawful but involuntary" presence in the United States "is not of the sort to indicate any substantial connection with our country."

Now, the Rasul case took great pains to emphasize that its extension of habeas to Guantanamo Bay was only statutory. Some Justices may have wanted to make Rasul a constitutional holding, but there was no majority for such a ruling.

So both Eisentrager and Verdugo are still the governing law in this area. These precedents hold that aliens who are either held abroad or held here but have no other substantial connection to this country are not entitled to invoke the U.S. Constitution.

As committee witness Brad Berenson noted at Monday's hearing:

> [N]othing in the Constitution, including the Suspension Clause, confers rights of access to our courts for alien enemy combatants being held in the ordinary course of armed conflict.

He also refuted the argument that constitutional rights of habeas for enemy combatants is embedded in the Rasul decision. As he explained before, going through the logic of that opinion and its dependence on the 1973 Braden case, and I am quoting:

> If there were a constitutional right to habeas corpus relief for alien enemies held abroad, the implication would thus be that it sprang into existence some time after 1973, if not just two years ago in 2004, and received no mention in Rasul. No matter how robust a concept of the "living Constitution" one embraces, this sort of Miracle-Gro Constitution cannot fit within it.

He was trying to be clever there to point out the fact that never has the Court come close to holding that for alien enemy combatants there is a constitutional right of habeas. And no decision of the Supreme Court has ever grounded its decision on the Constitution—only the case with respect to U.S. citizens.

So I do not fear the Supreme Court overturning what we are trying to do here. One never knows what the Court might do. And Senator SPECTER certainly is correct that if it did, we would have to revisit this issue. I am totally confident, however, that this legislation would be upheld and certainly not be declared unconstitutional based upon a view that the habeas provisions apply to alien enemy combatants.

Mr. President, the Specter amendment strikes at the heart of the litigation reforms in this bill—it undercuts the entire bill. The amendment would undercut and override the carefully calibrated accountability and supervision mechanisms negotiated by the Armed Services committee. And it would give enemy soldiers challenging their detention unprecedented access to our courts. It should be strongly opposed.

Under the MCA, detainees already receive extremely generous process without habeas corpus lawsuits.

Every detainee held at Guantanamo currently receives a Combatant Status Review Tribunal (CSRT) review of his detention. The CSRT process is modeled on and closely tracks the Article 5 hearings conducted under the Geneva Conventions. In the 2004 Hamdi decision, the Supreme Court cited Article 5 hearings as an example of the type of hearing that would be adequate to justify detention of even an American citizen who has engaged in war against the United States. Moreover, under the Geneva Conventions, Article 5 hearings are given to detainees only when there is substantial doubt as to their status. In all American wars, only a small percentage of detainees have ever been given Article 5 hearings. Yet at Guantanamo, we have given a CSRT hearing to every detainee who has been brought there. And finally, it bears emphasis that the CSRT gives unlawful enemy combatants even more procedural protections than the Geneva Conventions' Article 5 hearing give to lawful enemy combatants. For example:

> A CSRT provides a detainee with a personal representative to help him prepare his case. An Article 5 tribunal does not.
>
> Under the CSRT procedure, the hearing officer is required to search government files for "evidence to suggest that the detainee should not be designated as an enemy combatant." An Article 5 tribunal provides no such right.
>
> CSRTs give the detainee a summary of the evidence supporting his detention in advance of the hearing. Article 5 tribunals do not.
>
> CSRTs are subject to review by supervising authorities and may be remanded for further review. Article 5 provides no such rights.

Finally, after a CSRT is completed, the Detainee Treatment Act, DTA, and the Military Commissions Act, MCA, give an al-Qaida detainee the right to appeal the result to the DC Circuit. That circuit—staffed by some of the best judges in this country—is then authorized to make sure that all proper procedures were followed in the CSRT hearing, and to judge whether the CSRT process is consistent with the Constitution and with federal statutes—though no treaty lawsuits are authorized, pursuant to long-standing precedent.

Now I would grant, the DTA does not allow re-examination of the facts underlying a prisoner's detention, and it limits the review to the administrative record. I commented on these provisions more extensively in remarks submitted for the RECORD on December 21. But as committee witness Brad Berenson noted at Monday's Judiciary Committee hearing, quoting the Supreme Court's 2001 decision in St. Cyr, "the traditional rule on habeas corpus review of non-criminal executive detentions was that 'the courts generally did not review the factual determinations made by the executive.'" And under the original common-law writ of habeas corpus, the facts in the custodian's return could not be contested. Thus, although the DTA does not allow sufficiency-of-the-evidence challenges, neither did the common law writ of habeas corpus—especially for noncriminal executive detentions. DTA review is limited—it has to be, or we would face the same litigation burdens as under the Rasul-inspired litigation. But common-law habeas itself is a limited remedy. Under the DTA, prisoners are not denied anything that they would have been entitled to under the original common-law writ of habeas corpus.

Moreover, the fact that we are letting detainees go to court to challenge their conviction is totally unprecedented. At a hearing held on Monday before the Judiciary Committee, one of the witnesses who opposes the MCA, Rear Admiral John Hutson, nevertheless conceded in his testimony that "[i]n World War II, when thousands and thousands of German and Italian POWs were imprisoned in various camps throughout the United States . . . there is only one recorded case of a POW using habeas to test his imprisonment. He was an Italian American and his petition was denied."

Just to be clear: there were 425,000 enemy combatants held in the United States during World War II. Yet according to Senator SPECTER's own witness at his Judiciary Committee hearing, only one habeas petition challenging detention was filed—and that was filed by an American citizen. The MCA only applies to aliens—not American citizens, so even that case would not have been affected by this bill.

World War II did see several petitions challenging military trials, but the MCA and the DTA also allow judicial review of military commissions.

At Senator SPECTER's September 25, 2006, hearing on the MCA before the Judiciary Committee, committee witness Brad Berenson, a partner at the Sidley & Austin law firm, testified that "[n]o nation on the face of the earth in any previous conflict has given people they have captured anything like [the procedures provided by CSRTs and the DTA], and none does so today." Mr. Berenson reiterated: The MCA's procedures "are in fact more generous than anything we or any other nation in the history of the world has previously afforded to our military adversaries."

At the same hearing—Senator SPECTER's hearing on the MCA on Monday—we also heard from David Rivkin, a partner at the Baker & Hostetler law firm. This is what he had to say: "[t]he level of due process that these detainees are getting [under CSRTs and the DTA] far exceeds the level of due process accorded to any combatants, captured combatants, lawful or unlawful, in any war in human history." Mr. Rivkin added: "We are giving [alien enemy combatants] a lot more . . . than they are legally entitled to under either international [law] or the law in the U.S. Constitution."

The Supreme Court has held that U.S. constitutional protections do not apply to aliens held outside of our borders. For example, in Johnson v. Eisentrager (1950), the Supreme Court rejected the view that the U.S. Constitution applies to enemy war prisoners held abroad, noting that "[n]o decision of this Court supports such a view. None of the learned commentators on our Constitution has ever hinted at it. The practice of every modern government is opposed to it." In 1990, the Supreme Court reaffirmed this view in the Verdugo case, holding that "we have rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States."

The Verdugo case also makes clear that constitutional protections do not extend to aliens detained in this country who have no substantial connection to this country. The Supreme Court noted that aliens "receive constitutional protections when they have come within the territory of the United States and developed substantial connections with this country." The Verdugo Court further clarified that "lawful but involuntary" presence in the United States "is not of the sort to indicate any substantial connection with our country." That is *United States* v. *Verdugo-Urquidez*, 494 U.S. 259 (1990).

Rasul v. Bush took great pains to emphasize that its extension of habeas to Guantanamo Bay was only statutory. Some Justices may have wanted to make Rasul a constitutional holding, but there clearly was no majority for such a ruling.

Eisentrager and Verdugo are still the governing law in this area. These precedents hold that aliens who are either held abroad, or held here but have no other substantial connection to this country, are not entitled to invoke the U.S. Constitution. As committee witness Brad Berenson noted at Monday's hearing, "nothing in the Constitution, including the Suspension Clause, confers rights of access to our courts for alien enemy combatants being held in the ordinary course of an armed conflict." Berenson also refuted the argument that a constitutional right of habeas for enemy combatants is embedded in the Rasul decision. As he explained, going through the logic of that opinion and its dependence on the 1973 Braden case:

> If there were a constitutional right to habeas corpus relief for alien enemies held abroad, the implication would thus be that it sprang into existence some time after 1973, if not just two years ago in 2004, and received no mention in Rasul. No matter how robust a concept of the "living Constitution" one embraces, this sort of Miracle-Gro Constitution cannot fit within it.

The Specter amendment would have led to a nightmare of litigation in other wars.

During World War II, the United States held millions of axis enemy combatants. During some periods, enemy war prisoners were shipped into this country at the rate of 60,000 a month. By the end of the war, over 425,000 enemy war prisoners were detained in prison camps inside the United States. Overall, the United States detained over two million enemy combatants during World War II. Prisoner camps for these combatants existed in all but three of the then-48 states.

If the Specter amendment had been law during World War II, all of these 2 million enemy combatants would have been allowed to file habeas corpus lawsuits in Federal district court against our Armed Forces. Just try to imagine what that would have meant. The vast majority of these 2 million enemy prisoners were not familiar with the American legal system and did not speak English. If they had habeas corpus rights, they surely would have had to be provided with a lawyer in order to effectuate those rights. Also, should each of these 2 million prisoners also have been given access to the classified evidence that might be used against them to justify their detention? Should all 2 million of these prisoners have been entitled to call witnesses on their behalf? Should they have been allowed to recall the U.S. soldiers at the front who captured them, and to cross examine them?

The consequences of the Specter amendment are unimaginable. We cannot allow enemy war prisoners to sue us in our own courts. Such a system would make it simply impossible for the United States to fight a war. But don't take my word for it. The United States Supreme Court came to the same conclusion in its landmark decision in Johnson v. Eisentrager. The Supreme Court in that case clearly and eloquently explained why we cannot allow alien enemy combatants to sue our military in our courts:

> A basic consideration in habeas corpus practice is that the prisoner will be produced before the court. This is the crux of the statutory scheme established by the Congress; indeed, it is inherent in the very term "habeas corpus." And though production of the prisoner may be dispensed with where it appears on the face of the application that no cause for granting the writ exists, Walker v. Johnston, we have consistently adhered to and recognized the general rule. Ahrens v. Clark. To grant the writ to these prisoners might mean that our army must transport them across the seas for hearing. This would require allocation of shipping space, guarding personnel, billeting and rations. It might also require transportation for whatever witnesses the prisoners desired to call as well as transportation for those necessary to defend legality of the sentence. The writ, since it is held to be a matter of right, would be equally available to enemies during active hostilities as in the present twilight between war and peace. Such trials would hamper the war effort and bring aid and comfort to the enemy. They would diminish the prestige of our commanders, not only with enemies but with wavering neutrals. It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home. Nor is it unlikely that the result of such enemy litigiousness would be a conflict between judicial and military opinion highly comforting to enemies of the United States.

The Specter Amendment would disrupt the operation of Guantanamo and undermine the war on terror. We already know that habeas litigation at Guantanamo has consumed enormous resources and disrupted day-to-day operation of the base. The United States February 17, 2006 Supplemental Brief in the Al Odah case in the DC circuit describes the burdens imposed on the military by the Guantanamo litigation and the frivolous nature of some of the claims being pursued. At pages 12-14, the brief describes the following:

According to the Justice Department: "The detainees have urged habeas courts to dictate conditions on [Guantanamo Naval] Base ranging from the speed of Internet access afforded their lawyers to the extent of mail delivered to the detainees;" More than 200 cases have been filed on behalf of 600 purported detainees. This number exceeds the number of detainees actually held at Guantanamo, which is near 500; Also according to the Justice Department: "The Department of Defense has been forced to reconfigure its operations at Guantanamo Naval Base to accommodate hundreds of visits by private habeas counsel. . . . This habeas litigation has consumed enormous resources and disrupted the day-to-day operation of Guantanamo Naval Base;" The United States also notes that this litigation has had a serious negative impact on the war with Al Qaeda. According to the U.S. brief:

> Perhaps most disturbing, the habeas litigation has imperiled crucial military operations during a time of war. In some instances, habeas counsel have violated protective orders and jeopardized the security of the base by giving detainees' information likely to cause unrest. Moreover, habeas counsel have frustrated interrogation critical to preventing further terrorist attacks on the United States. One of the coordinating counsel for the detainees boasted about this in public:
>
> The litigation is brutal for [the United States.] It's huge. We have over one hundred lawyers now from big and small firms working to represent the detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

Brad Berenson, who testified at the September 25 Judiciary Committee hearing on this bill, offers what I think is a fitting comment on the habeas corpus litigation at Guantanamo Bay thus far. He concluded his testimony by noting, "All freedom-loving people cherish the Great Writ. But we debase the writ, rather than honor it, if we extend it into realms where neither history nor tradition support its use."

At Monday's Judiciary Committee hearing, some witness suggested that the bulk of the detainees held at Guantanamo are innocent. One witness at Monday's Judiciary Committee hearing, a lawyer who represents 10 Saudis held at Guantanamo, went so far as to assert that "none of the ten . . . are enemies of the United States." This lawyer even told us that the men at Guantanamo "do not appear any more dangerous . . . than my younger grandchild, who is 12." Another witness at the Judiciary Committee's September 25 hearing asserted that "[n]ot a crumb of evidence has been adduced suggesting that the writ would risk freeing terrorists to return to fight against the United States."

This characterization, and similar assertions that the bulk of the detainees at Guantanamo are innocent, simply do not comport with reality. The United States has already released a number of detainees. These are detainees who our own Armed Forces decided were not enemy combatants or were no longer dangerous. Our Armed Forces are obviously very cautious about whom they release—they have great reason to be cautious, since they bear the consequences of releasing anyone who is a threat. Yet we already know that even among those detainees whom our Armed Forces thought were not dangerous, a significant number instead turned out to remain committed to war against the United States and its allies. According to a October 22, 2004 story in the Washington Post, at least 10 detainees released from Guantanamo have been recaptured or killed fighting U.S. or coalition forces in Afghanistan or Pakistan. This is what the Washington Post described:

> One of the repatriated prisoners is still at large after taking leadership of a militant faction in Pakistan and aligning himself with al Qaeda, Pakistani officials said. In telephone calls to Pakistani reporters, he has bragged that he tricked his U.S. interrogators into believing he was someone else.
>
> Another returned captive is an Afghan teenager who had spent two years at a special compound for young detainees at the military prison in Cuba, where he learned English, played sports and watched videos, informed sources said. U.S. officials believed they had persuaded him to abandon his life with the Taliban, but recently the young man, now 18, was recaptured with other Taliban fighters near Kandahar, Afghanistan, according to the sources, who asked for anonymity because they were discussing sensitive military information.
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> * * * * *
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> The latest case emerged two weeks ago when two Chinese engineers working on a dam project in Pakistan's lawless Waziristan region were kidnapped. The commander of a tribal militant group, Abdullah Mehsud, 29, told reporters by satellite phone that his followers were responsible for the abductions.
>
> Mehsud said he spent two years at Guantanamo Bay after being captured in 2002 in Afghanistan fighting alongside the Taliban. At

> the time he was carrying a false Afghan identity card, and while in custody he maintained the fiction that he was an innocent Afghan tribesman, he said. U.S. officials never realized he was a Pakistani with deep ties to militants in both countries, he added.
>
> I managed to keep my Pakistani identity hidden all these years," he told Gulf News in a recent interview. Since his return to Pakistan in March, Pakistani newspapers have written lengthy accounts of Mehsud's hair and looks, and the powerful appeal to militants of his fiery denunciations of the United States. "We would fight America and its allies," he said in one interview, "until the very end."
>
> Last week Pakistani commandos freed one of the abducted Chinese engineers in a raid on a mud-walled compound in which five militants and the other hostage were killed.
>
> The 10 or more returning militants are but a fraction of the 202 Guantanamo Bay detainees who have been returned to their homelands. Of that group, 146 were freed outright, and 56 were transferred to the custody of their home governments. Many of those men have since been freed.
>
> Mark Jacobson, a former special assistant for detainee policy in the Defense Department who now teaches at Ohio State University, estimated that as many as 25 former detainees have taken up arms again. "You can't trust them when they say they're not terrorists," he said.
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> * * * * *
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> Another former Guantanamo Bay prisoner was killed in southern Afghanistan last month after a shootout with Afghan forces. Maulvi Ghafar was a senior Taliban commander when he was captured in late 2001. No information has emerged about what he told interrogators in Guantanamo Bay, but in several cases U.S. officials have released detainees they knew to have served with the Taliban if they swore off violence in written agreements.
>
> Returned to Afghanistan in February, Ghafar resumed his post as a top Taliban commander, and his forces ambushed and killed a U.N. engineer and three Afghan soldiers, Afghan officials said, according to news accounts.
>
> A third released Taliban commander died in an ambush this summer. Mullah Shahzada, who apparently convinced U.S. officials that he had sworn off violence, rejoined the Taliban as soon as he was freed in mid-2003, sources with knowledge of his situation said.

I urge that anyone consider these facts before contending that the bulk of the detainees at Guantanamo are "innocent."

I would also like to respond to some of the attacks that have been made on the underlying DTA. One of the complaints made is that there is no mandate in the DTA, or in the MCA, that the military conduct CSRTs for enemy combatants that it captures. In a September 25 letter to Senators, for example, the ACLU urges opposition to the MCA on the ground, among other things, that "[w]hile the bill does allow limited appeals for those who do go before a military commission or a Combatant Status Review Tribunal, CSRT, there is no guarantee that any person detained by our government be provided with either a trial or a CSRT." Similarly, at the September 25 hearing before the Judiciary Committee, committee witness Bruce Fein argued against the MCA on the ground "the fact is that the statute would enable the executive branch to simply decline to hold CSRT proceedings . . . [I]t gives the executive branch, if it wishes, [the right] to hold detainees indefinitely without any access to the Federal courts. [Military commanders could] say, we do not want to hold a Combatant Status Review Tribunal, it is so clear that they [the detainees] are enemy combatants. If they do not hold the tribunal hearing, there is no access to Federal courts under the statute."

My response to these critics is that what they have described does accurately describes the DTA and MCA—and also the Geneva Conventions. As I noted earlier, the Geneva Conventions require an Article 5 hearing on the status of a detainee, but only if there is doubt as to his status. Under the Geneva Conventions, I would submit, there is no need for any Article 5 hearing for any of the al-Qaida and Taliban detainees, because there is simply no question that these detainees are not entitled to privileged status under the Geneva Conventions. The Conventions allow the military to make blanket determinations, and our nation would certainly be within its rights to do so here. What the military currently is doing for Guantanamo detainees goes well beyond the process to which they are entitled. What these critics want Congress to apply to our Armed Forces is a rule of no good deed goes unpunished. Because the military, in response to criticism of Guantanamo, started giving everyone at Guantanamo a CSRT hearing, these critics contend, it should be compelled to do so for all future detainees, and for all future wars. What is now given as a matter of executive grace, they contend, should be transformed into a legislative mandate.

This the Armed Services committees and this congress declined to do. Aside from the fact that these detainees, aliens all, are not entitled to CSRTs or any Article 5 type hearing under the Geneva Conventions, it would be absurdly impractical to require the military to provide such hearings in all future conflicts. Consider, for example, the case of World War II. As I mentioned earlier, the United States detained over 2,000,000 enemy combatants during that conflict. How on earth could we possibly expect the military to conduct CSRTs for 2 million people? And how could the DC Circuit be expected to handle 2 million appeals from CSRTs, even under the de minimis facial challenge authorized by the DTA? It is simply inconceivable.

The CSRTs and DTA review, I concede, would be insufficient to justify detention of a United States citizen accused of a crime. This is not civilian criminal justice due process. But these detainees are not entitled to civilian criminal justice due process. Nor are they entitled to such hearings under the Geneva Conventions.

What the DTA review standards do offer is judicial review that is consistent with military needs and with the executive branch's primacy among the branches of government in the conduct of war. It is judicial review in keeping with the traditional limited role of the courts in reviewing the conduct of war. As others have noted, DTA judicial review is limited to two narrow inquiries: did the CSRTs and commissions use the standards and procedures identified by the Secretary of Defense, and is the use of these systems to either continue the detention of enemy combatants or try them for war crimes consistent with the Constitution and federal statutes? The first inquiry I think is straightforward: did the military follow its own rules? This inquiry does not ask whether the military reached the correct result by applying its rules or whether a judge agrees that the evidence meets some particular standard of evidence. The inquiry is simply whether the correct rule was employed.

Former United States Attorney General Bill Barr, in his testimony before the Senate Judiciary Committee on June 15 of last year, described the understanding of judicial review of military decisions that the DTA's review standards are designed to reflect:

> It seems to me that the kinds of military decisions at issue here—namely, what and who poses a threat to our military operations—are quintessentially Executive in nature. They are not amenable to the type of process we employ in the domestic law-enforcement arena. They cannot be reduced to neat legal formulas, purely objective tests and evidentiary standards. They necessarily require the exercise of prudential judgment and the weighing of risks. This is one of the reasons why the Constitution vests ultimate military decision-making in the President as Commander-in-Chief. If the concept of Commander-in-Chief means anything, it must mean that the office holds the final authority to direct how, and against whom, military power is to be applied to achieve the military and political objectives of the campaign.
>
> I am not speaking here of "deference" to Presidential decisions. In some contexts, courts are fond of saying that they "owe deference" to some Executive decisions. But this suggests that the court has the ultimate decision-making authority and is only giving weight to the judgment of the Executive. This is not a question of deference—the point here is that the ultimate substantive decision rests with the President and that courts have no authority to substitute their judgments for that of the President.

I think that last point is worth emphasizing. The DTA is not an invitation for the courts to substitute their judgment for that of the military. It is not for the courts to decide if someone is an enemy combatant, regardless of the standard of review. It is simply not the role of the courts to make that decision. It is not the courts, after all, who bear the burden of capturing an enemy combatant again if he is released and rejoins the battle. The only thing the DTA asks the courts to do is check that the record of the CSRT hearings reflect that the military has used its own rules. It is up to the military to decide what the result should be under those rules, or even how those rules should be modified in the future.

I would also reiterate a few words about the legality review that the DTA provides. This provision authorizes, in effect, a facial challenge to the CSRTs. I anticipate that once the District of Columbia circuit decides these questions with regard to a particular set of CSRT procedures in use, that decision will operate as circuit precedent unless and until the CSRT procedures are changed. Based on the long body of Supreme Court precedent governing judicial review of military affairs, I do not anticipate that any type of hearing is required by the Constitution or by Federal statute in order for the military to be allowed to detain alien enemy combatants. The Geneva Conventions do require hearings when there is doubt as to a detainee's privileged status, but those Conventions are not enforced through the courts, and the DTA does not disturb that limit on judicial enforceability. Allow me to quote the previous understanding of the scope of judicial review of military-commission trials that the DTA is designed to embody, as expressed in the Supreme Court's landmark decision in Johnson v. Eisentrager:

> It is not for us to say, whether these prisoners were or were not guilty of a war crime, or whether if we were to retry the case we would agree to the findings of fact or the application of the laws of war made by the Military Commission. The petition shows that these prisoners were formally accused of violating the laws of war and fully informed of particulars of these charges. As we observed in the Yamashita case, "If the military tribunals have lawful authority to hear, decide and condemn, their action is not subject to judicial review merely because they have made a wrong decision on disputed facts. Correction of their errors of decision is not for the courts but for the military authorities which are alone authorized to review their decisions. We consider here only the lawful power of the commission to try the petitioner for the offense charged."

Finally, I would like to reiterate the most important reason why I believe that Congress needs to bring an end to the habeas litigation involving war-on-terror detainees. Keeping captured terrorists out of the court system is a prerequisite for conducting effective and productive interrogation. And it is interrogation of terrorist detainees that has proved to be an important source of critical intelligence that has saved American lives.

Giving detainees access to federal judicial proceedings threatens to seriously undermine vital U.S. intelligence-gathering activities. Under the new Rasul-imposed system, shortly after al-Qaida and Taliban detainees arrive at Guantanamo Bay, they are informed that they have the right to challenge their detention in Federal court and the right to see a lawyer. Detainees overwhelmingly have exercised both rights. The lawyers inevitably tell detainees not to talk to interrogators. Also, mere notice of the availability of these proceedings gives detainees hope that they can win release through adversary litigation, rather than by cooperating with their captors.

Navy Vice-Admiral Lowell Jacoby addressed this matter in a declaration attached to the United States's brief in the Padilla litigation in the Southern District of New York. Vice-Admiral Jacoby at the time was the Director of the Defense Intelligence Agency. He noted in the Declaration that:

> DIA's approach to interrogation is largely dependent upon creating an atmosphere of dependency and trust between the subject and the interrogator. Developing the kind of relationship of trust and dependency necessary for effective interrogations is a process that can take a significant amount of time. There are numerous examples of situations where interrogators have been unable to obtain valuable intelligence from a subject until months, or, even years, after the interrogation process began.
>
> Anything that threatens the perceived dependency and trust between the subject and interrogator directly threatens the value of interrogation as an intelligence gathering tool. Even seemingly minor interruptions can have profound psychological impacts on the delicate subject-interrogator relationship. Any insertion of counsel into the subject-interrogator relationship, for example—even if only for a limited duration or for a specific purpose—can undo months of work and may permanently shut down the interrogation process.

Specifically with regard to Jose Padilla, Vice Admiral Jacoby also noted in his Declaration that:

> Providing [Padilla] access to counsel now would create expectations by Padilla that his ultimate release may be obtained through an adversarial civil litigation process. This would break—probably irreparably—the sense of dependency and trust that the interrogators are attempting to create.

In remarks that I submitted for the RECORD when the original DTA was enacted, I described some of the valuable intelligence that the United States has gained as a result of the interrogation of al-Qaida detainees. The President made a similar case in a speech that he delivered on September 6, but much better than I had done. I would like to simply quote at length, so that it is available in the RECORD, what the President described—why it is important that our intelligence agents be able to conduct effective interrogations of al-Qaida members. On the sixth of this month, the President stated:

> Within months of September the 11th, 2001, we captured a man known as Abu Zubaydah. We believe that Zubaydah was a senior terrorist leader and a trusted associate of Osama bin Laden. Our intelligence community believes he had run a terrorist camp in Afghanistan where some of the 9/11 hijackers trained, and that he helped smuggle al Qaeda leaders out of Afghanistan after coalition forces arrived to liberate that country. Zubaydah was severely wounded during the firefight that brought him into custody—and he survived only because of the medical care arranged by the CIA.
>
> After he recovered, Zubaydah was defiant and evasive. He declared his hatred of America. During questioning, he at first disclosed what he thought was nominal information—and then stopped all cooperation. Well, in fact, the "nominal" information he gave us turned out to be quite important. For example, Zubaydah disclosed Khalid Sheikh Mohammed—or KSM—was the mastermind behind the 9/11 attacks, and used the alias "Muktar." This was a vital piece of the puzzle that helped our intelligence community pursue KSM. Abu Zubaydah also provided information that helped stop a terrorist attack being planned for inside the United States—an attack about which we had no previous information. Zubaydah told us that al Qaeda operatives were planning to launch an attack in the U.S., and provided physical descriptions of the operatives and information on their general location. Based on the information he provided, the operatives were detained—one while traveling to the United States.
>
> We knew that Zubaydah had more information that could save innocent lives, but he stopped talking. As his questioning proceeded, it became clear that he had received training on how to resist interrogation. And so the CIA used an alternative set of procedures. These procedures were designed to be safe, to comply with our laws, our Constitution, and our treaty obligations. The Department of Justice reviewed the authorized methods extensively and determined them to be lawful. I cannot describe the specific methods used—I think you understand why—if I did, it would help the terrorists learn how to resist questioning, and to keep information from us that we need to prevent new attacks on our country. But I can say the procedures were tough, and they were safe, and lawful, and necessary.
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> Zubaydah was questioned using these procedures, and soon he began to provide information on key al Qaeda operatives, including information that helped us find and capture more of those responsible for the attacks on September the 11th. For example, Zubaydah identified one of KSM's accomplices in the 9/11 attacks—a terrorist named Ramzi bin al Shibh. The information Zubaydah provided helped lead to the capture of bin al Shibh. And together these two terrorists provided information that helped in the planning and execution of the operation that captured Khalid Sheikh Mohammed.
>
> Once in our custody, KSM was questioned by the CIA using these procedures, and he soon provided information that helped us stop another planned attack on the United States. During questioning, KSM told us about another al Qaeda operative he knew was in CIA custody—a terrorist named Majid Khan. KSM revealed that Khan had been told to deliver $50,000 to individuals working for a suspected terrorist leader named Hambali, the leader of al Qaeda's Southeast Asian affiliate known as "J-I". CIA officers confronted Khan with this information. Khan confirmed that the money had been delivered to an operative named Zubair, and provided both a physical description and contact number for this operative.

Based on that information, Zubair was captured in June of 2003, and he soon provided information that helped lead to the capture of Hambali. After Hambali's arrest, KSM was questioned again. He identified Hambali's brother as the leader of a "J-I" cell, and Hambali's conduit for communications with al Qaeda. Hambali's brother was soon captured in Pakistan, and, in turn, led us to a cell of 17 Southeast Asian "J-I" operatives. When confronted with the news that his terror cell had been broken up, Hambali admitted that the operatives were being groomed at KSM's request for attacks inside the United States—probably [sic] using airplanes.

During questioning, KSM also provided many details of other plots to kill innocent Americans. For example, he described the design of planned attacks on buildings inside the United States, and how operatives were directed to carry them out. He told us the operatives had been instructed to ensure that the explosives went off at a point that was high enough to prevent the people trapped above from escaping out the windows.

KSM also provided vital information on al Qaeda's efforts to obtain biological weapons. During questioning, KSM admitted that he had met three individuals involved in al Qaeda's efforts to produce anthrax, a deadly biological agent—and he identified one of the individuals as a terrorist named Yazid. KSM apparently believed we already had this information, because Yazid had been captured and taken into foreign custody before KSM's arrest. In fact, we did not know about Yazid's role in al Qaeda's anthrax program. Information from Yazid then helped lead to the capture of his two principal assistants in the anthrax program. Without the information provided by KSM and Yazid, we might not have uncovered this al Qaeda biological weapons program, or stopped this al Qaeda cell from developing anthrax for attacks against the United States.

These are some of the plots that have been stopped because of the information of this vital program. Terrorists held in CIA custody have also provided information that helped stop a planned strike on U.S. Marines at Camp Lemonier in Djibouti—they were going to use an explosive laden water tanker. They helped stop a planned attack on the U.S. consulate in Karachi using car bombs and motorcycle bombs, and they helped stop a plot to hijack passenger planes and fly them into Heathrow or the Canary Wharf in London.

We're getting vital information necessary to do our jobs, and that's to protect the American people and our allies.

Information from the terrorists in this program has helped us to identify individuals that al Qaeda deemed suitable for Western operations, many of whom we had never heard about before. They include terrorists who were set to case targets inside the United States, including financial buildings in major cities on the East Coast. Information from terrorists in CIA custody has played a role in the capture or questioning of nearly every senior al Qaeda member or associate detained by the U.S. and its allies since this program began. By providing everything from initial leads to photo identifications, to precise locations of where terrorists were hiding, this program has helped us to take potential mass murderers off the streets before they were able to kill.

This program has also played a critical role in helping us understand the enemy we face in this war. Terrorists in this program have painted a picture of al Qaeda's structure and financing, and communications and logistics. They identified al Qaeda's travel routes and safe havens, and explained how al Qaeda's senior leadership communicates with its operatives in places like Iraq. They provided information that allows us—that has allowed us to make sense of documents and computer records that we have seized in terrorist raids. They've identified voices in recordings of intercepted calls, and helped us understand the meaning of potentially critical terrorist communications.

The information we get from these detainees is corroborated by intelligence, and we've received—that we've received from other sources—and together this intelligence has helped us connect the dots and stop attacks before they occur. Information from the terrorists questioned in this program helped unravel plots and terrorist cells in Europe and in other places. It's helped our allies protect their people from deadly enemies. This program has been, and remains, one of the most vital tools in our war against the terrorists. It is invaluable to America and to our allies. Were it not for this program, our intelligence community believes that al Qaeda and its allies would have succeeded in launching another attack against the American homeland. By giving us information about terrorist plans we could not get anywhere else, this program has saved innocent lives.

I don't think that it can be seriously doubted that this intelligence would not have been obtained if these men—Khalid Sheikh Muhammed and Abu Zubaydah—had been given the right to file a habeas petition and access to a lawyer immediately after they were captured. And had we not obtained this information, lives of Americans and other innocent people would have been lost.

The DTA and the MCA create a balanced and appropriate mechanism for managing the detention of alien enemy combatants. They are consistent with military tradition and our Nation's security needs. The Specter amendment would upend that system. I urge the Specter amendment's defeat.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I only need one sentence to refute the arguments of the Senator from Arizona, and it comes back to Justice O'Connor's opinion again. She says:

> All agree that, absent suspension, the writ of habeas corpus remains available to every individual—

Every individual—

> detained within the United States.

Guantanamo is held to be within that concept. But she talks about "every individual." That includes citizens and noncitizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I congratulate the distinguished chairman of the Senate Judiciary Committee and my other colleagues who serve on the Judiciary Committee—Senator GRAHAM and Senator KYL—for the quality of the discussion and debate. This is the kind of debate I came to the Senate and hoped to participate in.

I want to try to address the concerns raised by the distinguished chairman of the Judiciary Committee about this constitutional issue. I happen to agree with what the Senator from Arizona said about the way the U.S. Supreme Court has interpreted the rights of an alien with regard to their constitutional rights.

The difference is, the Hamdi case the chairman was citing really had to do with whether Guantanamo Bay—leased property in Cuba—was within the jurisdiction of the Court. It held because it was under a lease and under the control of the United States that it was subject to the laws pertaining to habeas corpus. But the way I read the case—and I believe this is correct and consistent with the way the Senator from Arizona interpreted it—it does not apply, they did not hold that it applied to an alien. But I want to say, even if he is right—and I disagree that he is—that aliens, particularly unlawful combatants captured on the battlefield, have all the rights an American citizen does under the Constitution, I believe his concerns are answered by the Swain case, decided by the U.S. Supreme Court, which held that if, in fact, there is an adequate substitute remedy, that in fact that satisfies any constitutional concerns with regard to the writ of habeas corpus.

I believe the Detainee Treatment Act, which we passed just last year, provides an adequate substitute remedy sufficient to meet Supreme Court scrutiny. Even if the Supreme Court woke up and decided that all of a sudden it would overrule all of its old cases and hold that an unlawful combatant, an alien—not a citizen of this country—was somehow entitled to the whole panoply of constitutional rights, that would satisfy the Supreme Court's concerns about the process to which that alien was due.

But I also want to question sort of the logic of applying the Constitution to unlawful combatants captured on the battlefield. Are we saying they are entitled to a fourth amendment right against unreasonable searches and seizures? Are we saying they have a fifth amendment right not to incriminate themselves? Well, surely not. We have all acknowledged the importance of being able to capture actionable intelligence through the interrogation process. And much of the debate we have been having in these last few weeks has been: How do we preserve this important intelligence-gathering tool which has allowed us to detect and disrupt terrorist attacks? How do we preserve that and at the same time meet our other legal obligations, constitutional and statutory?

I believe the Senator from South Carolina had a question. I would be happy to yield to him for a question.

Mr. GRAHAM. Mr. President, I appreciate that, and I am sorry to interrupt. But I went back to the Hamdi decision that referenced the exchange we had with the chairman in reference to the point the Senator just made.

Justice O'Connor said:

> Hamdi has received no process. An interrogation by one's captor, however effective an intelligence-gathering tool, hardly constitutes a constitutionally adequate factfinding before a neutral decisionmaker.

When you turn to the next page, she says:

> There remains the possibility that the standards we have articulated could be met by an appropriately authorized and properly constituted military tribunal. Indeed, it is notable that military regulations already provide for such process in related instances, dictating that tribunals be made available to determine the status of enemy detainees who assert prisoner-of-war status under the Geneva Convention.

She is referring to Army regulation 190-8. And my question to Senator CORNYN is, do you agree that Justice O'Connor was telling the Department of Defense that if you will model a tribunal on Army regulation 190-8, you will have met your obligation to have a competent tribunal under the Geneva Conventions to make an enemy combatant status determination?

Mr. CORNYN. Mr. President, I say to the Senator from South Carolina, I think that is certainly a reasonable construction of what the opinion says.

Let me describe for our colleagues the kind of petitions for writ of habeas corpus we are talking about that are being filed at Guantanamo Bay.

A Canadian detainee who threw a grenade that killed an Army medic in a firefight and who comes from a family with longstanding al-Qaida ties moved for a preliminary injunction forbidding interrogation of him. That is one example.

Another one is a Kuwaiti detainee who seeks a court order that they must be provided dictionaries in contravention of the force protection policy at Guantanamo Bay, and that their lawyer be given high-speed Internet access at their lodging on the base and be allowed to use classified Department of Defense telecommunications facilities, all under the theory that otherwise their "right to counsel" is unduly burdened.

Then there is the motion by a high-level al-Qaida detainee complaining about base security procedures, speed of mail delivery, and medical treatment—even though they have abundant medical treatment and medical facilities at Guantanamo Bay. They further seek an order that he be transferred to the "least onerous conditions" at Guantanamo Bay and is asking the court to order that Guantanamo Bay authorities allow him to keep any books and reading materials sent to him and to "report to the court" on his opportunities for exercise, communication, recreation, and worship, among other things.

Then there is the "emergency" motion seeking a court order requiring the authorities at Guantanamo Bay to set aside its normal security practices and show detainees DVDs that are purported to be family videos.

Finally, I will mention, by way of absurd examples, the motion by Kuwaiti detainees who are unsatisfied with the Koran they are provided as standard issue by the Guantanamo authorities, and they seek a court order that they be able to keep various other supplemental religious material, such as a "tafsir," or 4-volume Koran with commentary, in their cells.

To say there is "no meaningful judicial review" or adequate substitute remedy afforded unlawful combatants flies in the face of the facts.

The Senator from South Carolina described the fact that these detainees are, under current law, entitled to a combat status review tribunal, whose decision could then be appealed to the DC Circuit Court of Appeals to make sure the officials have actually provided the process to which these detainees are due, to make sure they have not been swept up in the fog of war and were innocent bystanders. This provides a fair process for them and adequate judicial review.

We also have an annual administrative review board that determines, on an annual basis, whether this remains a necessity to keep these individuals in detention. I will point out that sometimes we are too lenient in terms of who we let go. I will cite to you a story of October 22, 2004, in the Washington Post, entitled "Released Detainees Rejoining the Fight." There are at least 10 detainees who were released from Guantanamo Bay that have been recaptured or killed while fighting U.S. or coalition forces after they were released.

The Supreme Court of the United States has talked about the impracticality of providing enemy combatants of the U.S. the full privilege of litigation. The Eisentrager court explained clearly and eloquently why we don't let enemy combatants sue the U.S. military and our soldiers in our own Federal courts. This is what the court said:

> Such trials would hamper the war effort and bring aid and comfort to the enemy. . . . It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him into account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home. Nor is it unlikely that the result of such enemy litigiousness would be a conflict between judicial and military opinion highly comforting to enemies of the United States.

Those burdens placed on our military by enemy combatant litigation against our military effort persist today, and we have it within our power to eliminate that burden, to allow our men and women in uniform to fight the fight they volunteered to do on our behalf, to keep us safe and, at the same time, provide an adequate substitute remedy through the Detainee Treatment Act, as I have described a moment ago.

More than 200 cases have been filed on behalf of a purported 600 detainees. Strangely, that exceeds the number of detainees who are actually at Guantanamo Bay. So we have lawsuits for people who don't even exist, apparently.

According to the Department of Justice:

> This habeas litigation has consumed enormous resources and disrupted the day-to-day operation at Guantanamo Naval Base.

The United States of America, in a brief filed in the Al Odah case, said:

> Perhaps most disturbing, the habeas litigation has imperiled crucial military operations during a time of war. In some cases, habeas counsel have violated protective orders and jeopardized the security of the base by giving detainees information likely to cause unrest. Moreover, habeas counsel have frustrated interrogation critical to preventing further terrorist attacks on the United States.

This seems to have been validated—these criticisms—by the U.S. in briefs filed in Federal court by a lawyer who has filed those lawsuits on behalf of enemy combatants held at Guantanamo Bay. He boasted about disrupting U.S. war efforts in a magazine, where he said:

> The litigation is brutal for [the United States.] It's huge. We have over 100 lawyers now from big and small firms working to represent detainees. Every time an attorney goes down there, it makes it that much harder [for the United States military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

I know time is precious and I want to yield back to the chairman of the Armed Services Committee, but I believe those who argue for an extension of full habeas corpus rights, such as would be provided to an American citizen in civilian courts, are making a fundamental mistake by confusing two different realms of constitutional law. One would apply to an American citizen accused of a crime, where certainly the desire and the order of business is to protect that individual against unjust charges, and to make sure that the full panoply of the Bill of Rights applies to that individual. Different considerations apply when you are talking about a declared enemy of the U.S., and particularly an unlawful combatant, someone who doesn't wear the uniform, someone who doesn't respect the law of wars, and who targets innocent civilians in the pursuit of their ideology.

I don't think we should make that mistake. So I reluctantly oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I address the Senate on this issue and pose a question to my distinguished colleague, the senior Senator from Pennsylvania. I will put into the RECORD, following the conclusion of my remarks and my colloquy with the Senator from Pennsylvania, additional material.

Before I yield the floor, it is my desire to conclude the time on our side with the Senator from Missouri, and then reserve the remainder of my time for tomorrow. It would be my hope that the Senator from Pennsylvania, likewise, would save such remarks he may wish to make for tomorrow. As he knows, there is a function going on now, which I think most of us are trying to attend.

With that, I yield the floor.

Mr. SPECTER. Mr. President, that is satisfactory to me. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 33 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, the amendment to give unlawful combatant habeas corpus rights to mirror U.S. domestic procedures is unnecessary and inappropriate.

The amendment is unnecessary because the U.S. is already giving enemy unlawful combatants more rights to question their continued incarceration than they are entitled to under international law.

Under Geneva Conventions Article 5, combatants captured during wartime are due a hearing to determine their lawful status only if such status is in doubt.

The United States goes beyond this requirement to give every combatant a status hearing, even when there is no doubt as to their status.

The U.S. gives combatants Combat Status Review Tribunal hearings, known as CSRTs, to determine their status and review the need for their continued incarceration.

If this were not enough, there is a review process under the Detainee Treatment Act, passed last year, to which detainees are also subjected.

There is no need for further review processes for these enemy combatant detainees. An enemy combatant detainee sounds a little sterile, but take a look at the name that is often referred to dealing with this. The Supreme Court case which brought about the need for this legislation deals with Hamdan. Let's be clear, Hamdan was Osama bin Laden's body guard and driver. This is the kind of person about whom we are talking. Giving unlawful enemy combatants such as these U.S. domestic habeas rights is inappropriate. These people are not U.S. citizens, arrested in the U.S. on some civil offense; they are, by definition, aliens engaged in or supporting terrorist hostilities against the U.S., and doing so in violation of the laws of the war.

Some may not have been around long enough to remember that the U.S. detained hundreds of thousands of German and Japanese soldiers, captured on World War II battlefields. We didn't give these enemy combatants access to U.S. domestic courts or habeas corpus rights. Not only would that have been absurd, it would have totally bogged down the legal system.

There has never been a legal question over the appropriateness of a separate military process for enemy combatants. We should not now start admitting them to the U.S. domestic legal process.

Current military review processes are more than adequate. Indeed, they exceed international standards. Granting enemy combatants additional U.S. domestic habeas corpus rights is unnecessary and inappropriate.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, at this time, I observe no other Senators desiring to address the subject with regard to the pending bill. Having said that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

VOTE EXPLANATION

Mr. McCAIN. Mr. President, due to the passing of a close friend, I was not present for the vote on amendment No. 5086, offered by Mr. LEVIN. With this statement, I would like to inform the Senate that, had I been present, I would have voted against this amendment, which sought to strike the pending legislation on military commissions and insert the text of the bill reported out of the Armed Services Committee.

Senators WARNER, GRAHAM and I wrote and supported the bill that was reported out of the Senate Armed Services Committee. Over the past 2 weeks, however, we have been involved in negotiations with the White House and the House of Representatives and reached a compromise.

The compromise legislation, which I support, does not redefine the Geneva Conventions in any way. It amends the War Crimes Act—which currently says only that a violation of Common Article 3 is a war crime—by enumerating nine categories of offenses that constitute "grave breaches of Common Article 3" and thus are war crimes, punishable by imprisonment or death.

The bill authorizes the President to interpret the Geneva Conventions—a power he has already under the Constitution—as to what constitute nongrave breaches. These interpretations must be published in the Federal Register, and they will have same force as other administrative regulations, and thus may be trumped by law passed by Congress.

I am pleased with the agreement that we have reached with the administration and I support this legislation in the form pending on the floor. For this reason, if I had been present, I would have cast my vote against amendment No. 5086.

Mr. ROBERTS. Mr. President, I rise today in support of the timely passage of this legislation. In my view it is essential to the successful prosecution of our war against the terrorists.

Ever since the Supreme Court announced its decision in the case of Hamdan v. Rumsfeld, I have made clear that my three primary goals for legislation authorizing military tribunals were: (1) Adjudicating the cases of detained terrorists in proceedings that are consistent with our values of justice, (2) protecting classified information, and (3) ensuring that our military and intelligence officers have clear standards for what is, and is not, permissible during detention and interrogation operations.

After discussing these issues with National Security Adviser Hadley and officials at the Department of Justice, I am comfortable in saying that this legislation accomplishes each of those goals.

First, the legislation authorizes the President to establish military commissions for the trial of unlawful enemy combatants. Enemy combatants tried under this legal system will have the benefit of a comprehensive process that assures them of legal representation, access to witnesses and evidence, the ability to present a defense, and the ability to appeal any judgment to the Court of Military Commission Review, the DC Circuit Court of Appeals, and, ultimately, to the Supreme Court.

I dare say that some who may be tried by these military commissions will receive more due process and legal protection than they were ever willing to grant to others.

Second, while ensuring a full and fair process, the legislation also recognizes the important role that classified information is likely to play in these trials. The legislation expressly provides the government with a privilege to protect classified information. At the same time, the bill provides a number of ways for the trial court to ensure that the defendant is sufficiently apprised of the evidence to be used against him. I think this bill strikes the right balance between providing a full and fair process, and protecting classified information.

Third, and most important to me as chairman of the Intelligence Committee, the bill provides military and intelligence officers conducting detention and interrogation operations with clear standards.

Why is this so important? Because, there is a consensus in the intelligence community that terrorist interrogations are the single best source of actionable intelligence against the plots of a determined enemy.

Interrogation is a tool used by our brave men and women in the military and intelligence community to combat a continuing terrorist threat from those who are bent on attacking and killing Americans.

The majority of useable and actionable intelligence against al-Qaida comes from terrorist interrogations and debriefings. This tool is vital to keeping Americans safe—it is irreplaceable and it must be preserved.

Of particular note is the CIA's detention and interrogation program, which has been a supremely valuable source of information. This program has produced intelligence that has helped disrupt terrorist networks and prevent terrorist attacks. Furthermore, it has been carefully monitored to ensure that it complies with all our laws.

But, the Supreme Court's decision in Hamdan applied the Geneva Convention's Common Article 3 to unlawful enemy combatants. This threatened to shut down the CIA's detention and interrogation operations.

The standard articulated in Common Article 3 is extremely vague. This standard leaves military and intelligence officers in the dark as to what is, and what is not, permitted in detaining and interrogating unlawful enemy combatants. Moreover, because under current law any violation of Common Article 3 is a criminal violation, our interrogators potentially could be subjected to criminal prosecution for otherwise lawful actions.

Consequently, Congress must act to ensure that our military personnel and intelligence officers are not forced to operate, or be subjected to prosecution, under such a vague standard. It is our responsibility to provide clear guidance to military personnel and intelligence officers as to what is, and is not, permitted in interrogations. The standard must be clear enough so that our intelligence officers, who are making judgment calls in the field, can continue to operate.

The legislation currently before the Senate provides that clarity. It expressly provides for what acts constitute grave breaches of Common Article 3 and what acts would be subject to prosecution. It further allows the President to promulgate regulations for lesser violations of treaty obligations.

As a result, in passing this legislation, we will give the dedicated and honorable Americans on the front lines in the war on terror the clarity they need to fulfill their mission.

To win this war and keep Americans safe, our troops in the field and our law enforcement personnel here at home need timely and actionable intelligence. We get that intelligence in many forms such as satellite imagery, intercepted communications, financial tracking and human intelligence, including interrogations. In the past months, many of these intelligence collection tools have been damaged by deliberate leaks of classified information. We can ill afford to lose any of these intelligence collection tools if we are to succeed. I am grateful that this bill will allow our Nation to continue its highly valuable interrogation programs.

I support the bill, and I urge my colleagues to do the same.

Mr. WARNER. Mr. President, we have had a very good debate. We have voted on one amendment. We have time remaining on the Specter amendment. We should be able to conclude that debate in the morning and proceed, I presume, to a prompt vote on the Specter amendment, and then proceed with the other two amendments.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ULTRASOUND IMAGING

Mr. FRIST. Mr. President, I rise to speak about the use of ultrasound imaging by emergency physicians. October 2006 marks the 10-year anniversary of the establishment of the American College of Emergency Physicians, ACEP, Section of Emergency Ultrasound, which actively encourages research and training of emergency physicians in the use of emergency ultrasound. October 15, 2006, celebrates Emergency Ultrasound Day.

As a trauma surgeon, I spent many days and nights serving the emergency department. Emergency ultrasound, defined as the use of ultrasound imaging at the patient's bedside, is a critical component of quality emergency medical care. Ultrasound imaging enhances the physician's ability to evaluate, diagnose, and treat patients in the emergency department. It provides immediate information and can answer specific questions about the patient's physical condition, such as determining whether a presenting patient has thoracic and abdominal traumas, ectopic pregnancy, pericardial effusion, and many other conditions.

High-quality emergency care is dependent on rapid diagnostic tools, enhanced safety of emergency procedures, and reduced treatment time. Imaging technology has greatly improved quality of care and made invasive medical procedures safer.

Emergency physicians are trained in the use of imaging equipment during their residency as well as continuing medical education courses. Hospital privileges further validate this training.

Emergency ultrasound has moved outside the hospital due to its compact nature. In fact, emergency ultrasound technology is helpful onsite during military and disaster medical care. It has served in the care of America's brave military troops during both the gulf and Iraq wars. Also, emergency ultrasound was used to care for patients last year after Hurricane Katrina and will be helpful in responding to other disasters and mass casualty events.

Mr. President, I congratulate the work of the ACEP Section of Emergency Ultrasound. It has increased awareness of the contribution and value of emergency ultrasound by emergency physicians in the medical care of emergency patients, survivors of disasters, and our military forces serving at home and abroad. Research in this field should continue to be encouraged to allow the adaptation of critical technologies to continually improve the quality of emergency care.

BURMA

Mr. McCONNELL. Mr. President, I wish to mark an important milestone: the 18th anniversary of the founding of the Burmese National League for Democracy, NLD. As the world knows well, the NLD is the legitimate leadership of the country of Burma, as the party was elected overwhelmingly by the Burmese people in 1990.

Sadly, the 18th anniversary for the NLD is not a time for rejoicing. The NLD remains firmly under the boot of the Burmese ruling junta, the State Peace and Development Council, SPDC. Many of its leaders are imprisoned, including Nobel Laureate and democracy advocate Daw Aung San Suu Kyi, and NLD vice chairman, U Tin Oo. Thirteen elected NLD members of Parliament and over 400 party members currently serve in prison. Other NLD members have endured torture and have been killed as the SPDC continues to wage a campaign of harassment, intimidation—and worse—against party members and supporters.

In a testament to the courage and determination of its leadership, and despite these great hardships, the NLD remains unbowed. It continues to pursue nonviolent political change in Burma. I am proud to say that the Senate stands squarely alongside the NLD in its efforts. I am hopeful that the United Nations, U.N., Security Council will as well. Due to the determined efforts of many countries, including the United States, Burma is slated to be on the Council's agenda for the first time ever. It will then be time for member states to stand up and be counted in support of a nonpunitive resolution on Burma.

It should be noted that U.N. Under Secretary General Ibrahim Gambari's trip to Rangoon earlier this year was a complete failure. Mr. Gambari should not make a second trip to Burma unless and until the U.N. Security Council has considered and passed a resolution that, among other things, details the threats the SPDC poses to the people of Burma and the entire region. Such action would be a clear message to the SPDC that when it comes to Burma, the world is not satisfied with the status quo.

Similarly, I would encourage all relevant bureaus at the State Department and the National Security Council—particularly those relating to African affairs—to remain engaged and focused on this issue. The task of promoting democracy and reconciliation in Burma should not be left only to the East Asian and Pacific Affairs and the Democracy, Human Rights, and Labor bureaus at the State Department. With three African nations currently sitting on the U.N. Security Council, our African affairs specialists need to more actively engage in building support for such a resolution. Ghana has already demonstrated its solidarity with the cause of freedom. The Republic of Congo and Tanzania need to follow suit.

Finally, on this, the 18th anniversary of the founding of NLD, I call upon the Burmese military regime to release Suu Kyi and all political prisoners. Only then can discussions on a meaningful reconciliation process—one that includes the full and unfettered participation of the NLD and ethnic minorities—proceed.

I ask unanimous consent that a Boston Globe Editorial on Burma be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Sept. 26, 2006]

AN AGENDA FOR BURMA

Having placed the case of Burma's military junta on the formal agenda of the Security Council earlier this month, the United Nations now has an opportunity to show that it can be something more than an impatient debating club. If in the waning days of his tenure UN Secretary General Kofi Annan exercises the right combination of firmness and finesse with Burma's military dictators, he can help protect human rights, democracy, and regional security in Asia.

Unlike the coercive measures contemplated to cope with Iran's pursuit of nuclear weapons or genocide in Darfur, the UN is not being asked to dispatch armed peacekeepers to Burma to impose risky economic sanctions on the narco-dictatorship there. Rather, moral suasian and diplomatic pressure are the means for dealing with the junta's violations of human rights and its threats to regional peace and security—threats manifest in the export of heroin, methamphetamine, HIV/AIDS, and the hundreds of thousands of refugees who have fled the military's brutal assaults on ethnic minorities.

Annan must be careful, however, in the way he exerts the UN's soft power. Last May, he sent UN Under Secretary-General for Political Affairs, Ibrahim Gambari, to Burma, where he met with Nobel Peace Prize winner Aung San Suu Kyi as well as junta leaders. At the time, Gambari said he thought the junta bosses were "ready to turn a new page." But Gambari and Annan looked gullible soon after, when the junta extended Suu Kyi's house arrest for another year and intensified its campaign of ethnic cleansing, rape, and murder in the region inhabited by 2 million people of the Karen ethnic group.

Annan shouldn't allow Gambari to undertake a return trip to Burma without a Security Council resolution that spells out clear and reasonable demands for the true turning of a new page. That should include the release of all 1,100 political prisoners in Burma, including Suu Kyi and fellow leaders of the National League for Democracy, the party that won 82 percent of Parliamentary seats in a 1990 election that the junta has refused to honor ever since.

The NLD, which commemorates the anniversary of its 1988 founding on Sept. 27, must be invited along with other parties and representatives of Burma's ethnic nationalities to participate in a genuine political dialogue, The resolution Gambari takes to Burma should specify that such a dialogue means working out terms for an agreement on a return to democracy. That resolution should also require the junta to end its attacks on ethnic minorities and to permit international aid organizations to have unimpeded access to all those in need within Burma. Nearly all the people of Burma need the world's help.

RECOGNIZING SERGEANT LEIGH ANN HESTER

Mr. MCCONNELL. Mr. President, I ask the entire Senate to join me today in congratulating one of Kentucky's amazing young heroes. SGT Leigh Ann Hester of Bowling Green, KY, is traveling to the Nation's Capital to receive the USO's Service Member of the Year Award at the organization's 2006 USO World Gala this September 28.

Sergeant Hester is being honored for her valorous service in combat in Iraq, which earned her the Silver Star medal. The Silver Star is the Army's third-highest award for gallantry, and Sergeant Hester is the first female soldier to win the medal for valor in combat since World War II.

A retail store manager in Bowling Green, Sergeant Hester joined the U.S. Army in 2001 and was assigned to the Kentucky National Guard's 617th Military Police Company, based in Richmond, KY. In March 2005, she was on the southeastern outskirts of Baghdad, shadowing a convoy of tractor-trailers carrying supplies for American forces.

The convoy was ambushed by about 50 heavily armed terrorists. They attacked from a trench alongside the road and rained down machine-gun fire and rocket-propelled grenades on the convoy for a sustained 3 minutes. Several truck drivers were killed, more were wounded. Thinking they had the upper hand, the terrorists moved towards the convoy, preparing to take hostages.

Suddenly three armored humvees roared up to the carnage. Sergeant Hester, as team leader of the second humvee, maneuvered her team into a position to draw the enemy's fire and begin fighting back with grenades and M203 rounds.

Sergeant Hester and her squad leader got out of their humvees and rushed the trench about 20 meters away from them to clear out the enemy. They worked their way through the insurgents, throwing grenades and firing M4s. When she ran low on ammunition, she ran back to a humvee to reload, exposing herself to enemy fire from multiple directions. Because this squad had been so well disciplined, Sergeant Hester was able to reach blindly into any of the humvees and know exactly where to grab more ammunition.

Finally, the soldiers of the 617th had put down enough fire that the enemy fell silent. It turns out that Sergeant Hester and her team, just 10 in all, had not only put themselves in the middle of a firefight against greater numbers and all survived, they had scored the highest death toll of insurgents in Iraq in many months. They killed 27, captured several wounded, seized a sizable weapons cache, and secured valuable intelligence.

Sergeant Hester's actions were cited as having "saved the lives of numerous convoy members." For her bravery, she was awarded the Silver Star medal on June 16, 2006.

Sergeant Hester's courage, dedication, and sacrifice on behalf of her country and her fellow soldiers make her a hero and a role model that every young Kentuckian can emulate. I am proud that a woman of such character and determination hails from the Bluegrass State, and I know the entire Senate joins me in thanking her for her service in defense of America and America's ideals.

HONORING OUR ARMED FORCES

SERGEANT FIRST CLASS RICHARD J. HENKES

Mrs. LINCOLN. Mr. President, it is my honor to pay tribute to the life of SFC Richard J. Henkes, a brave soldier who gave his life in support of Operation Iraqi Freedom. Sergeant Henkes will be remembered as a courageous soul, a proud father, and an inspiration to those who knew him best. The 200 people who gathered at his memorial service are a testament to the number of lives he touched. They are lives that he continues to touch through the legacy he leaves behind.

Sergeant Henkes wrestled and ran track in high school, but his true passion was snowboarding. He shared this passion with his 6-year-old daughter, Isabel, as well as with his 17-year-old niece, Cassidy, who fondly remembers the caring uncle who was always there to pick her up when she would fall. Above all, Sergeant Henkes was a compassionate, outgoing, and fun-loving guy with a great sense of humor. It was this compassion for others and desire to make a difference that drove him to carry on his family's rich history of military service, dating back to World War I.

Stationed out of Fort Lewis, WA, Sergeant Henkes served with C Company, 2nd Battalion, 3rd Infantry Regiment, 2nd Infantry Division. In Iraq, he was recently placed in command of his platoon—a challenge that he embraced. Tragically, Sergeant Henkes died on September 3 from injuries sustained from a roadside bomb in Mosul, Iraq. People say he knew of the dangers of war, but he believed his mission would make a difference in the lives of countless people and that it was worth the sacrifice. Mourners paid tribute to Sergeant Henkes in the Woodburn, OR, National Guard Armory on September 11. At the ceremony, he was posthumously awarded the Bronze Star and Purple Heart service medals by his battalion.

We grieve the loss of another soldier who made the ultimate sacrifice to defend the freedoms we all cherish. Sergeant Henkes leaves behind a legacy that will live on through the people he inspired and the young daughter who will grow up knowing that her father lived to make a difference in the world. My thoughts and prayers are with his daughter Isabel, his parents, Chris and Jim Stanton of Ashdown, AR, and Richard and Karen Henkes of Woodburn, OR, and to all those who knew and loved him.

Mr. SUNUNU. Mr. President, I rise today in support of S. 3549, the Foreign Investment and National Security Act. S. 3549 reforms the Committee on Foreign Investment in the United States, which is more commonly known as CFIUS. CFIUS is the entity of our Federal Government charged with reviewing any type of foreign investment in the United States, and reviews all corporate transactions involving foreign-owned companies. Its top priority has always been to protect America's national security interests, and that must remain its main focus. However, this foremost concern can and must be addressed without jeopardizing foreign investment in our country—a critical economic engine.

This CFIUS reform bill represents an effort by the Senate to ensure that the national security interests of the United States are protected in the context of foreign investment in U.S. industries. As a member of the Banking Committee, I supported this effort as a necessary way to restore the confidence of the American people in the CFIUS process, and I commend Chairman SHELBY and Ranking Member SARBANES and my colleagues on the committee for their work to date on this legislation. Though I supported Senate passage of the bill in an effort to keep this important legislation moving through the legislative process, I want to highlight two provisions in the bill with which I have significant concerns because they will have a chilling effect on foreign investment.

First, the provision that potentially extends the initial 30-day review period to a 60-day period would place all foreign investors, including those of our closest allies, at a competitive disadvantage. Under current law, most transactions, foreign and domestic, require an antitrust review under the Hart-Scott-Rodino Act which takes a minimum of thirty days. However, the foreign investor is also, appropriately, required to undergo a 30-day CFIUS review, which may occur concurrently with the HSR review. This process allows a thorough review without putting one type of investor at a disadvantage to another. S. 3549, however, would potentially expand the 30-day CFIUS review to 60 days, creating a much longer delay and one that is disconnected from the HSR-mandated time table. This would create a substantial competitive disadvantage. Our government ought to be able to quickly identify and clarify the national security implications of a given transaction certainly within the 30 days prescribed under current law.

The second provision with which I have concern would require repeated and detailed notifications about ongoing transactions to many Members of Congress and State Governors. Such notifications would only politicize transactions, do little to resolve national security concerns and undermine the CFIUS process.

This bill makes a strong attempt to strike the appropriate balance between national security, sound economic policy, and appropriate oversight. The two provisions I have highlighted upset this balance, but because I support this overall effort, I look forward to continued collaboration with Senators SHELBY and SARBANES and the other members of the Banking Committee as we address these issues in conference with the House.

NOMINATION OF FRANCISCO AUGUSTO BESOSA

Mr. BAUCUS. Mr. President, I would have voted in support of the nomination of Francisco Augusto Besosa to the U.S. District Court for the District of Puerto Rico. However, I was on my way back from Montana and was unable to make it to the Senate floor before the vote ended.

Mr. Besosa is well qualified for the position and will be a good addition to the court.

Francisco Augusto "Frank" Besosa is partner and head of the litigation department of Adsuar Muniz Goyco Besosa, P.S.C. in San Juan, Puerto Rico. After graduating from Brown University in 1971, he served 5 years in active military service in military intelligence. He was honorably discharged from Inactive Reserve from the U.S. Army with the rank of captain in 1977. He earned a J.D. from Georgetown University Law Center in 1979. After law school, Mr. Besosa returned to Puerto Rico and joined the law firm of O'Neill & Borges.

With the exception of 3 years in the 1980s as an assistant U.S. attorney, Mr. Besosa has spent his entire legal career in private practice in several firms conducting civil and commercial litigation in Puerto Rico. His work has focused on banking and bankruptcy; securities regulation; admiralty; insurance; torts including personal injury, medical malpractice, and product liability; telecommunications and intellectual property both at the trial and appellate level.

Mr. Besosa is a member of numerous bars including the Puerto Rico Bar Association, the Federal Bar Association, American Bar Association, District of Columbia Bar Association, U.S. Court of Appeals for the First Circuit and the Federal Circuit, and the Hispanic National Bar Association. He has held a variety of leadership positions in the Federal Bar Association Puerto Rico Chapter including director, president-elect, vice president, secretary and treasurer.

The ABA has recommended Mr. Besosa for the position with a unanimous "well qualified" rating.

Given his qualifications and experience, Mr. Besosa is a good fit for the U.S. District Court for the District of Puerto Rico. I would have supported his nomination.

Mr. COLEMAN. Mr. President, I rise today to discuss the Secure Fence Act of 2006 and the issue of securing our northern border. Without question, securing the border is our most vital need in dealing with illegal immigrants and as it stands, our borders lay vulnerable to not only an influx of illegal immigrants but also transportation of dangerous materials. The facts are clear—each year over 1 million unauthorized aliens are interdicted entering the country mostly on the southwest border. Testimony by the Border Patrol union chief places the estimate of illegal entrants not interdicted by Border Patrol to be two times those actually caught. Simply put, the Border Patrol is overwhelmed by the sheer volume of the traffic and it is time to take action.

The Secure Fence Act of 2006 requires the Secretary of Homeland Security to take all appropriate actions to achieve operational control over all U.S. international land and maritime borders within 18 months of its enactment. Additionally, the bill authorizes 700 miles of double-layered fencing at specified locations along the almost 2,000-mile southwest U.S. international border with Mexico.

This bill also takes the right approach in terms of northern border security. The legislation requires the Department of Homeland Security to conduct a study on the feasibility of a state of-the-art infrastructure security system along the northern international land and maritime border of the United States. The study shall include the necessity of implementing such a system, the feasibility of implementing such a system and the economic impact implementing such a system will have along the northern border.

In my home state of Minnesota, we share 547 miles of border with Canada and 458 of those miles are a water boundary. I want to make it clear to my constituents and our Canadian friends that this legislation should not be used to justify construction of a wall along the northern border but to take an inventory of the systems that are working and not working and ensure that we put in place the most effective approach. We are going to measure twice before building once.

The United States and Canada share a long history of working together on issues of mutual concern. Both countries share a common border and common objectives: to ensure that the border is open for business, but closed to crime. The Canada-United States Smart Border Declaration and Action Plan and programs such as the Security and Prosperity Partnership and the Integrated Border Enforcement Teams are great examples of cooperative initiatives that have proven successful.

I am fully confident this strong relationship and commitment to border security will continue as it is one of the cornerstones to securing our northern border.

NATIONAL EMPLOY OLDER WORKERS WEEK

Mr. KOHL. Mr. President, I rise today to recognize National Employ Older Workers Week, a time to celebrate the many older workers who are redefining retirement and the employers that welcome their talents.

Many older Americans do not see retirement as just a period of leisure; they continue to contribute to our nation's businesses, communities, and economy. And some employers, facing a shortage of skilled and experienced workers, have recognized the value of older workers by changing their policies to attract and retain them.

One of those employers is Mercy Health System, which is based in Wisconsin and has 63 health care facilities across Wisconsin and Illinois. AARP recently ranked Mercy Health System the top employer for older workers in the country. Mercy Health System attracts and retains older workers by providing flexible work options, like its Work-to-Retire Program, which offers reduced and seasonal work schedules while maintaining health benefits.

Yet too few employers have followed Mercy Health System's lead in creating better work options for older Americans. While most older workers want to work past traditional retirement age, many do not want to work a traditional full-time schedule. Today, only about one-third of older workers have flexible work schedules. Even when employers offer flexible work options like part-time work schedules, most do not also offer benefits: only 22 percent of part-time workers have access to health benefits.

So while older workers and some employers have begun to reinvent retirement, we have a long way to go. That is why I authored the Older Worker Opportunity Act, which aims to expand opportunities for older Americans to work longer if they so choose. The centerpiece of this legislation is a tax credit for employers that offer flexible, reduced, or seasonal work schedules to older workers while maintaining their health and pension benefits. Such a credit would reward employers like Mercy Health System who are doing the right thing, while encouraging other employers to follow their lead. Greater workplace flexibility would not only benefit older Americans, but would also reduce employer costs by increasing productivity and job retention.

Just this week, the National Committee to Preserve Social Security and Medicare endorsed the Older Worker Opportunity Act. In its letter of support, president and CEO Barbara Kennelly offered that the bill "could help pave the way for significant increases in older worker employment." I agree, and I am proud to have them join our other supporters, including the National Council on Aging, the National Older Worker Career Center, Watson Wyatt Worldwide, the Committee for Economic Development, the Association of Jewish Family and Children's Agencies, and United Jewish Communities. With their backing, this bill will continue to gain steam.

During National Employ Older Workers Week, we also celebrate the Senior Community Service Employment Program—SCSEP—which has provided community service and job training to low-income seniors for 40 years. As our baby boomers age and seniors become a growing share of the population, we must strengthen SCSEP so that all eligible seniors get the help they need. Many of us were concerned when the Administration proposed a major overhaul of this program, which would have been disruptive to both grantees and participants. I am hopeful that the Older Americans Act reauthorization bill will preserve the basic structure of the program and build on its success.

I urge Congress to pass the OAA reauthorization as soon as possible so that seniors in need of SCSEP services have the tools to stay active in the workforce and their communities. But beyond reauthorization, we must also boost SCSEP's funding, which is currently only enough to serve less than one percent of the eligible population. As a member of the Appropriations Committee, I will continue to press for additional funding so that all older Americans who want or need to work longer have the opportunity to do so.

As older Americans live longer and healthier lives, most have the ability and desire to remain active. Some want to maintain physical and mental health, some need to improve their financial security, and some want to continue to contribute to society. Whatever the reason, it's time to change the way we think about retirement. Older Americans are a valuable asset to our nation's businesses, communities, and economy, and we must tap their reservoir of experience and talents. Our seniors deserve it, and our economic future may well depend on it.

CHILD AND FAMILY SERVICES IMPROVEMENT ACT

Mr. GRASSLEY. Mr. President, yesterday, the House of Representatives passed the Senate amendment to S. 3525, which represents the bipartisan and bicameral agreement on the Child and Family Services Improvement Act of 2006.

I was pleased to have introduced the Senate amendment with my friend and partner on the Senate Finance Committee, Senator MAX BAUCUS. Senator BAUCUS and I were joined by Senator ORRIN G. HATCH, and Senator JOHN D. ROCKEFELLER, Jr. and Senator OLYMPIA J. SNOWE. All of these members have a long history of support for important programs to improve the well-being of children.

This important legislation reauthorizes the Promoting Safe and Stable Families Program which provides services to families for family support, family preservation, time-limited reunification of families, and for adoption and post-adoption services. These are critical funding streams, and the reauthorization of the Promoting Safe and Stable Families Program ensures that families can rely on these preventative and supportive services.

The legislation also aligns the Child Welfare Services Act with the prevention activities of the Promoting Safe and Stable Families Program by providing incentives to States to invest in prevention services while allowing States to continue current State spending on existing State priorities.

S. 3525 provides support for increased caseworker visits as well as adopts a version of President Bush's proposal to provide a voucher for mentoring services for children of prisoners.

Additionally, the legislation increases access for funding for Indian tribes, which was a key priority of both Senator BAUCUS and Senator KENT CONRAD.

The legislation that will soon be signed by the President also includes grants for regional partnerships to address the growing problem of methamphetamine and other substance abuse and addictions that have had a substantial impact on child welfare systems and services.

Funding for these competitive grants was a key priority of mine, and I am pleased that the compromise we were able to work out with the House maintains the support for grants to improve the outcomes for children affected by methamphetamine abuse and addiction.

Mr. President, the Senate Finance Committee did a great deal of work on issues relating to child welfare. We held the first full committee hearing in 10 years on child welfare, and we held an additional hearing on the effects of the methamphetamine epidemic on the child welfare system. We worked on a bipartisan basis to mark up and pass the Improving Outcomes for Children Affected by Meth Act of 2005. Key provisions of that bill are features in the legislation which will soon be signed into law.

But there is more that can be done to strengthen and improve child welfare services. I intend to continue to work on a bipartisan basis to develop and enact reforms to ensure that all children have access to loving, permanent homes.

I would like to take this opportunity to thank the staff who worked tirelessly to get this bill done. Members of Congress in both the House and the Senate are very well served by our staffs. These men and women care a great deal about these programs, and we are indebted to them for their insights and analysis.

I am grateful to the talented staff from the office of Senator BAUCUS, specifically, Diedra Henry-Spires, Doug Steiger, and Michelle Easton. Additionally, I am grateful to Senator ROCKEFELLER's extremely knowledgeable aid Barbara Pryor.

I appreciate the work of the staff on the Subcommittee on Human Resources of the House Committee on Ways and Means, Matt Weidinger and Christine Calpin for the majority and Nick Gwyn and Sonja Nesbit for the minority.

I also thank the dedicated analyst from the Congressional Research Service, Emilie Stoltzfus who provided staff with invaluable expertise on child welfare programs.

Thanks to Christina Hawley Anthony from the Congressional Budget Office as well as legislative counsels Ruth Ernst and James Grossman.

Finally, I appreciate the efforts of my own Finance Committee policy lead on this issue, Becky Shipp as well as Mark Hayes, Ted Totman, and Kolan Davis.

Mr. President, because a formal conference was not convened on this bill, there is no conference report filed. However, the staff has prepared a section-by-section analysis of the Senate-House agreement for purposes of the legislative history.

Mr. President, some will say this has been a "do nothing congress." I couldn't disagree more, and I believe that the children and families served by this legislation would disagree as well.

Mr. President, I ask unanimous consent that the section-by-section analysis to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

S. 3525, THE CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006, AS AMENDED

(Prepared by the Staff of the U.S. House Committee on Ways and Means and the U.S. Senate Committee on Finance, September 27, 2006)

Section 1—Short Title

"The Child and Family Services Improvement Act of 2006"

Section 2—Findings

The legislation makes a number of findings regarding the provision of services under two child welfare programs authorized under Title IV–B of the Social Security Act, the Child Welfare Services (CWS) program and the Promoting Safe and Stable Families (PSSF) program. The findings note the importance of monthly caseworker visits in improving outcomes for children. They also outline the relationship between the entry of children into the child welfare system and their parent's abuse of methamphetamine and other substances.

Section 3—Reauthorization of the Promoting Safe and Stable Families Program

Current Law

For fiscal year (FY) 2006, authorizes mandatory funding of $345 million for the Promoting Safe and Stable Families (PSSF) program (Title IV–B, Subpart 2 of the Social Security Act) and discretionary funding of $200 million for each of FYs 2002 through 2006.

S. 3525

The legislation extends the mandatory PSSF funding authorization of $345 million for five years (FYs 2007 through 2011) and extends the discretionary funding authorization of $200 million for each of those same five years. The legislation expands the reporting requirement to include both proposed spending and actual spending under the CWS and PSSF programs, and at State option, other programs that support child abuse prevention activities and child welfare services. The legislation also prohibits HHS from making any payment of PSSF funds to a State for administrative costs that exceed 10 percent of total program expenditures (Federal and non-Federal) of a State.

Reason for Change

The PSSF program supports four categories of services provided to children and families: family preservation services, community-based family support services, time-limited reunification services, and adoption promotion and support services. The legislation recognizes the importance of encouraging States to invest in these activities. Thus the legislation provides for the $200 million increase in mandatory PSSF funds over the next five years included in the Deficit Reduction Act of 2005 (Pub. L. 109–171). In total $345 million in mandatory funds (the recent $305 million allotment of annual mandatory funds, plus a $40 million annual increase provided under the Deficit Reduction Act of 2005) will be provided in each of FYs 2007 through 2011.

The legislation also will ensure better oversight and accountability of spending under the CWS and PSSF programs by requiring States to report on projected and actual spending under these two programs. Specifically, data on actual spending will help track State investments for the four priorities of the PSSF program.

Section 4—Targeting of Promoting Safe and Stable Families Program Resources

Current Law

Current law requires States to include assurances in their PSSF plan that they will spend significant portions of their PSSF funds in each of four priority areas: (1) family preservation services; (2) community-based family support services; (3) time-limited family reunification services; and (4) adoption promotion and support services.

S. 3525

The legislation retains the four priorities of PSSF while targeting the additional $40 million per year provided under the Deficit Reduction Act of 2005 (Pub. L. 109 171) to two new priorities: (1) support for monthly caseworker visits; and (2) competitive grants to promote the well-being of children in or at risk of placement in the child welfare system as a result of their parent's abuse of methamphetamine or other substances.

The legislation provides a total of $95 million to States to support monthly caseworker visits of children in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology. States will receive $40 million from FY 2006 PSSF funds (with these funds available through FY 2009), $5 million in FY 2008, $10 million in FY 2009, and $20 million in each of FYs 2010 and 2011 to support monthly caseworker visits. States cannot use these funds to supplant any Federal funds already paid to the State under the Title IV–E program that could be used for the purposes outlined above.

To promote the well-being of children affected by their parent's abuse of methamphetamine or other substances, the legislation provides a total of $145 million to the

Secretary of the Department of Health and Human Services (HHS) to award competitive grants to regional partnerships to pursue innovative approaches to help children and families. Funding will be $40 million in FY 2007, $35 million in FY 2008, $30 million, in FY 2009 and $20 million in each of FYs 2010 and 2011. Partnerships must include the State child welfare agency or an Indian tribe and at least one other eligible partner, including: child welfare service providers (nonprofit and for-profit), community providers of health or mental health services, local law enforcement agencies, judges and court personnel, juvenile justice officials, school personnel, the State agency responsible for administering the substance abuse prevention and treatment block grant (authorized under Title XIX–B, Subpart II of the Public Health Services Act), and any other providers, agencies, personnel, officials or entities related to the provision of child and family services. Grants of between $500,000 and $1 million per year will be awarded for 2 to 5 year periods.

A priority will be given to grant applications that propose to combat methamphetamine abuse, given its substantial affect on child welfare in some areas. Funding for the grants must be used to support the purposes of this program, which may include family-based comprehensive long-term substance abuse treatment services, early intervention and prevention services, mental health services, parent skills training, and replication of successful models for providing family-based comprehensive long-term substance abuse treatment services. Grantees must provide a 15 percent match in the first and second year, a 20 percent match in the third and fourth year, and a 25 percent match in the fifth year. In-kind contributions can qualify towards the match requirement. The Secretary of HHS must consult with State leaders to develop performance indicators and reporting is required of all grant recipients.

The legislation also redirects current PSSF research funding to support evaluation, research, and technical assistance related to the above two PSSF funding priorities. In each of FYs 2007 through 2011, at least $1 million must be spent for research and technical assistance activities that support monthly caseworker visits and at least $1 million must be spent for research and technical assistance activities with respect to the competitive grant program to promote the well-being of children in or at risk of placement in the child welfare system due to a parent's abuse of methamphetamine or other substances.

Reason for Change

The targeting of funds to support monthly visits of foster children is in response to research highlighting how monthly visits lead to better outcomes for children. The Child and Family Service Reviews (CFSRs) completed in each State found a strong correlation between frequent caseworker visits with children and positive outcomes for children, such as timely achievement of permanency and other indicators of child well-being. However, despite the fact that nearly all States had written standards suggesting monthly visits were State policy, a December 2005 report completed by the HHS Office of the Inspector General found that only 20 States were able to produce reports showing whether caseworkers actually visited children in foster care on at least a monthly basis. States are encouraged to invest these resources in those activities with proven effectiveness in supporting monthly caseworker visits of foster children and should be cognizant that these funds may not supplant what States already spend from their Title IV–E programs for these activities. These resources are intended to increase State investment in these important areas.

Parental substance abuse is a well-known problem affecting the child welfare system, and the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration reported that the number of new uses of methamphetamines (meth) has increased 72 percent in the past decade. A study by the National Association of Counties which surveyed 300 counties in 13 States reported that meth abuse is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements due to meth abuse in 2005.

Section 5—Allotments and Grants to Indian Tribes

Current Law

Requires that 1 percent of all mandatory PSSF funds, and 2 percent of any discretionary appropriations for the PSSF program, be set aside for tribal programs. (The minimum tribal funding provided is $3.45 million and the maximum annual tribal funding possible is $7.45 million.)

Out of the tribal funds reserved, Indian tribes or tribal organizations with an approved plan must be allotted PSSF funds (based on the relative share of tribal persons under age 21 but only among tribes or tribal organizations with approved plans). The Secretary of HHS may exempt a tribe from any plan requirement that it determines would be inappropriate for that tribe (taking into account the resources, needs, and other circumstances of that tribe). However, no tribe or tribal organization may have an approved plan (or receive funds) unless its allotment is equal to at least $10,000. Funds allotted are paid directly to the tribal organization of the Indian tribe to which the money is allotted.

S. 3525

The legislation increases the set-aside for tribal programs to 3 percent of any discretionary funds appropriated. It also increases the set-aside for tribal programs to 3 percent of the mandatory funds authorized and which remain after the separate reservation of funds is made for (1) monthly caseworker visits, and (2) competitive grants to combat methamphetamine and other substance abuse. Therefore, the minimum funding available per year for tribal programs would be $9.15 million and the maximum funding would be $15.15 million. The legislation eliminates the ability of the Secretary of HHS to exempt tribes from the PSSF plan requirements related to nonsupplantation, data reporting, and monitoring. However, the Secretary retains the ability to waive for Indian tribes the PSSF requirement to invest significant amounts of program funds in each of the four PSSF activities and to spend no more than 10 percent of PSSF funds on administrative costs.

The legislation also permits tribal consortia to have access to an allotment of PSSF funds (and related technical assistance) on the same basis as such funds are currently available to Indian tribes. A tribal consortium's allotment is to be determined based on the number of tribal persons under age 21 in each tribe that is a part of the tribal consortium. If tribes choose to apply collectively as a consortium, the population of tribal persons under age 21 for each tribe would be combined in order to determine the size of the grant to the consortium, including whether the consortium meets the $10,000 eligibility threshold in the Act. A tribal consortium could select which Indian tribal organization (among the tribes in the consortium) would receive the direct payment of its allotment.

Reason for Change

The legislation recognizes the importance of assisting tribes in their efforts to assist abused and neglected children. The legislation significantly increases the amount of funds provided to tribes and allows tribal consortia to apply for PSSF funds. This step is being taken to encourage the further development of tribal child welfare programs, which largely serve severely disadvantaged communities and families and can do so in a culturally appropriate manner. Permanency outcomes for Indian children can be improved if tribal consortia are able to have access to an allotment of PSSF funding on the same basis as is currently available to Indian tribes. This will facilitate smaller tribes' building their own programs and will allow for administrative efficiencies in tribal program administration.

To collect additional data and ensure proper oversight of these funds, tribes and tribal consortia interested in applying for this substantial increase in PSSF funds will be required to adhere to the same data and monitoring plan requirements as States. This additional data will inform how these funds have helped the tribes better ensure the safety, permanency, and well-being of tribal children.

Section 6—Improvements to the Child Welfare Services (CWS) Program

Current Law

Up to $325 million annually is authorized on an indefinite basis for the Child Welfare Services (CWS) program, which provides funds to States to support a wide range of child welfare activities. Federal funding represents 75 percent of total funding for this program, and States are required to contribute 25 percent of total CWS funding from State funds.

S. 3525

The legislation maintains the annual discretionary authorization level of $325 million per year but limits the funding authorization to FYs 2007 through 2011. The legislation also specifies that the purpose of the CWS program for which funds may be expended is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and that ensures all children are raised in safe, loving families, by: (1) protecting and promoting the welfare of all children; (2) preventing the neglect, abuse, or exploitation of children; (3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner; (4) promoting the safety, permanence and well-being of children in foster care and adoptive families; and (5) providing training, professional development and support to ensure a well-qualified child welfare workforce.

The legislation eliminates the plan requirements related to child day care standards and those related to the use of paraprofessionals or volunteers and restates and renumbers the remaining provisions with generally the same intent. It rewrites the provision concerning policies and procedures for children abandoned shortly after birth to assert that a State must have in effect administrative and judicial procedures for children who are abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) to ensure expeditious decisions can be made for their permanent placement. Further, it clarifies that the State may include residential educational programs as a living arrangement for children for whom reunification, adoption, or guardianship have been ruled out as permanency goals. This provision does not undermine current State policies regarding placement of children in adoptive homes and does not eliminate the 25 bed policy.

Beginning October 1, 2007 (i.e. the beginning of FY 2008), the legislation limits administrative funding to 10 percent, but defines administrative funds to exclude caseworker services and supervision of such services. Also beginning in FY 2008, the legislation limits how much each State can expend from Federal CWS funding for foster care maintenance payments, adoption assistance payments, or child day care to what the State can show that it spent for such purposes in FY 2005. Further, beginning with FY 2008, States are not allowed to use State spending on foster care maintenance payments to meet the State matching requirement to receive Federal CWS fund in amounts that exceed what the State spent from such funds in FY 2005.

The legislation also adds new requirements to the CWS plan the State submits to (1) describe how the State consults with and involves physicians and other appropriate medical professionals in the assessment of children in foster care and in determining appropriate medical treatment, and (2) develop a plan on how to respond, track and continue care for children receiving child welfare services in the event of a disaster.

Reason for Change

The legislation will reorganize and update the CWS program and encourage more effective oversight. It also aligns the program to be coterminous with the reauthorization of the PSSF program to allow for better coordination between the two programs. It will encourage States to invest funding in prevention services, but allows each State to maintain in the coming years its FY 2005 level of spending from Federal CWS funds for foster care, adoption assistance and child care purposes. It adds a new State planning requirement to ensure consultation with medical professionals as well as State planning to continue the availability of child welfare services during a disaster.

Section 7—Monthly Caseworker Standard

Current Law

There is no minimum Federal standard for monthly visits of foster children in State custody.

S. 3525

The legislation requires the State to update its CWS State plan by October 1, 2007 to describe its standards for the content and frequency of caseworker visits of foster children in State custody, which at a minimum must ensure that children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of children.

The legislation also sets a minimum Federal standard requiring each State and territory to achieve by October 1, 2011 monthly caseworker visits for at least 90 percent of foster children in State custody, with the majority of those visits occurring in the child's residence. Each State and territory would be held accountable for its efforts and the legislation prescribes a planning process to achieve this goal. To receive FY 2008 CWS funds, States must submit to HHS data for FY 2007 on the percentage of foster children visited on a monthly basis by their caseworker and the percentage of those visits that occurred in the child's residence. Based on this data, HHS will work with each State to set target levels for the State to meet to achieve a 90 percent monthly visitation standard by FY 2012 and will establish these target levels by June 30, 2008. Then, beginning in FY 2009, States must achieve their annual goal for the percentage of caseworker visits and the percentage of visits that occur in the child's residence, or face an enhanced matching requirement in order to draw down their full allotment of Federal CWS funds. The share of non-Federal spending that is required in a State that does not meet its visitation target level in a year increases by a minimum of 1 percentage point, up to a maximum of 5 percentage points, depending on the degree to which the State has missed its target level; absent the commitment of additional State funds, Federal funds would be reduced to yield the modified State share of overall CWS funding, consistent with the degree of the State's failure to achieve its visitation target for that year.

No later than March 31, 2010, HHS must submit to the House Committee on Ways and Means and the Senate Committee on Finance a report that outlines the progress States have made in meeting their caseworker visitation standards and that offers recommendations, developed in consultation with State administrators of child welfare programs and members of State legislatures, to assist States in meeting this standard.

Reason for Change

Holding States accountable for achieving monthly caseworker visits for at least 90 percent of foster children responds to research highlighting how monthly visits lead to better outcomes for children. HHS shall work with the States to establish a plan to achieve this goal by FY 2012 and States are encouraged to invest the new PSSF resources provided in FY 2006 and later fiscal years in activities that have been shown to be effective in achieving increased caseworker visitation of foster children. The above accountability measure will ensure that, even in the case of a State that fails to fulfill its specified level of caseworker visits, the full Federal CWS allotment to a State will remain available so long as that State increases its State CWS spending modestly, according to the provisions of the legislation.

Section 8—Reauthorization of Program for Mentoring Children of Prisoners

Current Law

The Mentoring Children of Prisoners program is administered by HHS and makes competitive grants to support the establishment or expansion and operation of programs that provide mentoring services to children of prisoners.

S. 3525

The legislation reauthorizes the existing Mentoring Children of Prisoners program through FY 2011 at such sums as may be necessary and increases the HHS set-aside for research, technical assistance, and evaluation from 2.5 percent to 4 percent. It authorizes a new 3-year pilot program to provide vouchers to qualified mentoring groups to offer services to individual children of prisoners, but specifies both annual caps on funding for this purpose and that at least $25 million must be available each year for site-based grants provided under the program. The voucher pilot program will be administered by a national group that will work closely with HHS to manage the program with the goal to distribute least 3,000 vouchers in the first year, 8,000 vouchers in the second year and 13,000 vouchers in the third year. The legislation specifies that the national group must identify in its voucher distribution plan how the group will prioritize providing vouchers to children in areas which have not been served under the current site-based mentoring program. During the third year of this pilot HHS shall provide a report based on an independent evaluation to the House Committee on Ways and Means and the Senate Committee on Finance on the number of children who received vouchers for mentoring services and any conclusions regarding the voucher pilot program's effectiveness.

Reason for Change

The continuation of the Mentoring Children of Prisoners program will enable public and private organizations to establish or expand projects that provide one-on-one mentoring for children of incarcerated parents and those recently released from prison. At the same time, children have not been able to access mentoring services in some States and rural areas because of the absence of a site-based grant to provide this service. The voucher pilot program will evaluate the effectiveness of using vouchers to expand the delivery of mentoring services to children of prisoners, including to children in rural and underserved areas.

Section 9—Reauthorization of the Court Improvement Program

Current Law

For each of FYs 2002 through 2006, an eligible highest State court (with an approved application) is entitled to a share of funds to assess and make improvements to its handling of child welfare procedures. A set-aside of $10 million from the mandatory funds authorized and 3.3 percent of any discretionary appropriation is provided from the PSSF program to support the Court Improvement Program. To receive its full allotment of these funds the court, in each of FYs 2002 through 2006, is required to provide at least 25 percent of the expenditures for this purpose.

S. 3525

The legislation reauthorizes the funding for the Court Improvement Program for 5 years, through FY 2011.

Reason for Change

The Court Improvement Program has played an important role in assisting State courts in their efforts to expedite judicial proceedings for at-risk children. The legislation will ensure these funds continue to remain available, and is in addition to the $100 million provided over FYs 2006 through 2010 under the Deficit Reduction Act of 2005 (Pub. L. 109–171) to support training and data collection efforts of State courts.

Section 10—Requirement for Foster Care Proceedings to Include, in an Age-Appropriate Manner, Consultation with the Child that Is the Subject of the Proceeding

Current Law

Current law does not include a standard for consulting with children in court proceedings.

S. 3525

The legislation requires States to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults in an age-appropriate manner with the child regarding the plan being proposed for the child.

Reason for Change

Each child deserves the opportunity to participate and be consulted in any court proceeding affecting his or her future, in an age-appropriate manner.

Section 11—Technical Amendments

Section 12—Effective Dates

The legislation will become effective on October 1, 2006, except for provisions with other specified effective dates or if HHS determines that a State legislature must act before the State can comply with the changes.

HONORING CHIEF JUDGE WILLIAM WALTER WILKINS, JR.

Mr. DEMINT. Mr. President, I rise today to honor the years of dedicated service that William Walter Wilkins, Chief Judge of the U.S. Court of Appeals for the Fourth Circuit, has given to the Federal judiciary. Hailing from my hometown of Greenville, SC, his contributions to South Carolina and our Nation are immeasurable.

Chief Judge Wilkins began his public service in 1967 as an officer in the U.S. Army, eventually earning the rank of colonel in the U.S. Army Reserves. Upon his honorable discharge from the Army, Chief Judge Wilkins worked as a law clerk for the Honorable Clement F. Haynsworth, Jr., U.S. Court of Appeals Fourth Circuit until 1970, then going on to become a legal assistant for the late Senator Strom Thurmond. And Senator Thurmond got it exactly right when he called Chief Judge Wilkins "a man of character and unquestionable integrity."

While in private practice, Chief Judge Wilkins was elected as the first Republican Solicitor for the Thirteenth Judicial Circuit since Reconstruction, a post that showcased his extensive knowledge and mastery of the legal profession.

In 1981, newly elected President Ronald Reagan used his first Presidential appointment to nominate Chief Judge Wilkins to the position of the U.S. District Judge for the District of South Carolina. Chief Judge Wilkins was confirmed by this body on July 20, 1981 and received his commission on July 22, 1981.

In 1985, President Reagan appointed Chief Judge Wilkins to be the first Chair of the United States Sentencing Commission, where he was given the task of creating guidelines for the sentencing of Federal defendants. He served in this capacity until 1994. During that time, he was also appointed to be U.S. Circuit Judge for the Fourth Circuit Court of Appeals, where he has served as Chief Judge since 2003.

Chief Judge Wilkins is a nationally recognized jurist and is known for this scholarship, sharp wit, and unyielding allegiance to the rule of law. Not only is the State of South Carolina honored to be the home of a man of his integrity, but the United States is privileged to have such a distinguished jurist defending our American legal system.

I commend Chief Judge Wilkins for his 25 years of public service to the United States.

HONORING RANDE YEAGER

Mr. COLEMAN. Mr. President, I would like to take this opportunity to commend Rande Yeager, a constituent of mine, on completing a year as president of the American Land Title Association, ALTA. He ably represented the land title industry at a time when the value and public policy purposes of title insurance and the maintenance of land records came under challenge.

His leadership of ALTA over this past year was a natural extension of his corporate experience. As president of Old Republic National Title Insurance Company, one of the leading title underwriters in this country and my State of Minnesota, Rande has experience being both a leader and a spokesperson for a large company.

As ALTA president, Rande made numerous trips to State conventions across the country to get to know his colleagues better, hear their concerns for their businesses and the industry, and came back ready to find out how ALTA could help. He also came to Washington to promote the importance of title insurance and land record maintenance.

ALTA has been well served by Rande's leadership. I congratulate him on his year as president and best wishes on his future endeavors.

MIDDLE GEORGIA BUCKS SENIOR BOYS BASKETBALL TEAM

Mr. CHAMBLISS. Mr. President, I have submitted a resolution to congratulate the 2006 Middle Georgia Bucks Senior Boys Basketball Team of Macon, GA, for their winning season. Not only did they win the 2006 Amateur Athletic Union National Championship, AAU, they won the 2006 State of Georgia AAU Championship and the 2006 Hoosier Showcase in Indianapolis, IN, as well. The Bucks finished the season with an undefeated record of 27 wins and 0 losses. On August 1, they claimed their national victory by defeating the North Carolina Gators by a score of 97 to 75.

This resolution recognizes and commends the hard work, tenacity, and steadfast commitment to excellence of the members, parents, coaches, and managers of the Middle Georgia Bucks. It also commends the Amateur Athletic Union for continuing the tradition of fostering the development of sportsmanship, discipline, and self-assurance in young adults. This talented team, managed by Alfonza Hall and coached by Melvin Flowers, Chris Cromartie, and Al Hagan, has brought great pride to the State of Georgia and the Middle Georgia community, where the fans have shown unwavering enthusiasm, support, and admiration for the players and coaches.

Mr. President, I would like to recognize the players individually for their accomplishment: Lehmon Colbert; LaShun Watson; Anthony Miller; Terrell "Sput" Dunham; Keith Ramsey; Giles Mack; Antonio Steele; Tay Waller; Jarvis Ogletree; Rashad Faust; Sean LeGree; Jermaine Sparks; Josh Williams; Akila Carter; and Jeremiah Crutcher. I extend my heartfelt congratulations to each of these players and their families, and to all involved in the organization. I urge my colleagues to support the resolution.

ADDITIONAL STATEMENTS

TRIBUTE TO JARED JENSEN

• Mr. ALLARD. Mr. President, today I honor the service and sacrifice of Officer Jared Jensen.

My wife Joan and I were deeply saddened to hear of the death of Officer Jared Jensen while in the line of duty.

It takes a person of great courage to become an officer of the law. It takes a strong, hardworking, and considerate individual. It takes a special someone who is willing to pay the ultimate price in protecting the safety of others.

Officer Jared Jensen was just this person. He served the Colorado Springs Police Department with honor and valor for more than 3 years. Officer Jared Jensen was a dedicated police officer who had a passion for upholding the law.

Officer Jared Jensen was a husband, a brother, and a son. He is survived by his wife Natalie, a brother, who also serves the Colorado Springs Police Department, and his loving parents. Among his many hobbies and interests, Officer Jared Jensen was an avid NASCAR racing fan and golfer. Throughout his life, Jared's caring heart was evident in his devotion to family and friends, his love of animals, and his loyalty to his fellow officers with whom he served.

The city of Colorado Springs has lost a valuable member of its community, and we are all forever grateful for Officer Jared Jensen's service and dedication to the safety and well-being of others. His service to the city of Colorado Springs is highly commendable, and his contributions will be remembered.

On October 6, 2006, the Police Cross and Medal of Valor will be presented to Officer Jared Jensen, posthumously, and given to his widow Natalie at the

21st Annual Medal of Valor Award Ceremony in Colorado Springs, Colorado. These awards represent his extraordinary heroism and honorable service to the Colorado Springs Police Department.

I extend my deepest appreciation to Officer Jared Jensen. May his bravery and unwavering sense of duty serve as a role model for the future generation of law officers.•

COMMENDING FORT PECK RESERVATION AND FEDERAL HIGHWAYS ADMINISTRATION

• Mr. BURNS. Mr. President, I want to take this moment to call the Senate's attention to a historic agreement that was signed today between the Federal Highways Administration and the Assiniboine & Sioux tribes at the Fort Peck Reservation in Montana.

Today, Fort Peck entered into an agreement with FHWA to directly manage highway funds for the reservation, allowing increased focus on the local needs of tribal members. Fort Peck is one of five tribes that were selected for this new partnership. By empowering the tribes to administer these funds directly, FHWA is recognizing the critical need for improved transportation infrastructure on tribal lands. From increased safety to economic development, tribal authorities are best suited to direct this funding in a manner that will serve the needs of their communities.

In the recently passed highway bill, the Indian reservation roads account was substantially increased, which also demonstrates the Federal commitment to tribal transportation needs. I was pleased to support this increase, and even more pleased that Montana is leading the way in this new era of government-to-government cooperation in administering these funds.

I am a firm believer that empowering folks on the ground to address the specific needs of their communities generally yields the best results, and no where is that more true than in Indian Country. Montana's tribes are working tirelessly to improve the quality of life for their people, and investing in basic infrastructure, like roads, is the foundation of economic growth in these rural areas. Safe, reliable roads are needed to get kids to school, people to work, and products to market. This is a basic need we are talking about here, and I am confident that the leaders at the Fort Peck reservation are best suited to tackle these challenges.

I would like to congratulate Fort Peck and FHWA for this groundbreaking partnership. I am hopeful that we can build on this initiative and expand the ability of tribal leaders to shape the future of their people. •

HONORING ADMIRAL JOHN WILLIAM KIME

• Ms. SNOWE. Mr. President, I would like to take a moment today to honor and pay tribute to ADM John William Kime, the 19th commandant of the Coast Guard who passed away on September 14, 2006.

During his distinguished 41-year career in the Coast Guard, Admiral Kime embodied the ideals of superior public service. An officer of great vision and ability, his leadership as the Commandant of the Coast Guard from 1990 to 1994 left an indelible legacy of resource stewardship, environmental protection, and increased national security.

Admiral Kime graduated from the U.S. Coast Guard Academy in 1957. Following graduation, he immediately went to sea, serving in both deck and engineering assignments aboard the Coast Guard cutter Casco. In 1960, he assumed command of Loran Station Wake Island.

After his tour of duty in the South Pacific, Admiral Kime earned masters degrees in marine engineering and naval engineering from the Massachusetts Institute of Technology and embarked on what ultimately became his lifelong professional passion: improving the safety and security of this Nation's maritime interests.

Admiral Kime commanded the Marine Safety Office in Baltimore, and served as the principal U.S. negotiator at the International Maritime Organization, IMO, conference in London where he was a key contributor during drafting of the liquefied gas container ship safety codes. Also during his time in Washington, Admiral Kime oversaw the structural design of the Coast Guard's Polar Class icebreakers—two vessels that have proven to be the anvil upon which this Nation's scientific research at the Earth's poles has been forged.

While commanding the Coast Guard's Eleventh District, Admiral Kime was summoned to direct the Federal response to the Exxon Valdez oil spill, an event of national significance that influenced the rest of his career. Admiral Kime went on to serve as Chief of the Marine Safety, Security and Environmental Division in Washington DC and was ultimately confirmed by the 101st Congress as Commandant of the U.S. Coast Guard in 1990.

As Commandant, Admiral Kime oversaw implementation of the landmark Oil Pollution Act of 1990. This act streamlined and strengthened the Federal Government's ability to prevent and respond to catastrophic oil spills. For his immense successes in improving commercial shipping regulations, he was awarded the 1993 International Maritime Prize by the International Maritime Organization.

From overseeing the structural design of our Polar ice breaking fleet to pioneering improvements in the way our Nation prevents and responds to oil spills in the wake of the Exxon Valdez disaster, Admiral Kime's influence and energy remains visible in the wonderful performance of the U.S. Coast Guard today.

Mr President, I ask all Members of the Senate to join me in recognizing Admiral Kime's service in our Nation's Coast Guard and remembering both his life and his dedication to the United States of America.•

HONORING THE SERVICE OF DR. DOROTHY C. STRATTON

• Ms. SNOWE. Mr. President, on September 17, 2006, this Nation lost another distinguished member of our "greatest generation," Dr. Dorothy Constance Stratton. She was 107.

An inspirational leader and true patriot, Dr. Stratton was born in March of 1899, attended high school in the Midwest, and graduated from Ottawa University with a bachelor of arts degree in 1933. She went on to earn a master of arts degree in psychology from the University of Chicago and a doctorate of philosophy from Columbia University.

After earning her degrees, Dr. Stratton became the first full-time dean of women at Purdue University. Always committed to establishing a more positive and constructive atmosphere for women on campus, her pioneering force brought to life a vision to make science more appealing to women. With enthusiasm and energy, she developed an experimental curriculum that proved successful and increased undergraduate enrollment of women at Purdue from 600 to over 1,400.

In 1942, as the dark clouds of World War II gathered over our Nation, Dr. Statton felt compelled to duty and took a leave of absence from Purdue to join the Naval Women's Reserve. Shortly after receiving her commission in the Navy as a lieutenant, President Roosevelt signed an amendment to Public Law 773, thereby establishing the Coast Guard's Women Reserve.

Known for her brilliance as an organizer and administrator, a newly promoted Lieutenant Commander Stratton was sworn in as Coast Guard Women's Reserve new director, simultaneously making Dr. Statton the first women accepted for service as a commissioned officer in the history of the U.S. Coast Guard.

Lieutenant Commander Stratton immediately left her mark on the newly established Reserve Service. Shortly after accepting the position of director she sent a memo to wartime Coast Guard Commandant ADM Russell R. Waesche. Dr. Stratton wrote, "The motto of the Coast Guard is 'Semper Paratus—Always Ready.' The initials of this motto are, of course, S-P-A-R.

Why not call the members of the Women's Reserve SPARs? . . . As I understand it, a spar is a supporting beam and that is what we hope each member or the Women's Reserve will be." And so they were.

Under Stratton's inspiring leadership the newly named SPARs expanded to include nearly 1,000 officers and over 10,0000 enlisted women. These dedicated, selfless women initially replaced men working in traditional clerical and routine services at shore stations, but as the war progressed, SPARs worked as parachute riggers, pilot trainer operators, aviation machinists' mates, and air control tower operators. Known as the "women behind the men behind the guns," their duties eventually extended to include the most important port security, logistical, and administrative jobs. By wars' end, the SPARs successes had forever changed the role of women in the Coast Guard, and Dr. Stratton had been promoted to the rank of captain, another first for the U.S. Coast Guard.

Following her time as SPAR director, Dr. Stratton became the first director of personnel at the International Monetary Fund, followed by service as executive director of the Girl Scouts of the U.S.A. She was also the United Nations representative of the International Federation of University Women.

History is replete with events demonstrating the service and sacrifices made by American women. More than 400,000 women served during World War II. We are humbled by their love and dedication to our Nation.

I ask my colleagues to join with me today in honoring and recognizing CAPT Dorothy Stratton for her service to the United States, the U.S. Coast Guard and its Reserve, and for the inspiration and legacy she created for the women of this great Nation.•

RECOGNIZING MISSOURI ORGANIZATIONS

• Mr. BOND. Mr. President, I would like to take this opportunity to recognize the valuable efforts of the Missouri National Guard, Missouri School Boards' Association, and National Guard Bureau as they have collaborated to support Missouri's prototypical satellite/wireless communications efforts. They have significantly contributed to our knowledge and experience in delivering interagency, interoperable communications capabilities relevant to both the Nation and Show Me state.

The Missouri School Boards' Association has closely collaborated with the National Guard to demonstrate that a limited amount of Federal funding can be leveraged to provide for the creation of interagency, interoperable, satellite/wireless, disaster response communications capability, creating reliable local, State and Federal communications infrastructure. This capability can support a number of initiatives, including first responder training, distance learning, telemedicine, and local law enforcement. It is significant to note that a critical component of this demonstration effort is to prove that various agencies can leverage common, shared infrastructure, which reduces sustainment costs and improves government efficiency. Every indication is that this model can successfully support information security and network defense requirements.

Since beginning the Missouri effort, much has already been learned. Lessons learned include: interagency interoperability offers an opportunity to transform how we communicate and for significant cost avoidance, including the reduction of annual recurring costs; impediments to interagency interoperability are not because the technology is unavailable or because security requirements cannot be addressed; and challenges and opportunities related to successful interagency communications interoperability exist at all local, State, and Federal Government levels.

The Missouri National Guard has validated the use of affordable satellite technology to create reliable, redundant disaster response network communications. The National Guard has leveraged existing resources and teamed with State and Federal agencies to confirm the reliability and capabilities of a planned network. Ongoing activities to support these efforts, resourced largely from federal FY05 funds, include defining the procurement process related to executing this effort; completing a foundational analysis, the development of "white papers," to define the precise relevance of the effort; completing required Department of Defense accreditation of deployable communications capabilities; completing a national survey of communications requirements, capabilities, and existing shortfalls to confirm that there is a national need for this type of capability; providing deployable communications capabilities for testing/validation. These capabilities will directly support the National Guard, as well as legitimize the concept that state government prior to and during times of emergency can leverage Guard equipment; and providing deployable communications capabilities to be shared with the Missouri School Boards' Association in order that the association, during non-emergency situations, can validate applications with schools.

With remaining Federal funds appropriated in fiscal year 2005, the Missouri School Boards' Association will also coordinate an effort to validate the ability to leverage emerging wireless technologies in a defined geographical area in Missouri. This demonstration will also validate the relevance of IPTV, Internet protocol television, with wireless technologies so that field-based educational opportunities can be transmitted "live" to school classrooms. From Federal fiscal year 2006 funds, the Missouri School Boards' Association will coordinate a wireless demonstration project in a second defined geographical area in Missouri. This project will incorporate lessons learned from the initial demonstration project in a defined geographical space.

Once again, I thank the Missouri National Guard, Missouri School Boards' Association, and National Guard Bureau for their work to support Missouri's prototypical satellite/wireless communications efforts. It is an outstanding example of collaboration.•

COMMENDATION TO THE "BACK TO BUSINESS" RADIO PROGRAM

• Ms. SNOWE. Mr. President, as chair of the Senate Committee on Small Business and Entrepreneurship, I rise today to commend the University of Maine and Machias Savings Bank for underwriting the "Back To Business" radio program hosted by Deb Neuman for a second year.

Heard on WVOM in Old Town, ME, Back To Business is an advice and news program geared specifically toward fostering the creation, development, and continued success of small businesses in Maine. It has been a strong, supportive, and unwavering voice for Maine's small businesses, providing an interactive forum that discusses pressing issues of the day, such as small business access to investment capital, regulatory, and tax compliance burdens, and the lack of affordable health insurance options in Maine.

The small business owners that appear on "Back To Business" frequently cite Maine's business climate as challenging on several fronts. Moving forward, it is critical that we also think forward and equip America's small businesses with the knowledge and tools to confront the challenges of tomorrow so that they can create jobs and continue to strengthen our economy. I can proudly report that "Back To Business" offers Maine small businesses vital knowledge and useful tools and resources. We must not forget that the Federal and State governments should be partners, working together with the business community to support small businesses.

Small businesses create nearly three-quarters of all net new jobs, represent 97 percent of all business in Maine, and employ 61 percent of Maine's workers. Mainers are more than ever relying upon small business ownership as an alternative to the traditional workplace where the manufacturing industry and corporate America once offered life long futures for workers.

As chair of the Senate Small Business Committee, I have introduced an ambitious legislative agenda to break down small business barriers. I recently introduced a bill that would expand the Small Business Administration's Historically Underutilized Business Zones or HUBZones program to include rural Maine towns and regions that were previously ineligible. According to the SBA, 110 Maine businesses in 11 counties received more than $12.7 million in HUBZone Program dollars in fiscal year 2005. Unfortunately, current law is preventing more regions in Maine from being certified as HUBZones. Under my bill, small businesses in rural Maine, including the Katahdin region, would be classified as HUBZones to qualify and compete for Federal contracts and subcontracts.

I have also worked hard to find a solution to the small business health insurance crisis. Small businesses in Maine and across the country are trapped in stagnant, dysfunctional insurance markets with premiums that are increasing at exponential percentage levels. Last year, I requested a Government Accountability Office Report that showed a startling market consolidation. In Maine, five large insurance companies control 98 percent of the market, leaving small businesses with few affordable coverage options.

This is why I have long championed legislation that would create Small Business Health Plans, which would allow small businesses to pool together nationally, to offer quality health insurance products to their employees at significantly lower costs. This year we came closer than ever before to passing SBHPs into law, and I will continue to push forward with my colleagues on both sides of the political aisle, to fashion bipartisan legislation that can be signed into law to bring small businesses relief.

Mr. President, I again commend WVOM's "Back to Business" program, which is a true public service to Mainers. Their mission to educate elected officials, opinion leaders, and the people of Maine about the importance of small businesses to our economy and our country is invaluable.•

GFWC TRAVELERS CLUB CELEBRATES 100TH ANNIVERSARY

• Mr. THUNE. Mr. President, today I recognize GFWC Travelers Club of Chamberlain, SD. On September 12, 2006, GFWC Travelers Club celebrated its 100th anniversary.

As the oldest continuing volunteer club in Brule County, GFWC Travelers Club has been a leader in providing funding and assistance in numerous areas. They have been involved in founding and supporting libraries, both locally and nationally, granting educational scholarships, helping to maintain Ellsworth Air Force Base in South Dakota and many other valuable and necessary community projects.

It gives me great pleasure to rise and recognize the great work that GFWC Travelers Club has done and to wish them all the best of luck as they celebrate their 100th anniversary.•

RECOGNIZING THE CUSTER SENIOR CENTER

• Mr. THUNE. Mr. President, today I recognize the Custer Senior Center of Custer, SD, on its 35th anniversary. Custer Senior Center truly deserves this recognition for its years of service to the seniors of Custer and of South Dakota.

The Custer Senior Center first began when VISTA volunteers Peggy and David Viers placed an advertisement in the Custer Chronicle asking those interested in starting a community senior center to meet at the Community Church on April 6, 1970. The citizens of Custer came together and the Senior Center officially opened in May of 1970 with 52 charter members.

Since this time, the Custer Senior Center has provided an invaluable community service by creating a welcoming place for Custer's senior citizens to meet together for fellowship and support. I am confident that the Senior Center will continue to bring together Custer's citizens of all ages in the years to come.

I would like to offer my congratulations to the Custer Senior Center on their 35th anniversary and wish them the best of luck as they celebrate this important event.•

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5631) making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 3525) to amend subpart 2 of part B of title IV of the Social Security Act to improve outcomes for children in families affected by methamphetamine abuse and addiction, to reauthorize the promoting safe and stable families program, and for other purposes.

The message further announced that the House has passed the bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1275. An act to designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building".

S. 1323. An act to designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building".

S.2690. An act to designate the facility of the United States Postal Service located at 8801 Sudley road in Manassas, Virginia, as the "Harry J. Parrish Post Office".

H.R. 1442. An act to complete the codification of title 46, United States Code, "Shipping", as positive law.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

ENROLLED BILL SIGNED

At 11:57 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 3525. An act to amend part B of title IV ofthe Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 1:06 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 971. An act to extend the deadline for commencement of construction of certain hydroelectric projects in Connecticut, and for other purposes.

H.R. 1215. An act to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes.

H.R. 2679. An act to amend the Revised Statutes ofthe United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

H.R. 4377. An act to extend the time required for construction of a hydroelectric project, and for other purposes.

H.R. 4417. An act to provide for the reinstatement of a license for a certain Federal Energy Regulatory project.

H.R. 4559. An act to provide for the conveyance of certain National Forest System land to the towns of Laona and Wabeno, Wisconsin, and for other purposes.

H.R. 4942. An act to establish a capability and office to promote cooperation between entities of the United States and its allies in the global war on terrorism for the purpose of engaging in cooperative endeavors focused on the research, development, and commercialization of high-priority technologies intended to detect, prevent, respond to, recover from, and mitigate against acts of terrorism and other high consequence events and to address the homeland security needs of Federal, State, and local governments.

H.R. 5092. An act to modernize and reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

H.R. 5103. An act to provide for the conveyance of the former Konnarock Lutheran Girls School in Smyth County, Virginia, which is currently owned by the United States and administered by the Forest Service, to facilitate the restoration and reuse of the property, and for other purposes.

H.R. 5136. An act to establish a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration to improve drought monitoring and forecasting capabilities.

H.R. 5313. An act to reserve a small percentage of the amounts made available to the Secretary of Agriculture for the farmland protection program to fund challenge grants to encourage the purchase of conservation easements and other interests in land to be held by a State agency, county, or other eligible entity, and for other purposes.

H.R. 5533. An act to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes.

H.R. 5835. An act to amend title 38, United States Code, to improve information management within the Department of Veterans Affairs, and for other purposes.

H.R. 6131. An act to permit certain expenditures from the Leaking Underground Storage Tank Trust Fund.

H.R. 6159. An act to extend temporarily certain authorities of the Small Business Administration.

H.R. 6160. An act to recruit and retain Border Patrol Agents.

H.R. 6164. An act to amend title IV of the Public Health Service Act to revise and extend the authorities of the National Institutes of Health, and for other purposes.

The message further announced that the House has passed the following bills, without amendment:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

The message also announced that pursuant to 10 U.S.C. 9355(a), amended by Public Law 108–375, and the order of the House of December 18, 2005, the Speaker reappoints the following Member of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Ms. KILPATRICK of Michigan.

At 3:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 483. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 6:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3850. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

At 6:57 p.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5347. An act to reauthorize the HOPE VI program for revitalization of public housing projects.

H.R. 6166. An act to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

H.R. 5074. An act to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the treasury, and for other purposes.

H.R. 5187. An act to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3936. A bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4377. An act to extend the time required for construction of a hydroelectric project, and for other purposes.

H.R. 4417. An act to provide for the reinstatement of a license for a certain Federal Energy Regulatory project.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 5132. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the Battles of the River Raisin during the War of 1812.

ENROLLED BILLS PRESENTED

The Secretary of the Senate announced that on today, September 27, 2006, she had presented to the President of the United States the following enrolled bills:

S. 1275. An act to designate the facility of the United States Postal Service located at 7172 North Tongass Highway, Ward Cove, Alaska, as the "Alice R. Brusich Post Office Building".

S. 1323. An act to designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the "Dorothy and Connie Hibbs Post Office Building".

S. 2690. An act to designate the facility of the United States Postal Service located at 8801 Sudley road in Manassas, Virginia, as the "Harry J. Parrish Post Office".

S. 3525. An act to amend part B oftitle IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8435. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Importation of Table Grapes from Namibia" (Docket No. APHIS–2006–0025) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8436. A communication from the Director, Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Storage, Handling, and Ginning Requirements for Cotton Marketing Assistance Loan Collateral" (RIN0560–AH48) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8437. A communication from the Under Secretary, Research Education Economics, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Research Initiative Competitive Grants Program—Revisions to Administrative Provisions" (RIN0524–AA32) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8438. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Comprehensive Everglades Restoration Plan; to the Committee on Environment and Public Works.

EC–8439. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds" (RIN1018–AU42) received on September 21, 2006; to the Committee on Environment and Public Works.

EC–8440. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2006–07 Early Season" (RIN1018–AU42) received on

September 21, 2006; to the Committee on Environment and Public Works.

EC-8441. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Final Frameworks for Late Season Migratory Bird Hunting Regulations" (RIN1018-AU42) received on September 21, 2006; to the Committee on Environment and Public Works.

EC-8442. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $50,000,000 to Jordan; to the Committee on Foreign Relations.

EC-8443. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions; and Establishment of a Quality Assessment and Performance Improvement Program; Suspension of Effectiveness" ((RIN0938-AJ17)(CMS-1910-IFC)) received on September 22, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-8444. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Fire Safety Requirements for Certain Health Care Facilities; Alcohol-Based Hand Sanitizer Amendment" ((RIN0938-AN36)(CMS-3145-F)) received on September 22, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC-8445. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled "Court Orders and Legal Processes Affecting Thrift Savings Plan Accounts" (5 CFR Part 1653) received on September 22, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC-8446. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bentazon, Carboxin, Dipropyl Isocinchomeronate, Oil of Lemongrass (Oil of Lemon) and Oil of Orange; Tolerance Actions" (FRL No. 8093-5) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8447. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flufenoxuron; Pesticide Tolerance" (FRL No. 8092-3) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8448. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Metconazole; Pesticide Tolerance" (FRL No. 8085-2) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8449. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Quizalofop Ethyl; Pesticide Tolerance" (FRL No. 8094-5) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8450. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "p-Chlorophenoxyacetic Acid, Glyphosate, Difenzoquat, and Hexazinone; Tolerance Actions" (FRL No. 8089-6) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8451. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pendimethalin; Pesticide Tolerance" (FRL No. 8092-6) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8452. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Low Pathogenic Avian Influenza; Voluntary Control Program and Payment of Indemnity" (Docket No. APHIS-2005-0109) received on September 22, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8453. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Emission Reductions to Meet Phase II of the Nitrogen Oxides (NO_x) SIP Call" (FRL No. 8225-1) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8454. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Additional NO_x Emission Reductions to Support Philadelphia-Trenton-Wilmington One-Hour Ozone Nonattainment Area, and Remaining NO_x SIP Call Requirements" (FRL No. 8224-9) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8455. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Control Volatile Organic Compound Emissions; Volatile Organic Compound Control for El Paso, Gregg, Nueces, and Victoria Counties and the Ozone Standard Nonattainment Areas of Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston" (FRL No. 8224-7) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8456. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Ambient Air Quality Standards for Particulate Matter" (FRL No. 8225-3) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8457. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List, Final Rule" (FRL No. 8223-3) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8458. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances—Fire Suppression and Explosion Protection" ((RIN2060-AM24) (FRL No. 8223-4)) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8459. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone: Notice 21 for Significant New Alternatives Policy Program" ((RIN2060-AG12) (FRL No. 8223-9)) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8460. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of Certain Chemical Substances from Preliminary Assessment Information Reporting and Health and Safety Data Reporting Rules" ((RIN2070-AB08) (FRL No. 8096-5)) received on September 22, 2006; to the Committee on Environment and Public Works.

EC-8461. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the administration of the Foreign Agents Registration Act for the six months ending December 31, 2005; to the Committee on the Judiciary.

EC-8462. A communication from the Director, Regulations Management, Board of Veterans' Appeals, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Clarification of a Notice of Disagreement" (RIN2900-AL97) received on September 22, 2006; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1848. A bill to promote remediation of inactive and abandoned mines, and for other purposes (Rept. No. 109–351).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 3630. A bill to amend the Federal Water Pollution Control Act to reauthorize a program relating to the Lake Pontchartrain Basin, and for other purposes (Rept. No. 109-352).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment:

H.R. 3929. A bill to amend the Water Desalination Act of 1996 to authorize the Secretary of the Interior to assist in research and development, environmental and feasibility studies, and preliminary engineering for the Municipal Water District of Orange County, California, Dana Point Desalination Project located at Dana Point, California (Rept. No. 109–353).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. STEVENS for the Committee on Commerce, Science, and Transportation.

Calvin L. Scovel, of Virginia, to be Inspector General, Department of Transportation.

*Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term expiring May 30, 2012.

*David H. Pryor, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2008.

*Chris Boskin, of California, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2012.

*Sharon Lynn Hays, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

*Cynthia A. Glassman, of Virginia, to be Under Secretary of Commerce for Economic Affairs.

*Collister Johnson, Jr., of Virginia, to be Administrator of the Saint Lawrence Seaway Development Corporation for a term of seven years.

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning with Paul S. Szwed and ending with Brigid M. Pavilonis, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2006.

Coast Guard nominations beginning with Margaret A. Blomme and ending with Rickey D. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2006.

Coast Guard nominations beginning with Meredith L. Austin and ending with Werner A. Winz, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2006.

Coast Guard nominations beginning with Joyce E. Aivalotis and ending with Jose M. Zuniga, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2006.

By Mr. GRASSLEY for the Committee on Finance.

*John K. Veroneau, of Virginia, to be a Deputy United States Trade Representative, with the Rank of Ambassador.

*Robert K. Steel, of Connecticut, to be an Under Secretary of the Department of the Treasury.

By Mr. CRAIG for the Committee on Veterans' Affairs.

*Robert T. Howard, of Virginia, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FRIST:

S. 3946. A bill to make an alien who is a member of a criminal gang removable from the United States and inadmissible to the United States, to permit the Secretary of Homeland Security to deny a visa to an alien who is a national of a country that has denied or delayed accepting an alien removed from the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3947. A bill to permit the Secretary of Homeland Security to grant citizenship to an alien who serves on active duty in the Armed Forces, to assist such an alien in applying for citizenship, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3948. A bill to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3949. A bill to study the geographic areas in Mexico from which illegal immigrants are entering the United States and to develop plans to address the social, political, and economic conditions that are contributing to such illegal immigration; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself and Mr. KERRY):

S. 3950. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for qualified equity investments in certain small businesses; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. CONRAD, Mr. KERRY, and Mr. BINGAMAN):

S. 3951. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase the retirement security of women and small business owners, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 3952. A bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 3953. A bill to foster development of minority-owned small businesses; to the Committee on Small Business and Entrepreneurship.

By Mr. KENNEDY (for himself and Mr. MENENDEZ):

S. 3954. A bill to amend title XVIII of the Social Security Act to require monthly reporting regarding the number of individuals who have fallen into the part D donut hole and the amount such individuals are spending on covered part D drugs while in the donut hole; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. SMITH, Mr. AKAKA, Ms. CANTWELL, Mr. CHAFEE, Mrs. CLINTON, Mr. DAYTON, Mr. FEINGOLD, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. MURRAY, and Mr. WYDEN):

S. 3955. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEWINE:

S. 3956. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective service agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 3957. A bill to protect freedom of speech exercisable by houses of worship or mediation and affiliated organizations; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. SPECTER, Mr. KENNEDY, and Ms. MIKULSKI):

S. 3958. A bill to establish the United States Public Service Academy; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 3959. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain combat zone compensation of civilian employees of the United States; to the Committee on Finance.

By Mr. KENNEDY:

S. 3960. A bill to provide for the competitive status for certain Internal Revenue Service employees; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. LOTT, and Mr. LAUTENBERG):

S. 3961. A bill to provide for enhanced safety in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself and Mr. CRAIG):

S. 3962. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself and Mr. KERRY):

S. Res. 588. A resolution to express the sense of the Senate that States should have in place backup systems to deal with any failure of electronic voting equipment during the November 7, 2006, general election; to the Committee on Rules and Administration.

By Mrs. LINCOLN (for herself, Mr. CRAIG, Mr. CHAMBLISS, Mr. DORGAN, Mr. CONRAD, Mr. GRASSLEY, Mr. PRYOR, Mr. HARKIN, Mr. CRAPO, Mr. DEWINE, Mr. TALENT, Mr. BAUCUS, Mr. THUNE, Mr. BURNS, Mr. BOND, Mr. ENZI, Ms. STABENOW, Mr. COCHRAN, and Mr. JOHNSON):

S. Con. Res. 119. A concurrent resolution expressing the sense of Congress that public policy should continue to protect and strengthen the ability of farmers and ranchers to join together in cooperative self-help efforts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VITTER:

S. Con. Res. 120. A concurrent resolution expressing the support of Congress for the creation of a National Hurricane Museum and Science Center in southwest Louisiana; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 304

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 304, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 1085

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1085, a bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

S. 1508

At the request of Mr. COCHRAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1508, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1508, supra.

S. 1740

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1740, a bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 2659

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2659, a bill to amend title 38, United States Code, to provide for the eligibility of Indian tribal organizations for grants for the establishment of veterans cemeteries on trust lands.

S. 3651

At the request of Mr. DURBIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3651, a bill to reduce child marriage, and for other purposes.

S. 3681

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 3707

At the request of Mr. LOTT, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 3742

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3742, a bill to amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

S. 3744

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3795

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

S. 3800

At the request of Mr. HAGEL, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3800, a bill to amend the Foreign Assistance Act of 1961 to require recipients of United States foreign assistance to certify that the assistance will not be used to intentionally traffic in goods or services that contain counterfeit marks or for other purposes that promote the improper use of intellectual property, and for other purposes.

S. 3812

At the request of Mr. ISAKSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 3812, a bill to require the Food and Drug Administration to conduct consumer testing to determine the appropriateness of the current labeling requirements for indoor tanning devices and determine whether such requirements provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the skin, including skin cancer, and for other purposes.

S. 3855

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3855, a bill to provide emergency agricultural disaster assistance, and for other purposes.

S. 3887

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3887, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 3912

At the request of Mr. ENSIGN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 3912, a bill to amend title XVIII of the Social Security Act to extend the exceptions process with respect to caps on payments for therapy services under the Medicare program.

S. 3913

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Wisconsin (Mr. KOHL), the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

S. 3934

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3934, a bill to terminate authorization for the project for navigation, Rockport Harbor, Maine.

S. 3936

At the request of Mr. FRIST, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Indiana (Mr. LUGAR) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 3943

At the request of Mrs. BOXER, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from New York (Mrs. CLINTON) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election.

S. RES. 585

At the request of Mr. VITTER, his name was added as a cosponsor of S. Res. 585, a resolution commending the New Orleans Saints of the National Football League for winning their Monday Night Football game on Monday, September 25, 2006 by a score of 23 to 3.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST:

S. 3946. A bill to make an alien who is a member of a criminal gang removable from the United States and inadmissible to the United States, to permit the Secretary of Homeland Security to deny a visa to an alien who is a national of a country that has denied or delayed accepting an alien removed from the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3947. A bill to permit the Secretary of Homeland Security to grant citizenship to an alien who serves on active duty in the Armed Forces, to assist such an alien in applying for citizenship, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3948. A bill to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3949. A bill to study the geographic areas in Mexico from which illegal immigrants are entering the United States and to develop plans to address the social, political, and economic conditions that are contributing to such illegal immigration; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, like all of my colleagues in this body, I recognize that our immigration system needs vast improvements. While we have spent a great deal of time discussing immigration over the past year, it appears unlikely that this body will pass comprehensive reform before we break for the recess. This week we have been discussing an important bill that would begin the process completely securing our southern border. I support that bill wholeheartedly and I would also hope to make other improvements to our immigration laws we can make before we end this session.

Today, therefore, I'm proposing four separate bills intended to strengthen our immigration system.

One will help military men and women become citizens more quickly, another will make it easier to remove gang members from our country, another will impose tough penalties on people who tunnel beneath our borders, and the fourth will begin an effort to stop illegal immigration at its source.

I'd like to discuss all four bills briefly . . . they have different purposes and will all complement each other in efforts to improve our immigration system.

I am introducing the Community Protection Against International Gangs Act. Street gangs remain the bane of our society. Their members sell narcotics, steal, and commit horrific acts of violence. Many of these gangs—groups like Mara Salvatrucha, better known as MS-13—draw their membership from immigrants to the United States. While the overwhelming majority of immigrants in the United States obey the law, those who join these gangs wreak havoc on immigrant communities all over the country.

To protect our Nation, we need to stop them . . . now.

Thus, I'm proposing the CPAIGA Act. This law will make our policy clear: immigrants who join gangs are no longer welcome in our country. Under my bill, anyone who joins a gang or helps one faces immediate deportation proceedings. In addition, my bill will let the Secretary of State and the Secretary of Homeland Security deny visas to the nationals of any country that refuses to take back its own criminals.

I am also introducing the Enhanced Border Tunnel Prevention Act. To enhance our crackdown on sophisticated criminal conspiracies, we should also impose tough new penalties on those who construct tunnels under our border. People who build tunnels, or allow them to be built on land that they own or control, should face serious time in prison. Smugglers who use them should have their penalties doubled. We can't allow our borders to become a sieve.

In addition, I am introducing the Soldiers to Citizens Act. Just as we make it clear that criminals have no place in the United States, we should simultaneously do everything we can to welcome the finest people from around the world. Every year, over 8,000 people who are not U.S. citizens enlist in our armed forces.

They serve with valor and distinction . . . they defend our liberty. If they wish to become citizens, they should not face unnecessary burdens.

Under my legislation, anyone who gives our military 2 years of honorable and satisfactory service can acquire citizenship under an expedited process. Service in the military strongly implies that a person has acquired the things we expect from new citizens: a command of English, good moral character, understanding of our history and appreciation for our democratic institutions. Thus, soldiers, sailors, airmen, and marines whose chains of command certify that they've met these requirements should be able to acquire citizenship by filling out some simple paperwork and swearing the citizenship oath.

I believe that the Senate should do everything it can to speed the citizenship process for others in the military who do not want to avail themselves of this process. In particular, we must do away with the burdensome, duplicative process that requires military enlistees to give fingerprints once when they join the military and again when they apply for citizenship. At the same time, we should establish a high-quality, toll-free information center to provide timely, accurate information to any servicemember interested in becoming a citizen.

Finally, I am introducing the Illegal Immigration Source Study and Focus Act. Finally, I believe we need to do more to deal with the underlying causes of much illegal immigration: social, economic, and political conditions in Mexico that lead many to believe they have no choice but as to leave their homeland. Illegal immigration hurts both the United States and Mexico. Our governments must work together so we can understand what areas produce the most illegal immigrants and what we might do to help immigrants.

My bill would begin a process of collaboration. It will mandate regular reports on the areas that produce the most illegal immigrants and, just as importantly, focus our own aid to Mexico on improving the conditions that produce illegal immigration in the first place.

Steps like those I have proposed will not change our immigration system overnight. They will not end illegal immigration.

But they will make our cities safer, stem the flow of illegal immigration, and help those who serve in our armed forces. These are worthy measures and I urge all of my colleagues to support them.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the text of the bills was ordered to be printed in the RECORD, as follows:

S. 3946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Protection Against International Gangs Act".

SEC. 2. INADMISSIBILITY AND REMOVAL OF ALIEN GANG MEMBERS.

(a) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

"(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

"(ii) has participated in the activities of such a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal street gang,

is inadmissible.".

(b) REMOVAL.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

"(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

"(ii) has participated in the activities of such a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal street gang,

is deportable.".

SEC. 3. PENALTY FOR FAILURE TO ACCEPT AN ALIEN REMOVED FROM THE UNITED STATES.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended to read as follows:

"(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.".

S. 3947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers to Citizens Act".

SEC. 2. CITIZENSHIP FOR MEMBERS OF THE ARMED FORCES.

Section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(1) in subsection (b), by striking "subsection (a)" and inserting "subsection (a) or (d)"; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of law, except for provisions relating to revocation of citizenship under subsection (c), an individual who is not a citizen of the United States shall not be denied the opportunity to apply for membership in the United States Armed Forces. Such an individual who becomes an active duty member of the United States Armed Forces shall, consistent with this section and with the approval of the individual's chain of command, be granted United States citizenship after performing at least 2 years of honorable and satisfactory service on active duty. Not later than 90 days after such requirements are met with respect to an individual, such individual shall be granted United States citizenship.

"(e) An alien described in subsection (d) shall be naturalized without regard to the requirements of this title or any other requirements, processes, or procedures of the Secretary of Homeland Security, if the alien—

"(1) files an application for naturalization in accordance with such procedures to carry out this section as may be established by regulation by the Secretary of Homeland Security or the Secretary of Defense;

"(2) demonstrates to the alien's military chain of command proficiency in the English language, good moral character, and knowledge of the Federal Government and United States history, consistent with the requirements contained in this Act; and

"(3) takes the oath required under section 337 of this Act and participates in an oath administration ceremony in accordance with this Act.".

SEC. 3. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, the Secretary of Homeland Security shall use the fingerprints provided by an individual at the time the individual enlists in the Armed Forces to satisfy any requirement for fingerprints as part of an application for naturalization if the individual—

(1) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440);

(2) was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces; and

(3) submits an application for naturalization not later than 12 months after the date the individual enlisted in the Armed Forces.

SEC. 4. PROVISION OF INFORMATION ON NATURALIZATION TO MEMBERS OF THE ARMED FORCES.

The Secretary of Homeland Security shall—

(1) establish a dedicated toll-free telephone service available only to members of the Armed Forces and the families of such members to provide information related to naturalization pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440), including the status of an application for such naturalization;

(2) ensure that the telephone service required by paragraph (1) is operated by employees of the Department of Homeland Security who—

(A) have received specialized training on the naturalization process for members of the Armed Forces and the families of such members; and

(B) are physically located in the same unit as the military processing unit that adjudicates applications for naturalization pursuant to such section 328 or 329; and

(3) implement a quality control program to monitor, on a regular basis, the accuracy and quality of information provided by the employees who operate the telephone service required by paragraph (1), including the breadth of the knowledge related to the naturalization process of such employees.

S. 3948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Border Tunnel Prevention Act".

SEC. 2. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Border tunnels and passages

"(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be imprisoned for not more than 25 years.

"(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be imprisoned for not more than 15 years.

"(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Border tunnels and passages.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting "554," before "1425,".

SEC. 3. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 2.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

S. 3949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Immigration Source Study and Focus Act".

SEC. 2. STUDIES AND REPORTS ON ILLEGAL IMMIGRATION FROM MEXICO.

(a) STUDIES.—Not later than 1 year after the date of the enactment of this Act, and once every 5 years thereafter, the Secretary of State, in cooperation with the Secretary of Homeland Security, shall conduct a study—

(1) to identify the geographic areas in Mexico from which—

(A) large numbers of residents are leaving to enter the United States in violation of Federal immigration law; and

(B) large percentages of the population of such areas are leaving to enter the United States in violation of Federal immigration law; and

(2) to analyze the social, political, and economic conditions in the geographic areas identified under paragraph (1) that contribute to illegal immigration into the United States.

(b) REPORTS.—Not later than 16 months after the date of the enactment of this Act, and every 5 years thereafter, the Secretary of State shall submit to Congress a report that—

(1) describes the results of the study conducted under subsection (a); and

(2) provides recommendations on how the Government of the United States can improve the conditions described in subsection (a)(2).

SEC. 3. IMMIGRATION IMPACT FOCUS AREAS.

(a) DESIGNATION.—Based on the results of each study conducted under section 2(a) and subject to subsection (b), the Administrator of the United States Agency for International Development, in consultation with the Secretary of State, the Secretary of Homeland Security, and appropriate officials of the Government of Mexico, shall designate not more than 4 geographic areas within Mexico as Immigration Impact Focus Areas.

(b) POPULATION LIMITS.—An area may not be designated as an Immigration Impact Focus Area under subsection (a) unless the population of such area is—

(1) not less than 0.5 percent of the total population of Mexico; and

(2) not more than 5.0 percent of the total population of Mexico.

(c) DEVELOPMENT ASSISTANCE PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of State, shall develop a plan to concentrate, to the extent practicable, economic development and humanitarian assistance provided to Mexico in the Immigration Impact Focus Areas designated under subsection (a).

Ms. SNOWE (for herself and Mr. KERRY):

S. 3950. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for qualified equity investments in certain small businesses; to the Committee on Finance.

Ms. SNOWE. Mr. President, to help start-up small businesses obtain access to capital, today I rise with my colleague Senator KERRY to introduce the Access to Capital for Entrepreneurs Act of 2006 or ACE Act. Our bill would encourage equity investments in qualified small businesses by providing so-called "angel investors" with a tax incentive to fund new small business enterprises. Angel investors are high-net-worth individuals who invest in and support start-up companies in the critical early stages of growth.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I meet with prospective entrepreneurs in Maine and across the country and repeatedly hear about their dreams of starting dynamic new businesses. Unfortunately, their hopes can sometimes be dashed when these entrepreneurs encounter barriers to raising the funds they need to get their "start-up" enterprises off the ground.

For entrepreneurs and other aspiring small business owners, a self-evident truth since the founding of our country is that it takes money to make money. Our legislation makes that goal a little easier for aspiring small business owners by ensuring that our entrepreneurs have access to venture capital and credit markets so they can continue to drive America's economic growth and job creation. Since small businesses represent 99 percent of all employers and create nearly 75 percent of all net new jobs, Congress must do everything within its power to help them grow and thrive.

Under the Access to Capital for Entrepreneurs Act of 2006, angel investors would be eligible for a 25 percent tax credit to offset up to $500,000 of investments per year. Because the legislation limits the investment per small business to $250,000, which is the amount a typical entrepreneur requires to begin operations, an investor would have to invest in at least two companies to receive the full $500,000 tax credit. To qualify for the tax incentive, the angel investor must have an income of $200,000 over a two-year period, or net worth of $1 million. It's patterned after successful tax credits that have been enacted in 21 states, including Maine.

Recent research shows that venture capitalists are now targeting their investments for larger businesses or for later in a business's development, leaving precious little seed money for new ventures. Today, venture capitalists invest an average of $7 million per deal, an amount that far exceeds the needs of a nascent small business. Moreover, in 2005, of the $21.7 billion invested by venture capitalists, just 3.3 percent was allocated to start-up small businesses.

There were 227,000 angel investors who were active in 2005. Yet there are hundreds of thousands more waiting to be created. IRS statistics show that the ratio of potential to active angel investors is between 7 to 1 and 10 to 1. There is an enormous untapped market of future investors who we can call to help finance emerging small businesses in virtually every sector of the economy.

Our bill would remedy this situation by encouraging more angel investors to fund more of our Nation's smallest businesses. These businesses are critical to the economy, as they generate 60 percent to 80 percent of net new jobs and contribute more than 50 percent of non-farm private-sector output.

In addition, if the provisions of the ACE Act are signed into law, many small businesses that would otherwise fail for lack of adequate resources could grow and expand, creating more jobs for Americans, and further bolstering our Nation's economy. With no incentive, angel investments helped create 198,000 jobs in the United States during 2005. Imagine how many more jobs we could create if we enact the tax credit we are proposing today.

I am committed to supporting our Nation's small business community by increasing its access to capital. The entrepreneurial spirit of our 25 million small businesses dates back to our Nation's founding. From family farms to software development, small businesses are the heart of our economy and the linchpin for the innovation that moves our country forward. Americans who assume the risks and responsibilities inherent in owning and operating a business deserve our praise, admiration and unwavering support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Capital for Entrepreneurs Act of 2006".

SEC. 2. EQUITY INVESTMENT IN SMALL BUSINESS TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45N. EQUITY INVESTMENT IN SMALL BUSINESS TAX CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified investor, the equity investment in small business tax credit determined under this section for the taxable year is an amount equal to 25 percent of the amount of each qualified equity investment made by the qualified investor during the taxable year.

"(b) CREDIT AMOUNT.—For purposes of determining the small business tax credit under subsection (a)—

"(1) LIMITATION PER QUALIFIED INVESTOR.—The amount of qualified equity investments made by the qualified investor during the taxable year shall not exceed $500,000.

"(2) LIMITATION PER QUALIFIED SMALL BUSINESS.—The amount of qualified equity investments made by the qualified investor in a qualified small business during the taxable year shall not exceed $250,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INVESTOR.—The term 'qualified investor' means—

"(A) an individual who qualifies as an accredited investor under rules and regulations prescribed by the Commissioner of the Securities and Exchange Commission, or

"(B) a partnership with respect to which all of the partners are individuals who qualify as accredited investors under rules and regulations prescribed by the Commissioner of the Securities and Exchange Commission.

"(2) QUALIFIED EQUITY INVESTMENT.—The term 'qualified equity investment' means the transfer of cash or cash equivalents in exchange for stock or capital interest in a qualified small business.

"(3) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' means a private small business concern (within the meaning of section 3 of the Small Business Act)—

"(A) that meets the applicable size standard (as in effect on January 1, 2005) established by the Administrator of the Small Business Administration pursuant to subsection (a)(2) of such section, and

"(B) has its principal place of business in the United States.

For purposes of this section, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 qualified small business.

"(d) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—Holding stock in a qualified small business shall not be treated as a qualified equity investment unless, during substantially all of the qualified investor's holding period for such stock, such qualified small business meets the active business requirements of paragraph (2).

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the requirements of this paragraph are met by a qualified small business for any period if during such period at least 80 percent (by value) of the assets of such qualified small business are used by such qualified small business in the active conduct of 1 or more qualified trades or businesses.

"(B) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of subparagraph (A), if, in connection with any future qualified trade or business, a qualified small business is engaged in—

"(i) start-up activities described in section 195(c)(1)(A),

"(ii) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(iii) activities with respect to in-house research expenses described in section 41(b)(4),

assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this subparagraph shall be made without regard to whether a qualified small business has any gross income from such activities at the time of the determination.

"(C) QUALIFIED TRADE OR BUSINESS.—For purposes of this paragraph, the term 'qualified trade or business' is as defined in section 1202(e)(3).

"(D) STOCK IN OTHER ENTITIES.—

"(i) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary entity shall be disregarded and the parent qualified small business shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(ii) PORTFOLIO STOCK OR SECURITIES.—A qualified small business shall be treated as failing to meet the requirements of subparagraph (A) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consists of stock or securities in other entities which are not subsidiaries of such qualified small business other than assets described in subparagraph (E)).

"(iii) SUBSIDIARY.—For purposes of this subparagraph, an entity shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such entity.

"(E) WORKING CAPITAL.—For purposes of subparagraph (A), any assets which—

"(i) are held as a part of the reasonably required working capital needs of a qualified trade or business of the qualified small business, or

"(ii) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the qualified small business has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the qualified small business qualify as used in the active conduct of a qualified trade or business by reason of this subparagraph.

"(F) MAXIMUM REAL ESTATE HOLDINGS.—A qualified small business shall not be treated as meeting the requirements of subparagraph (A) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(G) COMPUTER SOFTWARE ROYALTIES.—For purposes of subparagraph (A), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(e) CERTAIN PURCHASES BY QUALIFIED INVESTOR OF ITS OWN STOCK.—

"(1) REDEMPTIONS FROM QUALIFIED INVESTOR OR RELATED PERSON.—Stock acquired by the qualified investor shall not be treated as a qualified equity investment if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the qualified small business issuing such stock purchased (directly or indirectly) any of its stock from the qualified investor or from a person related (within the meaning of section 267(b) or 707(b)) to the qualified investor.

"(2) SIGNIFICANT REDEMPTIONS.—Stock issued by a qualified small business to a qualified investor shall not be treated as a qualified equity investment if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such qualified small business made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(3) TREATMENT OF CERTAIN TRANSACTIONS.—If any transaction is treated under section 304(a) as a distribution in redemption of the stock of any qualified small business, for purposes of subparagraphs (A) and (B), such qualified small business shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

"(f) SPECIAL RULE FOR RELATED PARTIES.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to a qualified equity investment made by a qualified investor in a qualified small business that is a related party to the qualified investor.

"(2) RELATED PARTY.—For purposes of paragraph (1), a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b), or if such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

"(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

"(1) IN GENERAL.—If, at any time during the 3-year period beginning on the date that the qualified equity investment is made by the qualified investor, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

"(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

"(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to a qualified equity investment if such investment is sold, transferred, or exchanged by the qualified investor, but only to the extent that such sale, transfer, or exchange is not the direct result of a complete or partial liquidation of the qualified small business in which such qualified equity investment is made.

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

"(i) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(2) CERTIFICATION OF QUALIFIED EQUITY INVESTMENT.—Such regulations shall require that a qualified investor—

"(A) certify that the small business in which the equity investment is made meets the requirements described in subsection (c)(3), and

"(B) include the name, address, and taxpayer identification number of such small business on the return claiming the credit under subsection (a).

"(j) TERMINATION.—This section shall not apply to qualified equity investments made in taxable years beginning after December 31, 2011.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", and",. and by adding at the end the following new paragraph:

"(31) in the case of a taxpayer, the equity investment in small business tax credit determined under section 45N(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45N. Equity investment in small business tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified equity investments made after December 31, 2006, in taxable years beginning after such date.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 3952. A bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with my colleagues, Senator SMITH and Senator KERRY, to introduce this important legislation that will ensure that more working Americans have a retirement account. This legislation is the result of the collaborative work done by David John of the Heritage Foundation and Mark Iwry of the Retirement Security Project to provide a simple, cost-effective way to increase retirement security for our Nation's workers who currently do not have a retirement plan. The Automatic IRA Act of 2006 will require employers who do not currently sponsor a retirement plan to offer their workers the opportunity to have part of their paycheck to be sent directly to an IRA. This will not only help millions of Americans begin saving for their retirement but will also provide subtle encouragement to employers to sponsor a qualified retirement account such as a SIMPLE or a 401(k).

In 2004, it was estimated that as many as 71 million Americans work for an employer who does not offer them any kind of retirement plan—almost half of all of our country's workers. Without an employer-sponsored retirement plan, many of these workers will not be saving adequately for their retirement. The first steps to addressing this growing inequity are to ensure that all workers have easy access to a retirement account and the ability to have part of their wages go directly from their paycheck into this account: Both of these features have been proven to encourage retirement savings and are imperative if we are going to address our national retirement savings rate.

Under this legislation, all employers with more than 10 employees who do not sponsor a qualified retirement or pension plan must offer its employees the ability to have wages remitted directly to an automatic IRA through payroll deduction. These employers will not be required to make any contributions to these accounts and will receive a tax credit to offset the administrative costs of remitting part of the employee's wages to the IRA. It is entirely up to the employer as to what IRA options the employees would have. For instance, the employer could decide to remit the funds to the IRA of the employee's choice or the employer could decide to remit the money to the financial institution of his or her choice. The employer will also have a new option—the ability to remit the money to a new, simplified type of IRA, the automatic IRA. A board, similar to the Federal Government's existing Thrift Savings Plan Board, would create standards for these new accounts that must be followed by participating financial service companies. This board will also be responsible for educating the public about the importance of having a qualified retirement account as part of their duties.

Mr. President, it is going to take a bipartisan approach to address our Nation's retirement savings problems. I again want to applaud the efforts made by Mr. John of the Heritage Foundation and Mr. Iwry from the Retirement Security Project in advancing this proposal. It is now up to all of us in this Chamber to follow their example and pass this legislation.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE RETIREMENT SECURITY PROJECT

PURSUING UNIVERSAL RETIREMENT SECURITY THROUGH AUTOMATIC IRAS

(Testimony before the Subcommittee on Long-Term Growth and Debt Reduction, Committee on Finance, United States Senate, June 29, 2006)

Chairman Smith, Ranking Member Kerry, and Senator Grassley, we appreciate the opportunity to testify before you. We are submitting our testimony as a single joint statement because we believe strongly in the need for a common strategy to expand retirement savings, and in the importance of approaching these issues in a manner that transcends ideological and partisan differences.

At the request of Committee staff, this written statement focuses on our proposal to expand retirement savings for small business workers—the automatic IRA. We are pleased by the positive reaction the proposal has received and are grateful to our colleagues, including those in government and in various stakeholder organizations, who have contributed to these ideas.

With the looming retirement security crisis facing our country, policy-makers from both parties are focused on ways to strengthen pensions and increase savings. Our proposal for automatic IRAs would provide a relatively simple; cost-effective way to increase retirement security for the estimated 71 million workers whose employers (usually smaller businesses) do not sponsor plans. It would enable these employees to save for retirement by allowing them to have their employers regularly transfer amounts from their paycheck to an IRA.

We are by no means suggesting that the automatic IRA proposal is the only step that should be taken to expand retirement savings for small business workers. In fact, we have long believed in the primacy of employer-sponsored retirement plans as vehicles for pension coverage. Additionally, we continue to advocate strongly for the expansion of pension coverage through automatic features in 401(k) and similar retirement savings plans.

The automatic 401(k) approach makes intelligent use of defaults—the outcomes that occur when individuals are unable or unwilling to make an affirmative choice or otherwise fail to act—to enlist the power of inertia to promote saving. Automating enrollment, escalation of contributions, investment, and rollovers expands coverage in several ways. Enrolling employees in a plan unless they opt out increases significantly the number of eligible employees who participate in the plan. Escalating the amount of the default contribution tends to increase the amount people save over time. Providing for a default investment (which participants can reject in favor of other alternatives) reflecting consensus investment principles such as diversification and asset allocation tends to raise the expected investment return on contributions. Finally, making retention or rollover of benefits rather than consumption the default when an employee leaves a job furthers the long-term preservation of retirement savings for their intended purposes. By helping improve performance under the nondiscrimination standards and generally making plans more effective in providing retirement benefits, the automatic 401(k) can also encourage more employers to sponsor or continue sponsoring plans.

The automatic IRA builds on the success of the automatic 401(k). Moreover, as explained below, we would intend and expect the introduction of automatic IRAs to expand the number of employers that choose to sponsor 401(k) or SIMPLE plans instead of offering only automatic IRAs. But for millions of workers who continue to have no employer plan, the automatic IRA would provide a valuable retirement savings opportunity.

The automatic IRA proposal is set out in the remainder of this written statement.

EXECUTIVE SUMMARY OF PROPOSAL

This testimony proposes an ambitious but practical set of initiatives to expand dramatically retirement savings in the United States—especially to those not currently offered an employer-provided retirement plan. The essential strategy here, as in the case of the automatic 401(k) described above, is to make saving more automatic—and hence easier, more convenient, and more likely to occur. As noted, making saving easier by making it automatic has been shown to be remarkably effective at boosting participation in 401(k) plans, but roughly half of U.S. workers are not offered a 401(k) or any other type of employer-sponsored plan. Among the 153 million working Americans in 2004, over 71 million worked for an employer that did not sponsor a retirement plan of any kind, and another 17 million did not participate in their employer's plan. This testimony explores a new and, we believe, promising approach to expanding the benefits of automatic saving to a wider array of the population: the "automatic IRA."

The automatic IRA would feature direct payroll deposits to a low-cost, diversified individual retirement account. Most American employees not covered by an employer-sponsored retirement plan would be offered the opportunity to save through the powerful mechanism of regular payroll deposits that continue automatically (an opportunity now limited mostly to 401(k)-eligible workers).

Employers above a certain size (e.g., 10 employees) that have been in business for at least two years but that still do not sponsor any plan for their employees would be called upon to offer employees this payroll-deduction saving option. These employers would receive a temporary tax credit for simply serving as a conduit for saving, by making regular payroll deposit available to their employees. Employers would receive a small additional tax credit for each employee who participates. Other employers that do not sponsor a plan also would receive the tax credit if they offered payroll deduction saving.

Firms would be provided a standard notice to inform employees of the automatic IRA (payroll-deduction saving) option, and a standard form to elicit from each employee a decision either to participate or to opt out. For most employees, the payroll deductions would be made by direct deposit similar to the very common direct deposit of paychecks to employees' accounts at their financial institutions.

To maximize participation, employers would be provided a standard enrollment module reflecting current best practices in enrollment procedures. The use of automatic enrollment (whereby employees automatically participate at a statutorily specified rate of contribution unless they opt out) would be encouraged in two ways. First, the standard materials provided to employers would be framed so as to present auto enrollment as the presumptive enrollment method, although employer would be able to opt for the alternative of obtaining responses from all employees. Second, employers using auto enrollment to promote participation would not need to obtain responses from unresponsive employees. As discussed earlier, evidence from the 401(k) universe strongly suggests that high levels of participation tend to result not only from auto enrollment but also from the practice of eliciting from each eligible individual an explicit decision to participate or to opt out.

Employers making direct deposit or payroll deduction available would be protected from potential fiduciary liability and from having to choose or arrange default investments. Instead, diversified default investments and a handful of standard, low-cost investment alternatives would be specified by statute and regulation. Payroll deduction contributions would be transferred, at the employer's option, to a central repository, which would remit them to IRAs designated by employees or, absent employee designation, to a default collective retirement account.

Investment management as well as record keeping and other administrative functions would be contracted to private sector financial institutions to the fullest extent practicable. Costs would be minimized through a no-frills design relying on index funds, economies of scale, and maximum use of electronic technologies, and modeled to some degree on the Thrift Savings Plan for federal government employees. Once accounts reached a predetermined balance (e.g., $15,000) sufficient to make them sufficiently profitable to attract the interest of the full range of IRA providers, account owners would have the option to transfer them to IRAs of their choosing.

This approach involves no employer contributions, no employer compliance with qualified plan or ERISA requirements, and, as noted, no employer liability or responsibility for selecting investments, for selecting an IRA provider, or for opening IRAs for employees. It also steers clear of any adverse impact on employer-sponsored plans or on the incentives designed to encourage firms to adopt new plans. In fact, the indirect intended effect of the proposal would be to draw small employers into the private pension system.

Our proposed approach would seek to capitalize on the rapid trend toward automated or electronic fund transfers. With the spread of new, low-cost technologies, employers are increasingly using automated or electronic systems to manage payroll, including withholding and federal tax deposits, and for other transfers of funds. Many employers use an outside payroll service provider, an online payroll service, or software to perform these functions, including direct deposit of paychecks to accounts designated by employees.

For firms already offering direct deposit, including many that use outside payroll providers, direct deposit to an IRA would entail no additional cost, insofar as these systems have unused fields that could be used for the additional direct deposit destination. Other small businesses still write paychecks by hand, complete the federal tax deposit forms and Forms W-2 by hand, and deliver them to employees and to the local depositary institution. Our proposal would not require these employers to make the transition to automatic payroll processing or use of on-line systems (although it might have the effect of encouraging such transitions).

At the same time, we would not be inclined to deny payroll deduction savings to all employees of employers that do not yet use automatic payroll processing (and we would not want to give small employers an incentive to drop automatic payroll processing). These employees would benefit from the ability to save through regular payroll deposits at the workplace whether the deposits are made electronically or by hand. Employees would still have the advantages of a method of saving that, once begun, continues automatically, that is more likely to begin because of workplace enrollment arrangements and peer group reinforcement, and that often will not reduce take-home pay. To that end, we outline below a strategy to address these situations efficiently and with minimal cost.

For the self-employed and others who have no employer, regular contributions to IRAs would be facilitated in three principal ways: (1) extending the payroll deposit option to many independent contractors who work for employers (other than the very smallest businesses); (2) enabling taxpayers to direct the IRS to make direct deposit of a portion of their income tax refunds; and (3) expanding access to automatic debit arrangements, including on-line and traditional means of access through professional and trade associations that could help arrange for automatic debit and direct deposit to IRAs. Automatic debit essentially replicates the power of payroll deduction insofar as it continues automatically once the individual has chosen to initiate it.

In addition, a powerful financial incentive to contribute might be provided by means of matching deposits to the IRAs. Private financial institutions that maintain the accounts could deliver matching contributions and be reimbursed through tax credits.

THE BASIC PROBLEM AND PROPOSED SOLUTION

In general, the households that tend to be in the best financial position to confront retirement are the 42 percent of the workforce that participate in an employer-sponsored retirement plan. For reasons we have discussed earlier, traditionally, the takeup rate for IRAs (those who contribute as a percentage of those who are eligible) is less than 1 in 10, but the takeup rate for employer-sponsored 401(k) plans tends to be on the order of 7 in 10.

Moreover, as discussed, an increasing share of 401(k) plans are including automatic features that make saving easier and bolster participation. When firms are not willing to sponsor 401(k)-type plans, the automatic IRA proposed here would apply many of the lessons learned from 401(k) plans so that more workers could enjoy automated saving to build assets—but without imposing any significant burden on employers. Employers that do not sponsor plans for their employees could facilitate saving by employees—without sponsoring a plan, without making employer matching contributions, and without complying with plan qualification or fiduciary standards. Employers can help employees save simply by offering to remit a portion of their pay to an IRA, preferably by direct deposit, at little or no cost to the employer.

Such direct deposit savings using IRAs would not and should not replace retirement plans, such as pension, profit sharing, 401(k), or SIMPLE–IRA plans. Indeed, the automatic IRA would be carefully designed so as to avoid any adverse effect on employer sponsorship of "real" plans, which must adhere to standards requiring reasonably broad or proportionate coverage of moderate and lower-income workers and various safeguards for employees, and which often involve employer contributions. Instead, payroll-deduction direct deposit savings, as envisioned here, would promote wealth accumulation for retirement by filling in the coverage gaps around employer-sponsored retirement plans. Moreover, as described below, the arrangements we propose are designed to set the stage for small employers to "graduate" from offering payroll deduction to sponsoring an actual retirement plan.

EMPLOYEE ACCESS TO PAYROLL DEPOSIT SAVING

The automatic IRA is a means of facilitating direct deposits to a retirement account, giving employees access to the power of direct deposit saving. In much the same way that millions of employees have their pay directly deposited to their account at a bank or other financial institution, and millions more elect to contribute to 401(k) plans by payroll deduction, employees would have the choice to instruct the employer to send an amount they select directly from their paychecks to an IRA. Employers generally would be required to offer their employees the opportunity to save through such direct deposit or payroll-deduction IRAs.

Direct deposit to IRAs is not new. In 1997, Congress encouraged employers not ready or willing to sponsor a retirement plan to at least offer their employees the opportunity to contribute to IRAs through payroll deduction. Both the IRS and the Department of Labor have issued administrative guidance to publicize the payroll deduction or direct deposit IRA option for employers and to "facilitate the establishment of payroll deduction IRAs." This guidance has made clear that employers can offer direct deposit IRAs without the arrangement being treated as employer sponsorship of a retirement plan that is subject to ERISA or qualified plan requirements. However, it appears that few employers actually have direct deposit or payroll-deduction IRAs—at least in a way that actively encourages employees to take advantage of the arrangement. After some years of encouragement by the government, direct deposit IRAs have simply not caught on widely among employers and, consequently, offer little opportunity for employees to save.

With this experience in mind, we propose a new strategy designed to induce employers to offer, and employees to take up, direct deposit or payroll deposit saving.

Tax credit for employers that serve as conduit for employee contributions

Under our proposal, firms that do not provide employees a qualified retirement plan, such as a pension, profit-sharing, or 401(k) plan, would be given an incentive (a temporary tax credit) to offer those employees the opportunity to make their own payroll deduction contributions to IRAs using the employers' payroll systems as a conduit. The tax credit would be available to a firm for the first two years in which it offered payroll deposit saving to an IRA, in order to help the firm adjust to any modest administrative costs associated with the "automatic IRA." This automatic IRA credit would be designed to avoid competing with the tax credit available under current law to small businesses that adopt a new employer-sponsored retirement plan.

SMALL BUSINESS NEW PLAN STARTUP CREDIT

Under current law, an employer with 100 or fewer employees that starts a new retirement plan for the first time can generally claim a tax credit for a portion of its startup costs. The credit equals 50 percent of the cost of establishing and administering the plan (including educating employees about the plan) up to $500 per year. The employer can claim the credit of up to $500 for each of the first three years of the plan.

Accordingly, the automatic IRA tax credit could be set, for example, at $50 plus $10 per employee enrolled. It would be capped at, say, $250 or $300 in the aggregate—low enough to make the credit meaningful only for very small businesses, and lower than the $500 three-year credit available under current law for establishing a new employer plan. Employers would be precluded from claiming both the new plan startup credit and the proposed automatic IRA credit; otherwise, somewhat larger employers might have a financial incentive to limit a new plan to fewer than all of their employees in order to earn an additional credit for providing payroll deposit saving to other employees. As in the case of the current new plan startup credit, employers also would be ineligible for the credit if they had sponsored a retirement plan during the preceding three years for substantially the same group of employees covered by the automatic IRA.

Example: Joe employs four people in his auto body shop, and currently does not sponsor a retirement plan for his employees. If Joe chooses to adopt a 401(k) or SIMPLE–IRA plan, he and each of his employees generally can contribute up to $15,000 (401(k)) or $10,000 (SIMPLE) a year, and the business might be required to make employer contributions. Under this scenario, Joe can claim the startup tax credit for 50 percent of his costs over three years up to $500 per year.

Alternatively, if Joe decides only to offer his employees payroll deposit to an IRA, the business will not make employer contributions, and Joe can claim a tax credit for each of the next two years of $50 plus $10 for each employee who signs up to contribute out of his own salary.

Employers with more than 10 employees that have been in business for at least two years and that still do not sponsor any plan for their employees would be called upon to offer employees this opportunity to save a portion of their own wages using payroll deposit. If the employer sponsored a plan designed to cover only a subset of its employees (such as a particular subsidiary, division or other business unit), it would have to offer the payroll deposit facility to the rest of its workforce (i.e., employees not in that business unit) other than employees excluded from consideration under the qualified plan coverage standards (union-represented employees or nonresident aliens) and those in the permissible qualified plan eligibility waiting period. The arrangement would be structured so as to avoid, to the fullest extent possible, employer costs or responsibilities. The tax credit would be available both to those firms that are required to offer payroll deposit to all of their employees and to the small or new firms that are not required to offer the automatic IRA, but do so voluntarily. The intent would be to encourage, without requiring, the smallest employers to participate.

Acting as conduit entails little or no cost to employers

For many if not most employers, offering direct deposit or payroll deduction IRAs would involve little or no cost. Unlike a 401(k) or other employer-sponsored retirement plan, the employer would not be maintaining a plan. First, there would be no employer contributions: employer contributions to direct deposit IRAs would not be required or permitted. Employers willing to make retirement contributions for their employees would continue to do so in accordance with the safeguards and standards governing employer-sponsored retirement plans, such as SIMPLE–IRAs, 401(k)s, and traditional pensions. (The SIMPLE–IRA is essentially a payroll deposit IRA with an employee contribution limit that is in between the IRA and 401(k) limits and with employer contributions, but without the annual reports, plan documents, and most of the other administrative requirements applicable to other employer plans.)

Employer-sponsored retirement plans are the saving vehicles of choice and should be encouraged; the direct deposit IRA is a fallback designed to apply to employees who are not fortunate enough to be covered under an actual employer retirement plan. (As discussed below, it is also intended to encourage more employers to make the decision sooner or later to "graduate" to sponsorship of an employer plan.)

Direct deposit or payroll deduction IRAs also would minimize employer responsibilities. Firms would not be required to: comply with plan qualification or ERISA rules; establish or maintain a trust to hold assets (since IRAs would receive the contributions); determine whether employees are actually eligible to contribute to an IRA; select investments for employee contributions; select among IRA providers, or set up IRAs for employees.

Employers would be required simply to let employees elect to make a payroll-deduction deposit to an IRA (in the manner described below, with a standard notice informing employees of the automatic IRA (payroll-deposit saving) option, and a standard form eliciting the employee's decision to participate or to opt out. Employer then would implement deposits elected by employees. Employers would not be required to remit the direct deposits to the IRA provider(s) any faster than the timing of the federal payroll deposits they are required to make. (Those deposits generally are required to be made on a standard schedule, either monthly or twice a week.) Nor would employers be required to remit direct deposits to a variety of different IRAs specified by their employees (as explained below).

A requirement to offer payroll-deduction to an IRA would by no means be onerous. It would dovetail neatly with what employers already do. Employers of course are already required to withhold federal income tax and payroll tax from employees' pay and remit those amounts to the federal tax deposit system. While this withholding does not require the employer to administer an employee election of the sort associated with direct deposit to an IRA, the tax withholding amounts do vary from employee to employee and depend on the way each employee completes IRS Form W-4 (which employers ordinarily obtain from new hires to help the employer comply with income tax withholding). The employee's payroll deposit IRA election might be made on an attachment or addendum to the Form W-4. Because employees' salary reduction contributions to IRAs would ordinarily receive tax-favored treatment, the employer would report on Form W-2 the reduced amount of the employee's taxable wages together with the amount of the employee's contribution.

Direct deposit; automated fund transfers

Our proposed approach would seek to capitalize on the rapid trend toward automated or electronic fund transfers. With the spread of new, low-cost technologies, employers are increasingly using automated or electronic systems to manage payroll, including withholding and federal tax deposits, and for other transfers of funds. It is common for employers to retain an outside payroll service provider to perform these functions, including direct deposit of paychecks to accounts designated by employees or contractors. Other employers use an on-line payroll service that offers direct deposit and check printing (or that allows employers to write checks by hand). Still others do not outsource their payroll tax and related functions to a third-party payroll provider but do use readily available software or largely paperless on-line methods to make their federal tax deposits and perhaps other fund transfers, just as increasing numbers of households pay bills and manage other financial transactions on line. (The IRS encourages employers to use its free Electronic Federal Tax Payment System for making federal tax deposits.)

For the many firms that already offer their workers direct deposit, including many that use outside payroll providers, direct deposit to an IRA would entail no additional cost, even in the short term, insofar as the employer's system has unused fields that could be used for the additional direct deposit destination. Other small businesses still write their own paychecks by hand, complete the federal tax deposit forms and Forms W-2 by hand, and deliver them to employees and to the local bank or other depositary institution. Our proposal would not require these employers to make the transition to automatic payroll processing or use of on-line systems (although it might have the beneficial effect of encouraging such transitions).

At the same time, we would not be inclined to deny the benefits of payroll deduction savings to all employees of employers that do not yet use automatic payroll processing (and we would not want to give small employers an incentive to drop automatic payroll processing). These employees would benefit from the ability to save through regular payroll deposits at the workplace whether the deposits are made electronically or by hand. Employees would still have the advantages of tax-favored saving that, once begun, continues automatically, that is more likely to begin because of workplace enrollment arrangements and peer group reinforcement, and need not cause a visible reduction in take-home pay if begun promptly when employees are hired.

Accordingly, we would suggest a three-pronged strategy with respect to employers that do not use automatic payroll processing.

First, a large proportion of the employers that still process their payroll by hand would be exempted under the exception for very small employers described below. As a result, this proposal would focus chiefly on those employers that already offer their employees direct deposit of paychecks but have not used the same technology to provide employees a convenient retirement saving opportunity.

Second, employers would have the ease of "piggybacking" the payroll deposits to IRAs onto the federal tax deposits they currently make. The process, including timing and logistics, for both sets of deposits would be the same. Accompanying or appended to the existing federal tax deposit forms would be a similar payroll deposit savings form enabling the employer to send all payroll deposit savings to a single destination. The small employer who mails or delivers its federal tax deposit check and form to the local bank (or whose accountant or financial provider assists with this) would add another check and form to the same mailing or delivery.

Third, as noted, the existing convenient, low-cost on-line system for federal tax deposits would be expanded to accommodate a parallel stream of payroll deduction savings payments.

Since employers making payroll deduction savings available to their employees would not be required to make contributions or to comply with plan qualification or ERISA requirements with respect to these arrangements, the cost to employers would be minimal. They would administer and implement employee elections to participate or to opt out through their payroll systems. On occasion, employers might need to address mistakes or misunderstandings regarding employee payroll deductions and deposit directions. The time and attention required of the employer could generally be expected to be minimized through orderly communications, written or electronic, between employees and employers, facilitated by the use of standard forms that "piggyback" on the existing IRS forms such as the W-4 used by individuals to elect levels of income tax withholding.

Exemption for small and new employers

As discussed, the requirement to offer payroll deposit to IRAs as a substitute for sponsoring a retirement plan would not apply to the smallest firms (those with up to 10 employees) or to firms that have not been in business for at least two years. However, even small or new firms that are exempted would be encouraged to offer payroll deposit through the tax credit described earlier. (In addition, a possible approach to implementation of this program would be to require payroll deposit for the first year or two only by non-plan sponsors that are above a slightly larger size. This would try out the new system and could identify any "bugs" or potential improvements before broader implementation.)

Employees of small employers that are exempted—like other individuals who do not work for an employer that is part of the payroll deposit system outlined here—would be able to use other mechanisms to facilitate saving. These include the ability to contribute by instructing the IRS to make a direct deposit of a portion of an income tax refund, by setting up an automatic debit arrangement for IRA contributions (perhaps with the help of a professional or trade association), and by other means discussed below.

Employee Participation

Like a 401(k) contribution, the amount elected by the employee as a salary reduction contribution generally would be tax-favored. It either would be a "pre-tax" contribution to a traditional, tax-deductible IRA—deducted or excluded from the employee's gross income for tax purposes—or a contribution to a Roth IRA, which instead receives tax-favored treatment upon distribution. An employee who did not qualify to make a deductible IRA contribution or a Roth IRA contribution (for example, because of income that exceeds the applicable income eligibility thresholds), would be responsible for making the appropriate adjustment on the employee's tax return. The statute would specify which type of IRA is the default, and the firm would have no responsibility for ensuring that employees satisfied the applicable IRA requirements.

It is often argued that a Roth IRA is the preferred alternative for lowerincome individuals on the theory that their marginal income tax rates are likely to increase as they become more successful economically. The argument is often made also that a Roth is preferable for many others on the assumption that federal budget deficits will cause income tax rates to rise in the future. On either of those assumptions, all other things being equal, the Roth's tax advantage for payouts would likely be more valuable than the traditional IRA's tax deduction for contributions. In addition, the Roth, by producing less taxable income in retirement years, could avoid exposing the individual to a higher rate of incomerelated tax on social security benefits in retirement.

This point of view, however, may well overstate the probability that our tax system, including the federal income tax, social security taxes, and the tax treatment of the Roth IRA, will continue essentially as it is. If, instead of increasing marginal tax rates, we moved to a consumption or value added tax or another system that exempts savings or retirement savings from tax—or if a future Congress eliminated or limited the Roth income tax (and social security benefits tax) advantages—the choice of a Roth over a deductible IRA would entail giving up the proverbial bird in the hand for two in the bush.

Because the automatic IRA proposal would encourage but not require individuals to save, the associated incentives for saving are important. The instant gratification taxpayers can obtain from a deductible IRA might do more to motivate many households than the government's long-term promise of an uncertain tax benefit in an uncertain future. (In addition, by shifting the loss of tax revenues beyond the congressional budget "window" period, the Roth also presents a special challenge to a policy of fiscal responsibility.) Accordingly, we are inclined to make the traditional IRA the default but to allow individuals to elect payroll deposits to a Roth.

Employees covered

Employees eligible for payroll deposit savings might be, for example, employees who have worked for the employer on a regular basis (including parttime) for a specified period of time and whose employment there is expected to continue. Employers would not be required, however, to offer direct deposit savings to employees they already cover under a retirement plan, including employees eligible to contribute (whether or not they actually do so) to a 401(k)-type salary-reduction arrangement. Accordingly, as discussed, an employer that limits retirement plan coverage to a portion of its workforce generally would be required to offer direct deposit or other payroll deduction saving to the rest of the workforce.

THE AUTOMATIC IRA

Obstacles to participation

Even if employers were required to offer direct deposit to IRAs, various impediments would prevent many eligible employees from taking advantage of the opportunity. To save in an IRA, individuals must make a variety of decisions and must overcome inertia. At least five key questions are involved in the process for employees:

a) whether to participate at all;

b) where (with which financial institution) to open an IRA (or, if they have an IRA already, whether to use it or open a new one);

c) whether the IRA should be a traditional or Roth IRA;

d) how much to contribute to the IRA; and

e) how to invest the IRA.

Once these decisions have been made, the individual must still take the initiative to fill out the requisite paperwork (whether on paper or electronically) to participate. Even in 401(k) plans, where decisions (b) and, unless the plan offers a Roth 401(k) option, (c) are not required, millions of employees are deterred from participating because of the other three decisions or because they simply do not get around to enrolling in the plan.

Overcoming the obstacles to participation: Encouraging automatic enrollment

These obstacles can be overcome by making participation easier and more automatic, in much the same way as is being done increasingly in the 401(k) universe. An employee eligible to participate in a 401(k) plan automatically has a savings vehicle ready to receive the employee's contributions (the plan sponsor sets up an account in the plan for each participating employee) and benefits from a powerful automatic savings mechanism in the form of regular payroll deduction. With payroll deduction as the method of saving, deposits continue to occur automatically and regularly—without the need for any action by the employee—once the employee has elected to participate. And finally, to jump-start that initial election to participate, an increasing percentage of 401(k) plan sponsors are using "automatic enrollment."

Auto enrollment tends to work most effectively when it is followed by gradual escalation of the initial contribution rate. The automatic contribution rate can increase either on a regular, scheduled basis, such as 4 percent in the first year, 5 percent in the second year, etc., or in coordination with future pay raises. But if the default mode is participation in the plan (as it is under auto enrollment), employees no longer need to overcome inertia and take the initiative in order to save; saving happens automatically, even if employees take no action.

Employers offering payroll deposit saving to an IRA should be explicitly permitted to arrange for appropriate automatic increases in the automatic IRA contribution rate. However, an employer facilitating saving in an automatic IRA has far less of an incentive to use automatic escalation (or to set the initial automatic contribution rate as high as it thinks employees will accept) than an employer sponsoring a 401(k) plan. The 401(k) sponsor generally has a financial incentive to encourage nonhighly compensated employees to contribute as much as possible, because their average contribution level determines how much highly compensated employees can contribute under the 401(k) nondiscrimination standards. Because no nondiscrimination standards apply to IRAs, employers have no comparable incentive to maximize participation and contributions to IRAs.

Automatic enrollment, which has typically been applied to newly hired employees (as opposed to both new hires and employees who have been with the employer for some years), has produced dramatic increases in 401(k) participation. This is especially true in the case of lower-income and minority employees. In view of the basic similarities between employee payroll-deduction saving in a 401(k) and under a direct deposit IRA arrangement, the law should, at a minimum, permit employers to automatically enroll employees in direct deposit IRAs.

The conditions imposed by the Treasury Department on 401(k) auto enrollment would apply to direct or payroll deposit IRA auto enrollment as well: all potentially auto enrolled employees must receive advance written notice (and annual notice) regarding the terms and conditions of the saving opportunity and the auto enrollment, including the procedure for opting out, and all employees must be able to opt out at any time.

It is not at all clear, however, whether simply allowing employers to use auto enrollment with direct deposit IRAs will prove to be effective. A key motivation for using auto enrollment in 401(k) plans is to improve the plan's score under the 401(k) nondiscrimination test by encouraging more moderate- and lower-paid ("nonhighly compensated") employees to participate, which in turn increases the permissible level of tax-preferred contributions for highly compensated employees. This motivation is absent when the employer is merely providing direct deposit IRAs, rather than sponsoring a qualified plan such as a 401(k), because no nondiscrimination standards apply unless there is a plan.

A second major motivation for using 401(k) auto enrollment in many companies is management's sense of responsibility or concern for employees and their retirement security. Many executives involved in managing employee plans and benefits have opted for auto enrollment because they believe far too many employees are saving too little and investing unwisely and need a strong push to "do the right thing" and take advantage of the 401(k) plan. This motivation—by no means present in all employers—is especially unlikely to be driving an employer that merely permits payroll deposit to IRAs without sponsoring a retirement plan.

Third, employers might have greater concern about potential employee reaction to auto enrollment in the absence of an employer matching contribution. The high return on employees' investment delivered by the typical 401(k) match helps give confidence to 401(k) sponsors using auto enrollment that they are doing right by their employees and need not worry unduly about potential complaints from workers who failed to read the notice.

Finally, an employer concern that has made some plan sponsors hesitate to use auto enrollment with 401(k) plans might loom larger in the case of auto enrollment with direct deposit IRAs. This is the concern about avoiding a possible violation of state laws that prohibit deductions from employee paychecks without the employee's advance written authorization. Assuming most direct deposit IRA arrangements are not employer plans governed by ERISA, such state laws, as they apply to automatic IRAs, may not be preempted by ERISA because they do not "relate to any employee benefit plan." For reasons such as these, without a meaningful change in the law, most employers that are unwilling to offer a qualified plan today are unlikely to take the initiative to automatically enroll employees in direct deposit IRAs.

Not requiring employers to use automatic enrollment

One possible response would be to require employers to use automatic enrollment in conjunction with the direct deposit IRAs (while giving the employers a tax credit and legal protections). The argument for such a requirement would be that it would likely increase participation dramatically while preserving employee choice (workers could always opt out), and that, for the reasons summarized above, employers that do not provide a qualified plan (or a match) are unlikely to use auto enrollment voluntarily. The arguments against such a requirement include the concern that a workforce that presumably has not shown sufficient demand for a qualified retirement plan to induce the employer to offer one might react unfavorably to being automatically enrolled in direct deposit savings without a matching contribution. (In addition, some small business owners who have only a few employees and work with all of them on a daily basis might take the view that automatic enrollment is unnecessary because of the constant flow of communication between the owner and each employee.)

It is noteworthy, however, that recent public opinion polling shows strong support among registered voters for making saving easier by making it automatic, with 71 percent of respondents favoring a fully automatic 401(k), including automatic enrollment, automatic investment, and automatic contribution increases over time, with the opportunity to opt out at any stage. A vast majority (85 percent) of voters said that if they were automatically enrolled in a 401(k), they would not opt out, even when given the opportunity to do so. In addition, given the choice, 59 percent of respondents preferred a workplace IRA with automatic enrollment to one without.

Requiring explicit "Up or Down" employee elections while encouraging auto enrollment

An alternative approach that has been used in 401(k) plans and might be particularly well suited to payroll deposit savings is to require all eligible employees to submit an election that explicitly either accepts or declines direct deposit to an IRA. Instead of treating employees who fail to respond as either excluded or included, this "up or down" election approach has no default. There is evidence suggesting that requiring employees to elect one way or the other can raise 401(k) participation nearly as much as auto enrollment does. Requiring an explicit election picks up many who would otherwise fail to participate because they do not complete and return the enrollment form due to procrastination, inertia, inability to decide on investments or level of contribution, and the like.

Accordingly, a possible strategy for increasing participation in payroll deposit IRAs would be to require employers to obtain a written (including electronic) "up or down" election from each eligible employee either accepting or declining the direct deposit to an IRA. Under this strategy, employers that voluntarily auto enroll their employees in the direct deposit IRAs would be excused from the requirement that they obtain an explicit election from each employee because all employees who fail to elect would be participating. This exemption—treating an employer's use of auto enrollment as an alternative means of satisfying its required-election obligation—would add an incentive for employers to use auto enrollment without requiring them to use it. Any firms that prefer not to use auto enrollment would simply obtain a completed election from each employee, either electronically or on a paper form. And either way—whether the employer chose to use auto enrollment or the required-election approach—participation would likely increase significantly, perhaps even approaching the level that might be achieved if auto enrollment were required for all payroll deposit IRAs.

This combined strategy for promoting payroll deposit IRA participation could be applied separately to new hires and existing employees: thus, an employer auto enrolling new hires would be exempted from obtaining completed elections from all new hires (but not from existing employees), while an employer auto enrolling both new hires and existing employees would be excused from having to obtain elections from both new hires and existing employees.

The required election would not obligate employers to obtain a new election from each employee every year. Once an employee submitted an election form, that employee would not be required to make another election: as in most 401(k) plans, the initial election would continue throughout the year and from year to year unless and until the employee chose to change it. Similarly, an employee who failed to submit an election form and was auto enrolled by default in the payroll deposit IRA would continue to be auto enrolled unless and until the employee took action to make an explicit election.

To maximize participation, employers would receive a standard enrollment module reflecting current best practices in enrollment procedures. A nationwide website with standard forms would serve as a repository of state-of-the-art best practices in and savings education. The use of automatic enrollment (whereby employees automatically are enrolled at a statutorily specified rate of contribution—such as 3% of pay—unless they opt out) would be encouraged in two ways. First, the standard materials provided to employers would be framed so as to present auto enrollment as the presumptive or perhaps even the default enrollment method, although employers would be easily able to opt out in favor of simply obtaining an "up or down" response from all employees. In effect, such a "double default" approach would use the same principle at both the employer and employee level by auto enrolling employers into auto enrolling employees. Second, as noted, employers using auto enrollment to promote participation would not need to obtain responses from unresponsive employees.

Compliance and enforcement

Employers' use of the required-election approach would also help solve an additional problem—enforcing compliance with a requirement that employers offer direct deposit savings. As a practical matter, many employers might question whether the IRS would ever really be able to monitor and enforce such a requirement. Employers may believe that, if the IRS asked an employer why none of its employees used direct deposit IRAs, the employer could respond that it told its employees about this option and they simply were not interested. However, if employers that were required to offer direct deposit savings had to obtain a signed election from each eligible employee who declined the payroll deposit option, employers would know that the IRS could audit their files for each employee's election. This by itself would likely improve compliance.

In fact, a single paper or e-mail notice could advise the employee of the opportunity to engage in payroll deduction savings and elicit the employee's response. The notice and the employee's election might be added or attached to IRS Form W-4. (As noted, the W-4 is the form an employer ordinarily obtains from new hires and often from other employees to help the employer comply with its income tax—withholding obligations.) If the employer chose to use auto enrollment, the notice would also inform employees of that feature (including the default contribution level and investment and the procedure for opting out), and the employer's records would need to show that employees who failed to submit an election were in fact participating in the payroll deduction savings.

Employers would be required to certify annually to the IRS that they were in compliance with the payroll deposit savings requirements. This might be done in conjunction with the existing IRS Form W-3 that employers file annually to transmit Forms W-2 to the government. Failure to offer payroll deposit savings would ultimately need to be backed up by an appropriate sanction, such as the threat of civil monetary penalties or an excise tax.

Portability of savings

IRAs are inherently portable. Unlike a 401(k) or other employer plan, an IRA survives and functions independently of the individual saver's employment status. Thus the IRA owner is not at risk of forfeiting or losing the account or suffering an interruption in the ability to contribute when changing or losing employment. As a broad generalization, the automatic IRAs outlined here presumably would be freely transferable to and with other IRAs and qualified plans that permit such transfers. (However, as discussed below, the investment limitations and other cost-containment features of these IRAs raise the issue of whether transferability to other types of vehicles should be subject to restrictions.)

MAKING A SAVINGS VEHICLE AVAILABLE

Most current direct deposit arrangements use a payroll-deduction savings mechanism similar to the 401(k), but, unlike the 401(k), do not give the employee a ready-made vehicle or account to receive deposits. The employee must open a recipient account and must identify the account to the employer. However, where the purpose of the direct deposit is saving, it would be useful to many individuals who would rather not choose a specific IRA to have a ready-made fallback or default account available for the deposits.

Under this approach, modeled after the SIMPLE-IRA, which currently covers an estimated 2 million employees, individuals who wish to direct their contributions to a specific IRA would do so. The employer would follow these directions as employers ordinarily do when they make direct deposits of paychecks to accounts specified by employees. At the same time, the employer would also have the option of simplifying its task by remitting all employee contributions in the first instance to IRAs at a single private financial institution that the employer designates. However, even in this case, employees would be able to transfer the contributions, without cost, from the employer's designated financial institution to an IRA provider chosen by the employee.

By designating a single IRA provider to receive all contributions, the employer could avoid the potential administrative hassles of directing deposits to a multitude of different IRAs for different employees, while employees would be free to transfer their contributions from the employer's designated institution to an IRA provider of their own choosing. Even this approach, though, still places a burden on either the employer or the employee to choose an IRA. For many small businesses, the choice might not be obvious or simple. In addition, the market may not be very robust because at least some of the major financial institutions that provide IRAs may well not be interested in selling new accounts that seem unlikely to grow enough to be profitable within a reasonable time. Some of the major financial firms appear to be motivated at least as much by a desire to maximize the average account balance as by the goal of maximizing aggregate assets under management. They therefore may shun small accounts that seem to lack much potential for rapid growth.

The current experience with automatic rollover IRAs is a case in point. Firms are required to establish these IRAs as a default vehicle for qualified plan participants whose employment terminates with an account balance of not more than $5,000 and who fail to provide any direction regarding rollover or other payout. The objective is to reduce leakage of benefits from the tax-favored retirement system by stopping involuntary cashouts of account balances between $1,000 and $5,000. (Plan sponsors continue to have the option to cash out balances of up to $1,000 and to retain in the plan account balances between $1,000 and $5,000 instead of rolling them over to an IRA.) Because plan sponsors are required to set up IRAs only for "unresponsive" participants—those who fail to give instructions as to the disposition of their benefits—these IRAs are presumed to be less likely than other IRAs are to attract additional contributions. Accordingly, significant segments of the IRA provider industry have not been eager to cater to this segment of the market. As a result, plan sponsors have tended to reduce their cashout level from $5,000 to $1,000 so that new IRAs would not have to be established.

For somewhat similar reasons, IRA providers might expect payroll deposit IRAs to be less profitable than other products. As a result, employers and employees might well find that providers are not marketing to them aggressively and that the array of payroll deposit IRA choices is comparatively limited.

The prospect of tens of millions of personal retirement accounts with relatively small balances likely to grow relatively slowly suggests that the market may need to be encouraged to develop widely available low-cost personal accounts or IRAs. Otherwise, for "small savers," fixed-cost investment management and administrative fees may consume too much of the earnings on the account and potentially even erode principal.

A standard default account

Accordingly, to facilitate saving and minimize costs, we believe that a strong case can be made for a default IRA that would be automatically available to receive direct deposit contributions without requiring either the employee or employer to choose among IRA providers and without requiring the employee to take the initiative to open an IRA. Under this approach, for the convenience of both employees and employers, those who wish to save but have no time or taste for the process of locating and choosing an IRA would be able to use a standard default, or automatic, account. If neither the employer nor the employee designated a specific IRA provider, the contributions would go to a personal retirement account within a plan that would in some respects resemble the federal Thrift Savings Plan (the 401(k)-type retirement savings plan that covers federal government employees).

These standard default accounts would be maintained and operated by private financial institutions under contract with the federal government. To the fullest extent practicable, the private sector would provide the investment funds, investment management, record keeping, and related administrative services. To serve as a default account for direct deposits that have not been directed elsewhere by employers or employees, an account need not be maintained by a governmental entity. Given sufficient quality control and adherence to reasonably uniform standards, various private financial institutions could contract to provide the default accounts, on a collective or individual institution basis, more or less interchangeably—perhaps allocating customers on a geographic basis or in accordance with other arrangements based on providers' capacity. These fund managers could be selected through competitive bidding. Once individual default accounts reached a predetermined balance (e.g., $15,000) sufficient to make them potentially profitable for many private IRA providers, account owners would have the option to transfer them to IRAs of their choosing.

Cost containment

Both the direct deposit IRAs expressly selected by employees and employers and the standardized direct deposit IRAs that serve as default vehicles would be designed to minimize the costs of investment management and account administration. It should be feasible to realize substantial cost savings through index funds, economies of scale in asset management and administration, uniformity, and electronic technologies.

In accordance with statutory guidelines for all direct deposit IRAs, government contract specifications would call for a no-frills approach to participant services in the interest of minimizing costs. By contrast to the wide open investment options provided in most current IRAs and the high (and costlier) level of customer service provided in many 401(k) plans, the standard account would provide only a few investment options (patterned after the Thrift Savings Plan, if not more limited), would permit individuals to change their investments only once or twice a year, and would emphasize transparency of investment and other fees and other expenses.

Specifically, costs of direct deposit IRAs might be reduced by federal standards that, to the extent possible,

Exclude brokerage services and retail equity funds from the investment options available under the IRA.

Limit the number of investment options under the IRA.

Allow individuals to change their investments only once or twice per year.

Specify a low-cost default investment option and provide that, if any of an individual's account balance is invested in the default option, all of it must be.

Prohibit loans (IRAs do not allow them in any event) and perhaps limit preretirement withdrawals.

Limit access to customer service call centers.

Preclude commissions.

Make compliance testing unnecessary.

Give account owners only a single account statement per year (especially if daily valuation is built into the system and is available to account owners).

Encourage the use of electronic and other new technologies (including enrollment on a web site) for fund transfers, record keeping, and communications among IRA providers, participating employees, and employers to reduce paperwork and cost. Electronic administration has considerable potential to cut costs.

The availability to savers of a major low-cost personal account alternative in the form of the standard account may even help, through market competition, to drive down the costs and fees of IRAs offered separately by private financial institutions. Through efficiencies associated with collective investment and greater uniformity, the standard account should help move the system away from the retail-type cost structure characteristic of current IRAs. It should also help create a broad infrastructure of individual savings accounts that would cover most of the working population.

In conjunction with these steps, Congress and the regulators may be able to do more to require simplified, uniform disclosure and description of IRA investment and administrative fees and charges (building on previous work by the Department of Labor relating to 401(k) fees). Such disclosure should help consumers compare costs and thereby promote healthy price competition.

Another approach would begin by recognizing the trade-off between asset management costs and investment types. As a broad generalization, asset management charges tend to be low for money market funds, certificates of deposit, and certain other relatively low-risk, lower-return investments that generally do not require active management. However, it appears that limiting individual accounts to these types of investments would be unnecessarily restrictive. As discussed below (under "Default Investment Fund"), passively managed index funds, such as those used in the Thrift Savings Plan, are also relatively inexpensive.

A very different approach to cost containment would be to impose a statutory or regulatory limitation on investment management and administrative fees that providers could charge. One example is the United Kingdom's limit on permissible charges for management of "stakeholder pension" accounts—an annual 150 basis point fee cap for five years that is scheduled to drop to 100 basis points thereafter. As another and more limited example, the U.S. Department of Labor has imposed a kind of limitation on fees charged by providers of automatic rollover IRAs established by employers for terminating employees who fail to provide any direction regarding the disposition of account balances of up to $5,000. Labor regulations provide a fiduciary safe harbor for auto rollover IRAs that preserve principal and that do not charge fees greater than those charged by the IRA provider for other IRAs it provides.

Presumably, a mandatory limit would give rise to potential cross-subsidies from products that are free of any limit on fees to the IRAs that are subject to the fee limit—a result that could be viewed either as an inappropriate distortion or as a necessary and appropriate allocation of resources. We would view a mandatory limit as a last resort, preferring the market-based strategies outlined above.

Default investment fund

Both the IRAs offered independently by private financial institutions and explicitly selected by employees or employers and the default IRAs would serve the important purpose of providing low-cost professional asset management to millions of individual savers, presumably improving their aggregate investment results. To that end, all of these accounts would offer a similar, limited set of investment options, including a default investment fund in which deposits would automatically be invested unless the individual chose otherwise. This default investment would be a highly diversified "target asset allocation" or "life-cycle" fund comprised of a mix of equities and fixed income or stable value investments, and probably relying heavily on index funds. (The life-cycle funds recently introduced into the federal Thrift Savings Plan are one possible model.) A portion or all of the fixed income component could be comprised of Treasury inflation protected securities ("TIPS") to protect against the risk of inflation.

The mix of equities and fixed income would be intended to reflect the consensus of most personal investment advisers, which emphasizes sound asset allocation and diversification of investments—including exposure to equities (and perhaps other assets that have higher-risk and higher-return characteristics), at least given the foundation of retirement income already delivered through Social Security and assuming the funds will not shortly be needed for expenses. The use of index funds would avoid the costs of active investment management while promoting wide diversification.

This default investment would actually consist of several different funds, depending on the individual's age, with the more conservative investments (such as those relying more heavily on TIPS) applicable to older individuals who are closer to the time when they might need to use the funds. Individuals who selected the default fund or were defaulted into it would have their account balances entirely invested in that fund. However, they would be free to exit the fund at specified times and opt for a different investment option among those offered within the IRA.

The standard automatic (default) investment would also serve two other key purposes. It would encourage employee participation in direct deposit savings by enabling employees who are satisfied with the default to simplify what may be the most difficult decision they would otherwise be required to make as a condition of participation (i.e., how to invest). Finally, the standard default investment should encourage more employers to use automatic enrollment (thereby boosting employee participation) by saving them from having to choose a default investment. This, in turn, would make it easier to protect employers from responsibility for IRA investments, especially employers using automatic enrollment (as discussed below).

We would not fully specify the default investment by statute. It is desirable to maintain a degree of flexibility in order to reflect a consensus of expert financial advice over time. Accordingly, general statutory guidelines would be fleshed out at the administrative level after regular comment by and consultation with private-sector investment experts.

An additional and major design issue is whether the standard, limited set of investment options for payroll deposit IRAs should be only a minimum set of options in each IRA, so that the IRA provider would be permitted to provide any additional options it wished. Limiting the IRAs to these specified options would best serve the purposes of containing costs, improving investment results for IRA owners in the aggregate, and simplifying individuals' investment choices. At the same time, such restrictions would constrain the market, potentially limit innovation, and limit choice for individuals who prefer other alternatives.

One of the ways to resolve this tradeoff would be to limit direct deposit IRAs to the prescribed array of investment options without imposing any comparable limits on other IRAs, and to allow owners of direct deposit IRAs (including default IRAs) to transfer or roll over their account balances between the two classes of accounts. Under this approach, the owner of a direct deposit IRA could transfer the account balance to other (unrestricted) IRAs that are willing to accept such transfers (but perhaps only after the account balance reaches a specified amount that would no longer be unprofitable to most IRA providers). While such a transfer to an unrestricted IRA would deprive the owner of the cost-saving advantages of the no-frills, limited-choice model, such a system would still enable individuals to retain the efficiencies and cost protection associated with the standard low-cost model if they so choose.

Employers protected from any risk of fiduciary liability

Employers traditionally have been particularly concerned about the risk of fiduciary liability associated with their selection of retirement plan investments.

This concern extends to the employer's designation of default investments that employees are free to decline in favor of alternative investments. In the IRA universe, employers transferring funds to automatic rollover IRAs and employer-sponsored SIMPLE-IRAs retain a measure of fiduciary responsibility for initial investments.

By contrast, under our proposal, employers making direct deposits would be insulated from such potential liability. These employers would have no liability or fiduciary responsibility with respect to the manner in which direct deposits are invested in default IRAs or in nondefault IRAs (whether selected by the employer or the employee), nor would employers be exposed to potential liability with respect to any employee's choice of IRA provider or type of IRA. This protection of employers is facilitated by statutory designation of standard investment types that reduces the need for continuous professional investment advice. To protect workers against inappropriate IRA providers or inappropriate employer selection of IRA providers while continuing to insulate employers from fiduciary responsibility, employers could be precluded from imposing a particular IRA provider on its employees other than the government-contracted default IRA or could be constrained to choose among an approved list of providers based on capital adequacy, soundness, and other criteria.

Public opinion polling

Recent public opinion polling has shown overwhelming support for payroll deduction direct deposit saving. Among registered voters surveyed, 83 percent of respondents said they would be agreeable to having their employer offer to sign them up for an IRA and allow them to contribute to it through direct deposit of a small amount from their paycheck to help them save for retirement. Similarly, 79 percent of registered voters expressed support (and 54 percent expressed "strong" support) for giving taxpayers the option to have part of their income tax refund deposited into a retirement savings account such as an IRA by just checking a box on their tax return.

In addition, the polling shows very strong support for a requirement that goes far beyond our proposal, that every company offer its employees some kind of retirement plan—such as a pension or 401(k), or at least an IRA to which employees could contribute. Among registered voters surveyed in August 2005, 77 percent supported such a requirement (and 59 percent responded that they were "strongly" in support). As discussed, the approach described in this paper would not require employers to offer their employees retirement plans, but would give firms a financial incentive to offer their employees access to payroll deduction as a convenient and easy means of saving, and would require firms above a certain size and maturity to extend this offer to their employees.

THE IMPORTANCE OF PROTECTING EMPLOYER PLANS

Employer-sponsored pension, profit-sharing, 401(k), and other plans can be particularly effective—more so than IRAs—in accumulating benefits for employees. As noted earlier, the participation rate in 401(k)s, for example, tends to range from two thirds to three quarters of eligible employees, in contrast to IRAs, in which fewer than 1 in 10 eligible individuals participates. Employer plans tend to be far more effective than IRAs at providing coverage because of a number of attributes: for one thing, pension and profit-sharing plans, for example, are funded by employer contributions that automatically are made for the benefit of eligible employees without requiring the employee to take any initiative in order to participate. Second, essentially all tax-qualified employer plans must abide by standards that either seek to require reasonably proportionate coverage of rank and-file workers or give the employer a distinct incentive to encourage widespread participation by employees. This encouragement typically takes the form of both employer-provided retirement savings education efforts and employer matching contributions. The result is that the naturally eager savers, who tend to be in the higher tax brackets; tend to subsidize or bring along the naturally reluctant savers, who often are in the lowest (including zero) tax brackets.

Employer-sponsored retirement plans also have other features that tend to make them effective in providing or promoting coverage. As noted, the proposal outlined here seeks to transplant some of these features to the IRA universe. These include the automatic availability of a saving vehicle, the use of payroll deduction (which continues automatically once initiated), matching contributions (further discussed below), professional investment management, and peer group reinforcement of saving behavior.

The automatic IRA must thus be designed carefully to avoid competing with or crowding out employer plans and to avoid encouraging firms to drop or reduce the employer contributions that many make to plan participants. Owners and others who control the decision whether to adopt or continue maintaining a retirement plan for employees should continue to have incentives to sponsor such plans. The ability to offer employees direct deposit to IRAs should be designed so that it will not prompt employers to drop, curtail, or refrain from adopting retirement plans.

Probably the single most important protection for employer plans is to set maximum permitted contribution levels to the automatic IRA so that they will be sufficient to meet the demand for savings by most households but not high enough to satisfy the appetite for tax-favored saving of business owners or decision-makers. The average annual contribution to a 401(k) plan by a nonhighly compensated employee is somewhat greater than $2,000, and average annual 401(k) contributions by employees generally tend to be on the order of 7 percent of pay. A $3,000 contribution is 7.5 percent of pay for a family earning $40,000, and 6 percent of pay for a family earning $50,000.

Yet IRA contribution limits are already higher than these contribution levels. IRAs currently allow a married couple to contribute up to $8,000 ($4,000 each) on a tax-favored basis, and an additional $1,000 ($500 each) if they are age 50 or older. By 2008, these figures are scheduled to rise to $10,000 plus $2,000 ($1,000 each) for those age 50 or older. These amounts—the current $9,000 a year for those age 50 and over ($8,000 for others) and the post-2007 $12,000 annual amount for those age 50 and over ($10,000 for others)—may well be enough to satisfy the desire of many small-business owners for tax-favored retirement savings. Even some small-business owners that might consider saving somewhat more than $10,000 or $12,000 per year might well conclude that they are better off not incurring the cost of making contributions and providing a plan for their employees because the net benefit to them of having a plan for employees is not greater than the net benefit of simply saving through IRAs and giving their employees access to IRAs.

Accordingly, at the most, payroll deposit IRAs should not permit contributions above the current IRA dollar limits, and could be limited to a lower amount such as $3,000. (A 3% of pay contribution would remain below $3,000 for employees whose compensation did not exceed $100,000.) Imposing a lower limit on the payroll deduction IRA would reduce to some degree the risk that employees will exceed the maximum IRA dollar contribution limit because of auto enrollment, combined with possible other contributions to an IRA. That is already a risk under current law, but the automatic nature of auto enrollment increases the risk, especially if auto escalation is implemented. There is a tradeoff between the desirability of limiting the contribution amount (to mitigate both this risk and the risk of competing with employer plans) and the simplicity of using an existing vehicle (the IRA) "as is".

In any event, the employee—not the employer—would be responsible for monitoring any of all of their IRA contributions to comply with the maximum limit (in part because employees can contribute on their own and through multiple employers). The ultimate reconciliation would be made by the individual when filing the federal income tax return.

In addition, the automatic IRA should be designed to avoid reducing ordinary employees' incentives to contribute to employer-sponsored plans such as 401(k)s. If workers perceive a program such as direct deposit savings to IRAs as a more attractive destination for their contributions than an employer-sponsored plan (for example, because of better matching, tax treatment, investment options, or liquidity), it could unfortunately divert employee contributions from employer plans. This in turn could have a destabilizing effect by making it difficult for employers to meet the nondiscrimination standards applicable to 401(k)s and other plans and therefore potentially discouraging employers from continuing the plans or their contributions. While a detailed discussion of these points is beyond the scope of this paper, it is important to maintain a relationship between IRAs and employer-sponsored retirement plans that preserves and protects the employer plans.

Automatic payroll deduction can promote marketing and adoption of employer plans

Our approach is designed not only to avoid causing any reduction or contraction of employer plans, but actually to promote expansion of employer plans. Consultants, third-party administrators, financial institutions, and other plan providers could be expected to view this proposal as providing a valuable new opportunity to market 401(k)s, SIMPLE-IRAs and other tax-favored retirement plans to employers. Firms that, under this proposal, were about to begin offering their employees payroll deduction saving or had been offering their employees payroll deduction saving for a year or two could be encouraged to "trade up" to an actual plan such as a 401(k) or SIMPLE-IRA.

Especially because these plans can now be purchased at very low cost, it would seem natural for many small businesses to graduate from payroll deduction savings and complete the journey to a qualified plan in order to obtain the added benefits in terms of recruitment, employee relations, and larger tax-favored saving opportunities for owners and managers.

The following compares the maximum annual tax-favored contribution levels for IRAs, SIMPLE-IRA plans and 401(k) plans in effect for 2006:

	IRA	SIMPLE-IRA	401(k)
Under age 50	$4,000 per spouse ($5,000 after 2007)	$10,000	$15,000
Age 50 and above	$4,500 per spouse ($6,000 after 2007)	$12,000	$20,000

In addition, as noted, small employers that adopt a new plan for the first time are entitled to a tax credit of up to $500 each year for three years. As discussed, the proposed tax credit for offering payroll deposit would be smaller, so as to maintain the incentive for employers to go beyond the payroll deduction or direct deposit IRA and adopt an actual plan such as a SIMPLE, 401(k), or other employer plan.

ENCOURAGING CONTRIBUTIONS BY NONEMPLOYEES

The payroll deposit system outlined thus far would not automatically cover self-employed individuals, employees of the smallest or newest businesses that are exempt from any payroll deposit obligation, or certain unemployed individuals who can save. A strategy centered on automatic arrangements can also make it easier for these people to contribute to IRAs.

Encouraging automatic debit arrangements

For individuals who are not employees or who otherwise lack access to payroll deduction, automatic debit arrangements can serve as a counterpart to automatic payroll deduction. Automatic debit enables individuals to spread payments out over time and to make payments on a regular and timely basis by having them automatically charged to and deducted from an account—such as a checking or savings account or credit card—at regular intervals on a set schedule. The individual generally gives advance authorization to the payer that manages the account or the recipient of the payment, or both. The key is that, as in the case of payroll deduction, once the initial authorization has been given, regular payments continue without requiring further initiative on the part of the individual. For many consumers, automatic debit is a convenient way to pay bills or make payments on mortgages or other loans without having to remember to make each payment when due and without having to write and mail checks.

Similarly, as an element of an automatic IRA strategy, automatic debit can facilitate saving while reducing paperwork and cutting costs. For example, households can be encouraged to sign up on-line for regular automatic debits to a checking account or credit card that are directed to an IRA or other saving vehicle. With on-line sign-up and monitoring, steps can be taken to familiarize more households with automatic debit arrangements and, via Internet websites and otherwise, to make those arrangements easier to set up and use as a mechanism for saving in IRAs.

Facilitating automatic debit iras through professional or trade associations

Professional and trade associations could facilitate the establishment of IRAs and the use of automatic debit and direct deposit to the IRAs. Independent contractors and other individuals who do not have an employer often belong to such an association. The association, for example, might be able to make saving easier for those members who wish to save by making available convenient arrangements for automatic debit of members' accounts. Association websites can make it easy for members to sign up on line, monitor the automatic debit savings, and make changes promptly when they wish to. Although such associations generally lack the payroll-deduction mechanism that is available to employers, they can help their members set up a pipeline involving regular automatic deposits (online or by traditional means) from their personal bank or other financial accounts to an IRA established for them.

Facilitating direct deposit of income tax refunds to IRAs

Another major element of a strategy to encourage contributions outside of employment would be to allow taxpayers to deposit a portion of their income tax refunds directly into an IRA by simply checking a box on their tax returns.

Currently, the IRS allows direct deposits of refunds to be made to only one account. This all-or-nothing approach discourages many households from saving any of the refund because at least a portion of the refund is often needed for immediate expenses. Allowing households instead to split their refunds to deposit a portion directly into an IRA could make saving simpler and, thus, more likely.

The Bush administration has supported divisible refunds in its last three budget documents; however, the necessary administrative changes have yet to be implemented. Since federal income tax refunds total nearly $230 billion a year (more than twice the estimated annual aggregate amount of net personal savings in the United States), even a modest increase in the proportion of refunds saved every year could bring about a significant increase in savings.

Extending direct deposit to independent contractors

Millions of Americans are self-employed as independent contractors. Many of these workers receive regular payments from firms, but because they are not employees, they are not subject to income tax or payroll tax withholding. These individuals might be included in the direct deposit system by giving them the right to request that the firm receiving their services direct deposit into an IRA a specified portion from the compensation that would otherwise be paid to them.

Compared to writing a large check to an IRA once a year, this approach has several potential advantages to independent contractors, which might well encourage them to save. These include the ability to commit themselves to save a portion of their compensation before they receive it (which, for some people, makes the decision to defer consumption easier); the ability to avoid having to make an affirmative choice among various IRA providers; remittance of the funds by the firm by direct deposit to the IRA; and, where payments are made to the independent contractor on a regular basis, an arrangement that, like regular payroll with holdings for employees, automatically continues the pattern of saving through repeated automatic payroll deductions unless and until the individual elects to change.

In many cases, the independent service provider will not have a sufficient connection to a firm that receives the services, or both the independent contractor and the firm will be unwilling to enter into a payroll deposit type of arrangement. In such instances, the independent contractor could contribute to an IRA using automatic debit (as discussed above) or by sending together with the estimated taxes that generally are due four times a year.

Matching deposits as a financial incentive

A powerful financial incentive for direct deposit saving by those who are not in the higher tax brackets (and who therefore derive little benefit from a tax deduction or exclusion) would be a matching deposit to their direct deposit IRA. One means of delivering such a matching deposit would be via the bank, mutual fund, insurance carrier, brokerage firm, or other financial institution that provides the direct deposit IRA. For example, the first $500 contributed to an IRA by an individual who is eligible to make deductible contributions to an IRA might be matched by the private IRA provider on a dollar-for-dollar basis, and the next $1,000 of contributions might be matched at the rate of 50 cents on the dollar. The financial provider would be reimbursed for its matching contributions through federal income tax credits.

Recent evidence from a randomized experiment involving matched contributions to IRAs suggests that a simple matching deposit to an IRA can make individuals significantly more likely to contribute and more likely to contribute larger amounts.

Matching contributions—similar to those provided by most 401(k) plan sponsors—not only would help induce individuals to contribute directly from their own pay, but also, if the match were automatically deposited in the IRA, would add to the amount saved in the IRA. The use of matching deposits, however, would make it necessary to implement procedures designed to prevent gaming—contributing to induce the matching deposit, then quickly withdrawing those contributions to retain the use of those funds. Among the possible approaches would be to place matching deposits in a separate subaccount subject to tight withdrawal rules and to impose a financial penalty on early withdrawals of matched contributions.

American households have a compelling need to increase their personal saving, especially for long-term needs such as retirement. This paper proposes a strategy that would seek to make saving more automatic—hence easier, more convenient, and more likely to occur—largely by adapting to the IRA universe practices and arrangements that have proven successful in promoting 401(k) participation. In our view, the automatic IRA approach outlined here holds considerable promise of expanding retirement savings for millions of workers.

Mr. KERRY. Mr. President, I am pleased to join my colleagues Senators SMITH, CONRAD, and BINGAMAN in introducing the Women's Retirement Security Act of 2006. This legislation comes on the heels of the passage of the Pension Protection Act of 2006, which makes improvements to the defined benefit pension plan system.

The legislation that we are introducing today builds upon that legislation and focuses on defined contribution plans. Our pension system has shifted away from defined benefit plans to defined contribution plans. We should make it easier for employers to offer defined contribution plans and for individuals to participate in these plans.

At a time when we have a negative savings rate that is the lowest since the Great Depression, we should provide appropriate incentives to help individuals save for retirement. In an effort to achieve this, the Women's Retirement Security Act of 2006 focuses on increasing retirement savings, the preservation of income, equity in divorce, improving financial literacy, and encouraging small businesses to enter and remain in the employer retirement plan system.

This legislation increases savings by allowing employees to contribute a portion of their paycheck to an individual retirement account (IRA) if their employer does not offer a pension plan. Automatic IRAs will help the 71 million workers that do not have employer-sponsored plans. It is a low-cost, sensible solution that provides a stepping stone toward employer-sponsored retirement plans. More workers are likely to contribute to an IRA if the contribution is deducted from their payroll. Automatic IRAs will help combat the inertia that is a factor in our low savings rate. The bill also provides a tax credit to help small businesses with the cost of implementation.

Women are often placed at a disadvantage in our retirement system because they cycle in and out of the work force. The Women's Retirement Security Act of 2006 addresses this issue by requiring employers that offer defined contribution plans to cover part-time employees that meet specific requirements.

Pension coverage needs to improve, particularly for small businesses. In 2004, only 26 percent of workers at firms with fewer than 25 employees participated in pension plans. Progress has been made on providing coverage to small businesses. Currently, more than 19 million workers are covered by small business retirement plans, but more than 36 million Americans work for firms with less than 25 employees.

The Women's Retirement Security Act of 2006 provides a start-up credit for new small business retirement contributions. In addition, it removes rules that discourage small employers from adopting deferral only plans.

By Mr. KERRY:

S. 3953. A bill to foster development of minority-owned small businesses; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I rise today to introduce the Minority Entrepreneurship Development Act of 2006. It's especially appropriate that this bill be introduced during Hispanic Heritage Month. Millions of Latino Americans during this time reflect on their place in this country and the positive contributions they have made here. One area where we can be certain that the Hispanic community has made a significant contribution is in business. The principled and strong leadership of Hispanic Americans can be seen in corporate boards and sole proprietorships alike. As a Nation, we must support the development of the next generation of business leaders within the Latino community. I believe that this legislation will help in that effort.

This legislation is aimed at giving potential and burgeoning entrepreneurs the tools they need to realize their goals. Whether those goals include creating a small business that will employ people from the community or taking a small business and making it into a major enterprise, it's imperative that we develop the tools to help minority small business owners succeed.

I want to take a moment and tell you why it's so important to expand the numbers of entrepreneurs in the minority community. As the Ranking Member on the Senate Committee on Small Business and Entrepreneurship, I have received firsthand testimony and countless reports documenting the positive economic impact that occurs when we foster entrepreneurship in underserved communities. There are signs of significant economic returns when minority businesses are created and are able to grow in size and capacity. Between 1987 and 1997, revenue from minority owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent. Employment opportunities within minority owned firms increased by 23 percent during that same period. There is a clear correlation between the growth of minority owned firms and the economic viability of the minority community.

Although, these economic numbers tell a significant part of the story, they don't tell the whole story of what these firms mean to the minority communities they serve and represent. Many of these business leaders are first generation immigrants; many are first generation business owners and many represent, for those in their communities, what hard work, determination and patience can do.

We must encourage those kinds of values in our minority communities and, quite frankly, in our nation as a whole. For generations, millions have come to our shores in search of a better life. Millions of others were brought here by force and for years were not given a voice in how their lives would turn out. But how ever we got here, we all have become branches of this great tree we call America. This tree is still nourished by roots planted by our forefathers more than 200 years ago. Those men and women planted the roots of hard work, innovation, faith and risk taking.

When you think about it, those words are the perfect description of an entrepreneur. It is the spirit of entrepreneurship that has made our nation great. And that is why it is absolutely imperative that we continue to support and develop that spirit in our minority communities. To that end, this legislation provides several tools to help minority entrepreneurs as they develop and grow their businesses.

First, this legislation will create an Office of Minority Small Business Development. One of its primary functions will be to increase the number of small business loans that minority businesses receive. Latinos, African-Americans, Asian-Americans and women have been receiving far fewer small business loans than they reasonably should.

To ensure that this trend is reversed and minorities begin to get a greater share of loan dollars, venture capital investments, counseling, and contracting opportunities, this bill will give the new office the authority to monitor the outcomes for programs under Capital Access, Entrepreneurial Development, and Government Contracting. It also requires the head of the Office to work with SBA's partners, trade associations and business groups to identify more effective ways to market to minority business owners, and to work with the head of Field Operations to ensure that district offices have staff and resources to market to minorities.

Second, this legislation will create the Minority Entrepreneurship and Innovation Pilot Program. This program will offer a competitive grant to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions to create an entrepreneurship curriculum at these institutions and to open Small Business Development Centers on campus to serve local businesses.

The goal of this program is to target students in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Traditionally, minority-owned businesses are disproportionately represented in the service sectors. Promoting entrepreneurial education to undergraduate students will help expand business ownership beyond the service sectors to higher yielding technical and financial sectors.

Third, this legislation will create the Minority Access to Information Distance Learning Pilot Program. This program will offer competitive grants to well established national minority non-profit and business organizations to create distance learning programs for small business owners who are interested in doing business with the federal government.

The goal of this program is to provide low cost training to the many small business owners who cannot afford to pay a consultant thousands of dollars for advice or training on how to prepare themselves to contract with the federal government. There are thousands of small businesses in this country that are excellent and efficient. They are primed to provide the goods and services that this nation needs to stay competitive. This program will help prepare them to do just that.

Finally, this legislation will extend the Socially and Economically Disadvantaged Business Program which expired in 2003. This program provides a Price Evaluation Adjustment for Socially and Economically Disadvantaged businesses as a way of increasing their competitiveness when bidding against larger firms. This is one more tool to increase opportunities for our minority small business owners.

I have outlined several ways that we can create a more positive environment for our minority small business community. These are reasonable steps that we ought to take without delay. Moreover, these are important steps that will help bolster a movement that is already underway. According to U.S. Census data, Hispanics are opening businesses 3 times faster than the national average. Also, business development and entrepreneurship have played a significant role in the expansion of the black middle class in this country for over a century. These business owners are embodying the entrepreneurial spirit that our forefathers carried with them as they established this nation.

With this legislation, we will help to extend that spirit to the next generation. Not only is this vital for our minority communities, but it is vital for America. I urge my colleagues to join with me in support of the Minority Entrepreneurship Development Act of 2006.

By Mr. KENNEDY (for himself and Mr. MENENDEZ):

S. 3954. A bill to amend title XVIII of the Social Security Act to require monthly reporting regarding the number of individuals who have fallen into the part D donut hole and the amount such individuals are spending on covered part D drugs while in the donut hole; to the Committee on Finance.

Mr. KENNEDY. Mr. President, more and more seniors are waking each day and learning they've fallen into the dreaded "donut hole"—the gap in prescription drug coverage that leaves them with large drug costs to pay by themselves until coverage resumes. As a result, millions of seniors can't afford the drugs they urgently need, even though they're paying for Medicare coverage.

It's important to have a full accounting of how many seniors are affected, so that Congress and the public can make sensible choices about Medicare. Senator MENENDEZ and I intend to introduce legislation to require Medicare to track and publicly report how many enrollees fall into the donut hole, and how much they are spending themselves for their needed prescriptions.

We wouldn't be facing this problem if the administration and the Republican Congress had cared more about seniors than about drug industry profits when Medicare prescription drug coverage was enacted. They refused to let Medicare negotiate drug prices, which the Veterans Administration is allowed to do for veterans. Instead of allocating adequate Federal funds to the drug benefit, they made sure that HMOs received large overpayments, which enable them to force Medicare beneficiaries into their plans by offering extra benefits, while still allowing the plans to make large profits.

It's long past time to correct this glaring defect in Medicare drug coverage. Once we have up-to-date information on the damage being done by the donut hole, we can correct the problem and give seniors the Medicare coverage they deserve.

I ask by unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Honest Medicare Act of 2006".

SEC. 2. MONTHLY REPORTING REGARDING THE NUMBER OF INDIVIDUALS WHO HAVE FALLEN INTO THE PART D DONUT HOLE AND THE AMOUNT SUCH INDIVIDUALS ARE SPENDING ON COVERED PART D DRUGS WHILE IN THE DONUT HOLE.

Section 1860D–1 of the Social Security Act (42 U.S.C. 1395w–101) is amended by adding at the end the following new subsection:

"(d) INFORMATION REGARDING INDIVIDUALS WHO HAVE REACHED THE INITIAL COVERAGE LIMIT.—Not later than the 15th of each month (beginning with February 2007), the Secretary shall make available to the public information on—

"(1) the number of individuals enrolled in a prescription drug plan or an MA–PD plan who have reached the initial coverage limit applicable under the plan but who have not reached the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B); and

"(2) the amount such individuals are spending on covered part D drugs after they have reached such limit and before they have reached such threshold.".

By Mr. DEWINE:

S 3956. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective service agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, it is a well-known fact that people with disabilities face a great risk of abuse and victimization—in fact, studies indicate that disabled adults experience violence or abuse at least twice as often as those without disabilities. This shameful situation is made even worse by the fact that far too often these crimes are not reported, or if they are reported, they are not effectively prosecuted—with the result that crime victims with disabilities are left vulnerable to further victimization. This is a tragic situation and one which requires action.

The good news is that we have a model to follow, a response which works. Massachusetts has set up an excellent program to enhance cooperation and coordination between law enforcement and the State officials and programs which provide services and care to the disabled, and this coordination has greatly improved the ability of the criminal justice system to prosecute these offenders and protect those with disabilities from crime. In fact, since the implementation of the program, criminal referrals in these types of cases in Massachusetts went up from 32 before the program began to 880 in 2004, the most recent year for which we have statistics.

We should try to extend the success of the Massachusetts program around the country. Accordingly, today I am introducing the Crime Victims with Disabilities Act of 2006. This legislation would establish a $10 million Federal grant program to make money available to States and localities which are interested in setting up similar programs to enhance training, coordination, and cooperation within the law enforcement and disabilities services communities order to address this problem.

The legislation would require a State or local government to design a cooperative plan to improve the reporting and prosecution of crimes against people with disabilities, including within the system at least one criminal justice agency and at least one agency or organization which provides services to individuals with disabilities. The legislation encourages local innovation; as long as the application meets the basic goals of protecting people with disabilities from crime and prosecuting those who attempt to victimize them, it can be designed in whatever way the applicants decide will work best in the affected community. The grants would be for a maximum of $300,000 over 2 years, with a potential for a one-time renewal.

I have worked closely with the creators of the Massachusetts program and many others who work in law enforcement and who provide services to crime victims and people with disabilities, and I believe this legislation will help States and localities create programs that can address the problem of violence against people with disabilities. This is a serious problem, and I encourage my colleagues to support this effort to help address it.

By Mr. INHOFE:

S. 3957. A bill to protect freedom of speech exercisable by houses of worship or mediation and affiliated organizations; to the Committee on Finance.

Mr. INHOFE. Mr. President, I rise today to introduce legislation which will protect the Constitutionally guaranteed exercise of free speech and exercise of religion, the Religious Freedom Act of 2006.

The American people may be surprised to learn a few things about their government's relationship with religion. They may be surprised to learn that the Federal Government of the United States of America, in the land of the free, does not allow religious leaders in houses of worship of all religious orders to say anything that might be construed as political in nature. The American people may further be surprised to learn that the federal agency tasked with enforcing the absolute ban on political speech for houses of worship is the Internal Revenue Service. It is the IRS that reviews the content of sermons and homilies and threatens to revoke those institutions' tax-exempt status if they dare to speak out on the political matters of the day. Many times, the only evidence on which the IRS will base their case is a third-party complaint and may move forward with threatening letters and the revocation of their tax-exempt status even if the prohibited activities—the exercise of their First Amendment Rights—were incidental or unintentional. Furthermore, the IRS admits that it applies a "coded language" policy to political speech. That is, discussion of a moral issue, if it happens to be a matter discussed in our public debates, is a political issue and is consequently banned by the IRS. The American people may even be more surprised to learn that the IRS is stepping up the enforcement of the ban on political speech in houses of worship and has recently emphasized the "coded language" policy.

A skeptic might assert that something as serious as an IRS-enforced ban on political discourse in a church must have a tenured legislative history buttressed by decades of sound First Amendment jurisprudence. The American people may be surprised to learn that the exact opposite is true. The First Amendment freedoms of houses of worship were stripped away in 1954 by the "Johnson Amendment," a floor amendment named for then-Senator Lyndon Johnson, which placed an absolute ban on political speech by tax exempt organizations. Although the legislative record is relatively silent on this matter, the amendment and its subsequent ban were enacted without a hearing, any debate, or any public comment. History also indicates that Senator Johnson enacted this ban as a means of silencing some anticommunist nonprofits that were mobilizing against his political campaign. It now silences important comment on the issues of the day. Although the Supreme Court has affirmed and reaffirmed a "profound national commitment" to the proposition that debate on issues should be "uninhibited, robust, and wide-open," the debate has been unconstitutionally restricted for nearly 50 years.

Whereas the legislative history of the Johnson Amendment is dubious where it even exists, the history of the relationship between politics and the pulpit is a history of a positive force for change in momentous times in our history when we as a nation have reaffirmed our commitment to an open and tolerant society. From slavery to segregation, religious leaders in America clearly have been effective forces for good, and they are also for more modern issues such as abortion, assisted suicide, and human trafficking. Perhaps no one could better articulate an important aspect of the history of politics and the pulpit than Martin Luther King, Jr.: "The church must be reminded that it is not the master or the servant of the state, but rather the conscience of the state. It must be the guide and the critic of the state, and never its tool . . . [or] it will become an irrelevant social club without moral or spiritual authority." The Johnson Amendment silences the "conscience of the state." It's difficult to see how religious leaders can in any way continue to function as Martin Luther King Jr.'s ideal of the church as the "conscience of the state," as the church has done so effectively during trying times for our state, when houses of worship are banned absolutely from discussing matters of the state.

The moral questions of the day are more often than not also fundamental social and political questions—questions that concern what we value as a nation. It is truly astounding that today, in America, religious leaders are banned from any comment on those moral issues. It is not partisan: this ban on speech makes no distinction between the ideological divide of left versus right in America: one church leader is investigated for publicly opposing abortion and another for discussing the morality of the Iraq War. Indeed, the American people may be surprised to learn this about their country.

The American people would allowing religious leaders, of all kinds, to speak their consciences on the issues facing our nation, and to do so without the threat of IRS punishment through the revocation of their tax-exempt status. This is why I am introducing legislation that will do just that. The Religious Freedom Act of 2006 simply states that religious leaders may discuss political matters, as a Constitutionally protected right, without the threat of an IRS investigation. Upon enactment, this bill will reaffirm the Supreme Court's holding that this country has a "profound national commitment" to a national debate that is "uninhibited, robust, and wide-open." It will also reaffirm Martin Luther King, Jr.'s ideal of churches as the "conscience of the state." I ask that the text of this statement be included in the CONGRESSIONAL RECORD by unanimous consent.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Religious Freedom Act of 2006".

SEC. 2. PROTECTION OF FREEDOM OF SPEECH FOR HOUSES OF WORSHIP OR MEDITATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, no organization described in subsection (b) may be denied its

Federal tax exemption under the Internal Revenue Code of 1986 by administrative or judicial action, nor shall donors to such organization be denied the deductibility of their contributions under such Code, because such organization engages in an activity that is protected by the United States Constitution, including comment on public issues, election contests, and pending legislation made in the theological or philosophical context of such organization.

(b) HOUSES OF WORSHIP OR MEDITATION AND AFFILIATED ORGANIZATIONS.—For purposes of subsection (a), an organization described in this subsection is a church, synagogue, mosque, temple, or other house of worship or meditation (including any organization affiliated with any of the foregoing)—

(1) with an established form of worship or meditation and a recognizable creed that minimally acknowledges the right of others to freely accept or reject such form and creed, and

(2) which meets 2 or more of the following indicia: definite and distinct ecclesiastical government; formal code of doctrine and discipline; distinct religious history; membership not axiomatically associated with any other organization; organization of ordained ministers; ordained ministers selected after completing prescribed courses of study; a literature of its own; established places of worship or meditation; regular congregations; regular religious services; classes for the religious instruction of youth or seniors or both; auxiliaries to provide relief and sustenance to the poor and deprived; and auxiliaries to provide youth with morally-structured community service and supervised opportunities to compete in sport and intellect-expanding activities as an alternative to destructive behavior such as crime and drug use.

(c) CONSTRUCTION.—This section shall not be construed so as to exempt any organization described in subsection (b) from the operation of any other law generally applicable to all organizations and individuals.

By Mrs. CLINTON (for herself, Mr. SPECTER, Mr. KENNEDY, and Ms. MIKULSKI):

S. 3958. A bill to establish the United States Public Service Academy; to the Committee on Homeland Security and Governmental Affairs.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation that will create an undergraduate institution designed to cultivate a generation of young leaders dedicated to public service. The U.S. Public Service Academy Act, the PSA Act, will establish a national academy, modeled after the military service academies, to serve as an extraordinary example of effective, national public education.

The tragic events of September 11 and the devastation of natural disasters Hurricanes Katrina and Rita have demonstrated just how critical it is for our Nation to improve its ability to respond to future emergencies and to confront daily challenges. These events also underscore how much our Nation depends upon strong public institutions and competent civilian leadership at all levels of society.

Our country must improve its ability to groom future public servants to fill the pipeline as the baby boomer generation approaches retirement from critical public sector careers. Recent studies have shown that 2 million teachers are approaching retirement this decade alone, and more than 80 percent of law enforcement agencies are unable to fill positions due to a lack of qualified candidates.

The PSA Act will establish the U.S. Public Service Academy to provide a 4-year, federally subsidized college education for more than 5,000 students a year in exchange for a 5-year commitment to public service following graduation. Academy graduates will help to fill the void in public service our Nation will soon face by serving for 5 years in areas such as public education, public health, law enforcement, and the nonprofit sector.

Not only has the public service sector expressed a need for a young, talented, and high-qualified workforce, many college students today have already expressed a strong desire to serve. A recent study conducted by the Higher Education Research Institute found that more than two-thirds of the 2005 freshman class expressed a desire to serve others, the highest rate in a generation.

Unfortunately, as thousands of American youth seek to serve their Nation in a civilian capacity, many are often priced out of public service due to rising college debts. Over the past decade, the average debt burden for a college graduate has increased by 58 percent. Many of the students who want to serve our country owe more than $20,000 in student loans after graduating from college.

By providing a quality college education at no cost to the student, the U.S. Public Service Academy would tap into the renewed sense of patriotism and civic obligation among young people and create a corps of competent civilian leaders.

The establishment of a U.S. Public Service Academy is an innovative way to strengthen and protect America by creating a corps of well-trained, highly qualified civilian leaders. I am hopeful that my Senate colleagues from both sides of the aisle will join me today to move this legislation to the floor without delay.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 3959. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain combat zone compensation of civilian employees of the United States; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today along with my colleague Senator GEORGE ALLEN to introduce the Federal Employee Combat Zone Tax Parity Act, which would provide parity to civilian Federal employees by extending the tax credit currently received by military personnel in combat zones to the civilian Federal employees working along side them. My fellow Virginian, Congressman FRANK WOLF, has introduced a similar bill in the House of Representatives.

In addition, several Federal employee organizations, such as the American Federation of Government Employees (AFGE), the National Treasury Employees Union (NTEU), the Financial Management Association (FMA), the Senior Executives Association (SEA), the American Foreign Service Association (AFSA), and the National Federation of Federal Employees (NFFE), strongly support this legislation.

As of today, I have made eleven separate trips to Iraq and Afghanistan to see firsthand the work of our military personnel, which is essential to success in these regions. In addition, the work of our Federal civilian employees in these regions is significantly important.

At the moment, a majority of the work in the reconstruction of these countries is being done by the military and the Department of State (DOS). These dedicated men and women deserve our gratitude. However, as I have said on a number of occasions, our challenging task requires the coordination and work of Federal agencies across the spectrum.

Regardless of whether one is in the military or a civilian, there are certain risks and hardships associated with working overseas. As a result, the Federal Government provides certain incentives to individuals when they take on extremely challenging jobs. For example, those in the military working in a combat zone receive the Combat Zone Tax Credit.

This tax credit permits military personnel working in combat zones to exclude a certain amount of income from their Federal income taxes. This benefit for the military was established in 1913.

Private contractors working in Iraq and Afghanistan get a similar benefit. Under the Foreign Earned Income Tax Credit, contractors are allowed to exclude a portion of their income from taxes while they work abroad, like in Iraq and Afghanistan.

To date, however, no similar benefit exists for Federal employees serving in the same combat zones. I do not believe it is fair for our Federal employees to be excluded from the same benefits available to military personnel and private contractors in the same combat zone.

The Commonwealth of Virginia, of which I have been honored to serve for the last 28 years in the Senate, is home to over 200,000 Federal employees. I have long been a strong supporter of our Federal employees as I have been for our military personnel.

Our efforts in the war on terrorism can only be successful with a highly skilled and experienced workforce. I can personally attest to the dedication of civil service employees throughout the Federal Government. Since the September 11th attacks, Federal employees have been relocated, reassigned, and worked long hours under strenuous circumstances without complaints, proving time and again their loyalty to their country is first and foremost.

During my service as Secretary of the Navy during which I was privileged to have some 650,000 civilian employees working side by side with the uniformed Navy, I valued very highly the sense of teamwork between the civilian and uniformed members of the United States Navy. Teamwork is an intrinsic military value, in my judgment, and essential to mission accomplishment. A sense of parity and fairness is important for developing this teamwork.

In Iraq and Afghanistan, the teamwork of the entire Federal Government is essential to harness our overall efforts to secure a measure of democracy for the peoples of those countries, and we need to make it easier for our Federal employees to participate.

I recently offered additional legislation to achieve this goal. My bill, S. 2600, would provide the heads of agencies other than DOS and the Department of Defense (DOD) with the authority, at their discretion, to give their employees who serve in Iraq and Afghanistan allowances, benefits, and gratuities comparable to those provided to State Department and DOD employees serving in those countries.

Currently, the agency heads of non-DOD and DOS agencies do not have such authority, and it is essential, as part of the U.S. effort to bring democracy and freedom to Iraq and Afghanistan, that agency heads be able to give their workers in those countries the same benefits as those they work beside.

In the last estimate, there are almost 2,000 Federal employees working a variety of jobs in Iraq and Afghanistan. I am grateful for their hard work in potentially dangerous situations. And, I know there are many other Federal employees who are anxious to serve their country and engage in these efforts, but it is a lot to risk.

Providing parity in this important tax credit would provide a significant incentive for individuals to take on this challenge—a challenge that America desperately needs Federal employees to undertake.

Throughout the world, America's civil servants are serving our government and our people, often in dangerous situations. They are on the ground in the war on terrorism taking over new roles to relieve military personnel of tasks civilian employees can perform. They are playing a vital role in the reconstruction of Iraq and Afghanistan.

We have a long tradition in Congress of recognizing the valuable contributions of our Federal employees in both the military service and in the civil service by providing fair and equitable treatment. This bill gives us the ability to continue this tradition while at the same time providing an important incentive to help America meet its needs.

I urge my colleagues to join with me in support of this legislation.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. LOTT, and Mr. LAUTENBERG):

S. 3961. A bill to provide for enhanced safety in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am pleased to introduce the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. I am joined by my colleagues from the Commerce, Science, and Transportation Committee, Senators INOUYE, LOTT and LAUTENBERG.

Pipelines are one of the safest forms of transportation, and in most cases their safety record has been steadily improving. Unfortunately however, as recent events in my State demonstrate, there is still much to be done. This bill addresses the problems that have occurred in Alaska and other safety issues that have been brought to the Committee's attention.

The bill reauthorizes the pipeline safety programs of the Pipeline and Hazardous Materials Safety Administration (PHMSA) for Fiscal Years 2007 through 2010.

Highlights of the bill include:

Increased Department of Transportation Resources Dedicated to Overseeing Pipeline Safety—The bill provides an additional 45 Federal inspectors (a 50 percent increase) over the 4 years of the bill at a cost of $6 million in Fiscal Year 2010. Currently PHMSA has 90 inspectors, but the DOT Inspector General has stated in the past that these relatively low staffing levels are a matter for concern. Ninety inspectors translate to one inspector for every 18,000 miles of pipeline in this country.

Strengtened Programs to Reduce Construction Related Damage to Pipelines—The bill includes new civil enforcement authority against excavators and pipeline operators responsible for third-party damage incidents and provides grants to states that have damage prevention programs in place. Construction related damage, such as damage caused by excavation for a highway project, is the greatest cause of pipeline accidents that result in death or injury. This occurs most often on the distribution systems that run through the neighborhoods where people live and work. These incidents have increased by 49 percent since 1996.

Applying DOT Safety Standards to the Currently Unregulated Low Stress Pipelines—On August 31, the DOT announced proposed rules to cover low stress pipelines in unusually sensitive areas. Pipeline operators will have to meet new safety requirements, including cleaning and continuous monitoring, along more than 1,200 miles of pipelines. However, low-stress lines that aren't in such sensitive areas would continue to be unregulated. The bill goes further than the regulation and requires DOT oversight of all low-stress pipelines.

Increased Accountability of Pipeline Company Officials—The bill includes a provision that would require senior officials at pipeline companies to certify that the information they are providing to regulators is accurate.

Enhanced Pipeline Research—The bill would also boost PHMSA's research and technology development budget for pipeline safety issues such as corrosion by $10 million over the length of the bill.

A Study of Pipelines Critical to Energy Supply—The bill includes a study of oil pipelines that are critical to the nation's energy supply in order to determine if there are sufficient safety regulations in place to ensure their safety.

The House Transportation and Infrastructure Committee and the House Energy and Commerce Committee are also working on pipeline safety legislation. I hope that our three Committees can work together over the next month while the Congress is out of session to develop a joint legislative product that we can pass and have signed into law when we return in November. Many of the provisions in the three bills are similar and we should have enough common ground to achieve this goal.

By Mr. DOMENICI (for himself and Mr. CRAIG):

S. 3962. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I note the arrival on the floor of the distinguished Senator from Nevada. The legislation that I will be talking about is of significant interest to the Senator from Nevada. But it will take many months on the floor of the Senate before we finish.

Today my fellow Senators I am introducing legislation that I believe will place the Department of Energy's nuclear waste program back on track.

As we all know, the history of the Yucca Mountain project has been rocky at best. The Yucca Mountain project has a very long pedigree, starting back to the late 1950's when the National Academy of Sciences reported to the Atomic Energy Commission suggesting that burying radioactive high-level waste in geologic formations should receive consideration.

In the 1980s, when Congress decided to pursue a geologic repository, we were quite optimistic—so optimistic that we told the Department of Energy—DOE—to enter into contracts with utilities that promised that we would begin taking nuclear waste off their hands by 1998. Well, obviously that didn't happen. What did happen was that the courts found that the government is liable for its failure to meet its contractual obligation.

While moving more slowly than planned, DOE's nuclear waste program has made progress toward making the goal of a permanent geologic repository for nuclear waste a reality. In 2002, the President and Congress approved the Yucca Mountain site, and instructed DOE to file a license application for the repository with the Nuclear Regulatory Commission—NRC. That decision has been made.

With the siting decision made, it will now be up to the NRC to evaluate the scientific data and determine whether the repository will permanently, and safely, isolate nuclear waste.

Yucca Mountain is the cornerstone of our national comprehensive spent nuclear fuel management strategy for this country. Let me be clear: We need Yucca Mountain. We must make this program work. I believe the bill introduced today will do that.

This bill will remove legal barriers that will allow DOE to meet its obligation to accept and store spent nuclear fuel as soon as possible, without prejudging the outcome of the NRC's repository licensing decision.

The bill I will introduce today authorizes the DOE to permanently withdraw 147,000 acres currently controlled by the Bureau of Land Management, the Air Force, and the Nevada Test Site, a license condition of the NRC.

This legislation will repeal the arbitrary 70,000 metric ton statutory limit on emplacement of radioactive material at Yucca Mountain. The capacity of the mountain will be determined by scientific and technical analysis.

The DOE may also begin construction of needed infrastructure for the repository and surface storage facilities as soon as they complete an environmental impact statement that evaluates these activities.

This legislation will begin to consolidate the defense waste and spent nuclear fuel at Yucca Mountain. The bill requires DOE to file for a permit to build a surface storage facility at the Nevada Test Site at the same time it files its license application for a repository at Yucca Mountain.

As soon as the department receives the permit for the surface storage facilities from the NRC, the department may begin moving defense fuel and waste to the Nevada Test Site. The spent nuclear fuel from our Navy and defense activities that kept us safe during the Cold War will be consolidated and secure at the site.

Only after the NRC issues a construction permit for Yucca Mountain, may the department begin moving civilian spent fuel to the Nevada Test Site.

This bill will withdraw the land for the rail route for Yucca, a vital transportation component. There is a provision that also provides that appropriations from the Nuclear Waste Fund will not count against the allocations for discretionary spending. The DOE will have access to the full funds in the Nuclear Waste Fund, monies collected from our constituents, to complete this project.

This bill compliments the short, medium, and long term components of the nuclear fuel cycle that I began to talk about this past summer. The thinking of how to handle nuclear spent fuel in the late 1970s and early 1980s and the way we approached its management is changing, we need to acknowledge that change.

In the short term, according to DOE's most optimistic schedule, the NRC's construction permit will not be issued until 2011. The Consolidated and Preparation "CAP" proposal in the Energy and Water Appropriations bill begins to enable DOE to fulfill its contractual liability for spent fuel storage before DOE can move spent fuel to Yucca Mountain by providing new authorities for DOE to accept and store civilian spent nuclear fuel within the states in which it was generated.

In the mid term, this legislation lays the foundation to integrate Yucca Mountain and Global Nuclear Energy Partnership—GNEP—by providing that before spent fuel is shipped to Nevada, the Secretary of Energy determines if it can be recycled within a reasonable amount of time. Current plans for GNEP do not include recycling all 55,000 metric tons of civilian spent fuel that has already been generated. This proposal will avoid moving waste to Nevada that should be shipped instead to a GNEP facility.

In the long term, this measure provides DOE with the authorities needed to execute the Yucca Mountain project, and to begin long term emplacement, while the GNEP program will reduce the volume of material to be emplaced in the mountain, eliminating the need for a second repository program.

The three pieces of the fuel cycle that I have discussed today—interim storage, GNEP and Yucca Mountain—will establish a comprehensive program that will provide confidence that our nation's nuclear waste will be managed safely both for current and future reactors.

We can solve this problem and I hope we can move forward together.

I send to the desk a bill which does all of the things that I have just spoken to. I am sure many Senators and their staffs will be interested. This will certainly not proceed in any hurry; it will take a while. But I intend to move it as best I can. There will be opportunities to stop the movement at every opportunity. I am just hopeful that we will carry all the way through, as we have in the past, and go to conference and take something to the President and see where we are.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I want to again express my appreciation to the distinguished Senator from New Mexico—I know this is a feeling shared by a lot of Senators—for his efforts and leadership over many years in the Senate but particularly in the energy area. He has been persistent.

We did pass a good energy policy bill last year. Obviously, he would like for it to have been, perhaps, even broader, but we got it done. It is making a contribution and will continue to have a positive contribution into more diverse energy policy in this country from which the American people will benefit.

I thank the Senator for his leadership on this particular area of the nuclear repository. We must deal with this issue. We can do it. His input was critical. I thank him.

Mr. DOMENICI. I thank the Senator. It is a pleasure working with him.

When I have legislation such as the legislation I just described, which is very difficult, and I know we are going to come to spots in the Senate, stopovers where we will have to vote because it is good for the country, I am counting in the column that if I have done my work, will this Senator vote for it, the Senator's name. I believe if we do our work and get our votes properly and line up what we propose, a Senator such as Senator LOTT will not be running around asking people what is going on in his State.

This matter deserves his attention, as it deserves my attention. I believe we will get that.

I thank the Senator.

Mr. CRAIG. Mr. President, I rise today to express my strong support for the Nuclear Fuel Management and Disposal Act introduced today by Senator PETE DOMENICI. Senator DOMENICI has long been a courageous supporter of dependable, emissions-free nuclear energy, and he is largely responsible for the current renaissance of nuclear power in this country—with upwards of 30 new nuclear reactors on the drawing board to be licensed in the next several years. Senator DOMENICI's landmark legislation will help assure the future of nuclear power in this country by providing the necessary legislation for moving forward on the long-stalled Yucca Mountain repository and authorizing much-needed interim storage for spent fuel and high-level waste that has been accumulating around the country. For used nuclear fuel that will eventually be recycled, the Senate Energy and Water Appropriations bill approved by the Appropriations Committee earlier this year provides for interim storage of commercial spent fuel at Consolidation and Preparation—CAP—facilities. Senator DOMENICI's legislation introduced today addresses defense spent fuel and high-level waste that cannot be recycled, so that these wastes will be sent to Yucca Mountain for storage and eventual disposal. In this way, this bill removes the final roadblock to developing new nuclear power in this country.

And let me say a few words about this "roadblock" to Yucca that has persisted for so many years. The Federal Government made a promise to take possession of spent nuclear fuel in order to safely and permanently dispose of it in a geologic repository. We promised to begin taking this fuel back in 1998—8 years ago. However, through concerted efforts by the state of Nevada and its congressional delegation, progress on Yucca has often slowed to a crawl. This is the classic NIMBY attitude—"not in my backyard." And yet my colleague from Nevada, Mr. REID, has repeatedly called for this Congress and the administration to do something to help reduce emissions of greenhouse gases because of his concerns about global warming.

This Congress and this administration have done a great deal to promote emission-free power generation. This Congress passed the Energy Policy Act last year, which provided financial incentives for new, emission-free sources of energy, including wind, solar, clean coal—and nuclear. And earlier this year, this administration introduced the Advanced Energy Initiative—AEI—to support research and development of new energy sources—including nuclear power. In fact, the Global Nuclear Energy Partnership—GNEP—is one part of the AEI. One goal of GNEP is to reduce the amount and toxicity of nuclear waste ultimately destined for disposal at Yucca Mountain; another goal is to eventually help expand the deployment of emission-free nuclear power in developing countries that otherwise would need to depend on burning fossil fuels for their growing energy demands. Contrary to Senator REID's comments about doing nothing to help reduce greenhouse gas emissions, we have done a great deal to develop emission-free energy in this country and abroad. But the deployment of nuclear power requires that we manage the spent fuel from nuclear power plants in a safe and responsible manner. One aspect of that management strategy must be to open the Yucca Mountain repository as soon as possible.

As Senator DOMENICI has said, Yucca Mountain is the cornerstone of a comprehensive spent-fuel management strategy for this country, but Yucca alone cannot meet the government's spent-fuel obligations. Through GNEP we will also explore technologies that promise to reduce the volume and toxicity of spent fuel. Thus, GNEP, interim storage and Yucca Mountain together provide a comprehensive program for safely managing our Nation's Nuclear waste.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 588—TO EXPRESS THE SENSE OF THE SENATE THAT STATES SHOULD HAVE IN PLACE BACKUP SYSTEMS TO DEAL WITH ANY FAILURE OF ELECTRONIC VOTING EQUIPMENT DURING THE NOVEMBER 7, 2006, GENERAL ELECTION

Mr. FEINGOLD (for himself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 588

Whereas widespread problems with new voting technology have been reported this year in primaries in Ohio, Arkansas, Illinois, Maryland, and elsewhere;

Whereas States such as Texas, Arkansas, and others have had to unexpectedly administer provisional ballots after electronic voting machines failed;

Whereas equipment malfunctions in the Arkansas district 16 State Senate primary race precipitated a recount that, in turn, produced a new winner;

Whereas computer problems in 4 southern Indiana counties required workers to manually enter the number of votes for each candidate in each precinct;

Whereas a deadline to test electronic voting machines in West Virginia was pushed back to the day before the May 9 primary election due to problems and delays with the new machines;

Whereas glitches in the electronic voter check-in system in Montgomery County, Maryland, resulted in polls remaining open for additional hours and required a recount of thousands of paper provisional ballots;

Whereas 40 percent of registered voters nationally are expected to cast ballots on new machines in the November 7 midterm elections;

Whereas the larger number of voters participating in the November 7 midterm elections may result in even more equipment failures than occurred in the primary elections;

Whereas millions of voters could be disenfranchised in the November 7 midterm elections, as thousands have already been in 2006 primary elections, due to the failure of electronic voting machines; and

Whereas former Attorney General Richard Thornburgh and former Ohio Governor Richard Celeste, co-chairs of the Committee to Study a Framework for Understanding Electronic Voting of the National Academies' National Research Council wrote recently: "If major problems arise with unproven technology and new election procedures, the political heat will be high indeed. . : . Jurisdictions need to come up with contingency plans for such November problems, if they haven't done so already. One possible example: Make preparations to fall back to paper ballots if necessary.": Now, therefore, be it

Resolved, That it is the sense of the Senate that each State and jurisdiction that uses electronic voting equipment should have in place for use in the November 7, 2006, general election a backup system, such as the use of paper ballots, in the case of any failure of the electronic voting equipment.

SENATE CONCURRENT RESOLUTION 119—EXPRESSING THE SENSE OF CONGRESS THAT PUBLIC POLICY SHOULD CONTINUE TO PROTECT AND STRENGTHEN THE ABILITY OF FARMERS AND RANCHERS TO JOIN TOGETHER IN COOPERATIVE SELF-HELP EFFORTS

Mrs. LINCOLN (for herself, Mr. CRAIG, Mr. CHAMBLISS, Mr. DORGAN, Mr. CONRAD, Mr. GRASSLEY, Mr. PRYOR, Mr. HARKIN, Mr. CRAPO, Mr. DEWINE, Mr. TALENT, Mr. BAUCUS, Mr. THUNE, Mr. BURNS, Mr. BOND, Mr. ENZI, Ms. STABENOW, Mr. COCHRAN, and Mr. JOHNSON) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 119

Whereas, the ability of farmers and ranchers in the United States to join together in cooperative self-help efforts is vital to their continued economic viability;

Whereas, Federal laws have long recognized the importance of protecting and strengthening the ability of farmers and ranchers to join together in cooperative self-help efforts, including to cooperatively market their products, ensure access to competitive markets, and help achieve other important public policy goals;

Whereas, farmer- and rancher-owned cooperatives play an important role in helping farmers and ranchers improve their income from the marketplace, manage their risk, meet their credit and other input needs, and compete more effectively in a rapidly changing global economy;

Whereas, farmer- and rancher-owned cooperatives also play an important role in providing consumers in the United States and abroad with a dependable supply of safe, affordable, high-quality food, fiber and related products;

Whereas, farmer- and rancher-owned cooperatives also help meet the energy needs of the United States, including through the production and marketing of renewable fuels such as ethanol and biodiesel;

Whereas, there are nearly 3,000 farmer- and rancher-owned cooperatives located throughout the United States with a combined membership representing a majority of the nearly 2 million farmers and ranchers in the United States; and

Whereas, farmer- and rancher-owned cooperatives also contribute significantly to the economic well being of rural America as well as the overall economy, including accounting for as many as 250,000 jobs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of the Congress that public policy should continue to protect and strengthen the ability of farmers and ranchers to join together in cooperative self-help efforts—

(1) to improve their income from the marketplace and their economic well-being;

(2) to capitalize on new market opportunities; and

(3) to help meet the food and fiber needs of consumers, provide for increased energy production, promote rural development, maintain and create needed jobs, and contribute to a growing United States economy.

SENATE CONCURRENT RESOLUTION 120—EXPRESSING THE SUPPORT OF CONGRESS FOR THE CREATION OF A NATIONAL HURRICANE MUSEUM AND SCIENCE CENTER IN SOUTHWEST LOUISIANA

Mr. VITTER submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 120

Whereas the Creole Nature Trail All-American Road District Board of Commissioners has begun to create and develop a National Hurricane Museum and Science Center in the southwest Louisiana area;

Whereas protecting, preserving, and showcasing the intrinsic qualities that make Louisiana a one-of-a-kind experience is the mission of the Creole Nature Trail All-American Road;

Whereas the horrific experience and the devastating long-term effects of Hurricanes Katrina and Rita will play a major role in the history of the United States;

Whereas a science center of this caliber will educate and motivate young and old in the fields of meteorology, environmental science, sociology, conservation, economics, history, communications, and engineering;

Whereas it is only appropriate that the effects of hurricanes and the rebuilding efforts be captured in a comprehensive center such as a National Hurricane Museum and Science Center to interpret the effects of hurricanes in and outside of Louisiana; and

Whereas it is critical that the history of past hurricanes be preserved so that all people in the United States can learn from this history: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports and encourages the creation of a National Hurricane Museum and Science Center in southwest Louisiana.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5075. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5076. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5077. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5078. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5079. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5080. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5081. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5082. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5083. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5084. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5085. Mr. FRIST proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes.

SA 5086. Mr. LEVIN (for himself, Mr. DAYTON, and Mr. REED) proposed an amendment to the bill S. 3930, supra.

SA 5087. Mr. SPECTER (for himself, Mr. LEAHY, Mr. DORGAN, Mr. DODD, Mr. DAYTON, Mr. FEINGOLD, Mrs. CLINTON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 3930, supra.

SA 5088. Mr. KENNEDY (for himself, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 3930, supra; which was ordered to lie on the table.

SA 5089. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 5066 submitted by Mrs. HUTCHISON (for herself and Mr. KYL) and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5090. Mr. BENNETT (for Mr. FRIST) proposed an amendment to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

SA 5091. Mr. BENNETT (for Mr. FRIST) proposed an amendment to amendment SA 5090 proposed by Mr. BENNETT (for Mr. FRIST) to the bill S. 403, supra.

TEXT OF AMENDMENTS

SA 5075. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Commissions Act of 2006".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Constitution of the United States grants to Congress the power "To define and punish . . . Offenses against the Law of Nations", as well as the power "To declare War . . . To raise and support Armies . . . [and] To provide and maintain a Navy".

(2) The military commission is the traditional tribunal for the trial of persons engaged in hostilities for violations of the law of war.

(3) Congress has, in the past, both authorized the use of military commission by statute and recognized the existence and authority of military commissions.

(4) Military commissions have been convened both by the President and by military commanders in the field to try offenses against the law of war.

(5) It is in the national interest for Congress to exercise its authority under the Constitution to enact legislation authorizing and regulating the use of military commissions to try and punish violations of the law of war.

(6) Military commissions established and operating under chapter 47A of title 10, United States Code (as enacted by this Act), are regularly constituted courts affording, in the words of Common Article 3 of the Geneva Conventions, "all the judicial guarantees which are recognized as indispensable by civilized peoples".

SEC. 3. AUTHORIZATION FOR MILITARY COMMISSIONS.

(a) IN GENERAL.—The President is authorized to establish military commissions for the trial of alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses specifically made triable by military commission as provided in chapter 47 of title 10, United States Code, and chapter 47A of title 10, United States Code (as enacted by this Act).

(b) CONSTRUCTION.—The authority in subsection (a) may not be construed to alter or limit the authority of the President under the Constitution and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

(c) SCOPE OF PUNISHMENT AUTHORITY.—A military commission established pursuant to subsection (a) shall have authority to impose upon any person found guilty under a proceeding under chapter 47A of title 10, United States Code (as so enacted), a sentence that is appropriate for the offense or offenses for which there is a finding of guilt, including a sentence of death if authorized under such chapter, imprisonment for life or a term of years, payment of a fine or restitution, or such other lawful punishment or condition of punishment as the military commission shall direct.

(d) EXECUTION OF PUNISHMENT.—The Secretary of Defense is authorized to carry out a sentence of punishment imposed by a military commission established pursuant to subsection (a) in accordance with such procedures as the Secretary may prescribe.

(e) ANNUAL REPORT ON TRIALS BY MILITARY COMMISSIONS.—

(1) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions established pursuant to subsection (a) during such year.

(2) Form.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 4. MILITARY COMMISSIONS.

(a) Military Commissions.—

(1) In general.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

"CHAPTER 47A—MILITARY COMMISSIONS

"SUBCHAPTER	Sec.
"I. General Provisions	948a.
"II. Composition of Military Commissions	948h.
"III. Pre-Trial Procedure	948q.
"IV. Trial Procedure	949a.
"V. Sentences	949s.
"VI. Post-Trial Procedure and Review of Military Commissions	950a.
"VII. Punitive Matters	950aa.

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"948a. Definitions.
"948b. Military commissions generally.
"948c. Persons subject to military commissions.
"948d. Jurisdiction of military commissions.

"§ 948a. Definitions

"In this chapter:

"(1) Alien.—The term 'alien' means an individual who is not a citizen of the United States.

"(2) Classified information.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(3) Lawful enemy combatant.—The term 'lawful enemy combatant' means an individual who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(4) Unlawful enemy combatant.—The term 'unlawful enemy combatant' means an individual engaged in hostilities against the United States who is not a lawful enemy combatant.

"§ 948b. Military commissions generally

"(a) Purpose.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

"(b) Construction of Provisions.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided therein or in this chapter, and many of the provisions of chapter 47 of this title are by their terms inapplicable to military commissions. The judicial construction and application of chapter 47 of this title, while instructive, is therefore not of its own force binding on military commissions established under this chapter.

"(c) Inapplicability of Certain Provisions.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by the terms of such provisions or by this chapter.

"(d) Treatment of Rulings and Precedents.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"§ 948c. Persons subject to military commissions

"Any alien unlawful enemy combatant engaged in hostilities or having supported hostilities against the United States is subject to trial by military commission as set forth in this chapter.

"§ 948d. Jurisdiction of military commissions

"A military commission under this chapter shall have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter, sections 904 and 906 of this title (articles 104 and 106 of the Uniform Code of Military Justice), or the law of war, and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter, chapter 47 of this title, or the law of war.

"SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

"Sec.
"948h. Who may convene military commissions.
"948i. Who may serve on military commissions.
"948j. Military judge of a military commission.
"948k. Detail of trial counsel and defense counsel.
"948l. Detail or employment of reporters and interpreters.
"948m. Number of members; excuse of members; absent and additional members.

"§ 948h. Who may convene military commissions

"Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

"§ 948i. Who may serve on military commissions

"(a) In General.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter, including commissioned officers of the reserve components of the armed forces on active duty, commissioned officers of the National Guard on active duty in Federal service, or retired commissioned officers recalled to active duty.

"(b) Detail of Members.—When convening a military commission under this chapter, the convening authority shall detail as members thereof such members of the armed forces eligible under subsection (a) who, as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

"(c) Excuse of Members.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

"§ 948j. Military judge of a military commission

"(a) Detail of Military Judge. A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

"(b) Eligibility.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) Ineligibility of Certain Individuals.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

"(d) Consultation With Members; Ineligibility to Vote.—A military judge detailed to a military commission under this chapter may not consult with the members except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members.

"(e) Other Duties.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

"(f) Prohibition on Evaluation of Fitness by Convening Authority.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

“§948k. Detail of trial counsel and defense counsel

“(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

“(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

“(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable.

“(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such military commissions.

“(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

“(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice)) who is—

“(A) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(B) certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

“(2) a civilian who is—

“(A) a member of the bar of a Federal court or of the highest court of a State; and

“(B) otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

“(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

“(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

“(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

“(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

“(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

“§948l. Detail or employment of reporters and interpreters

“(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the military commission qualified court reporters, who shall prepare a verbatim record of the proceedings of and testimony taken before the military commission.

“(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the military commission, and, as necessary, for trial counsel and defense counsel for the military commission, and for the accused.

“(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the military commission, who shall also be responsible for preparing the record of the proceedings of the military commission.

“§948m. Number of members; excuse of members; absent and additional members

“(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

“(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

“(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

“(1) as a result of challenge;

“(2) by the military judge for physical disability or other good cause; or

“(3) by order of the convening authority for good cause.

“(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

“SUBCHAPTER III—PRE-TRIAL PROCEDURE

“Sec.
“948q. Charges and specifications.
“948r. Compulsory self-incrimination prohibited; statements obtained by torture or cruel, inhuman, or degrading treatment.
“948s. Service of charges.

“§948q. Charges and specifications

“(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

“(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

“(2) that they are true in fact to the best of his knowledge and belief.

“(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges and specifications against him as soon as practicable.

“§948r. Compulsory self-incrimination prohibited; statements obtained by torture or cruel, inhuman, or degrading treatment

“(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

“(b) STATEMENTS OBTAINED BY TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT.—A statement obtained by use of torture or by cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd), whether or not under color of law, shall not be admissible in a military commission under this chapter, except against a person accused of torture or such treatment as evidence the statement was made.

“(c) STATEMENTS OBTAINED BY ALLEGED COERCION NOT AMOUNTING TO TORTURE OR CRUEL, INHUMAN, OR DEGRADING TREATMENT.—An otherwise admissible statement obtained through the use of alleged coercion not amounting to torture or cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005 may be admitted in evidence in a military commission under this chapter only if the military judge finds that—

“(1) the totality of the circumstances under which the statement was made render it reliable and possessing sufficient probative value; and

“(2) the interests of justice would best be served by admission of the statement into evidence.

“§948s. Service of charges

“The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had in English and, if appropriate, in another language that the accused understands, sufficiently in advance of trial to prepare a defense.

“SUBCHAPTER IV—TRIAL PROCEDURE

“Sec.
“949a. Rules.
“949b. Unlawfully influencing action of military commission.
“949c. Duties of trial counsel and defense counsel.
“949d. Sessions.
“949e. Continuances.
“949f. Challenges.
“949g. Oaths.
“949h. Former jeopardy.
“949i. Pleas of the accused.
“949j. Opportunity to obtain witnesses and other evidence.
“949k. Defense of lack of mental responsibility.
“949l. Voting and rulings.
“949m. Number of votes required.
“949n. Military commission to announce action.
“949o. Record of trial.

“§949a. Rules

“(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense. Such procedures may not be contrary to or inconsistent with this chapter. Except as otherwise provided in this chapter or chapter 47 of this title, the procedures and rules of evidence applicable in trials by general courts-martial of the United States shall apply in trials by military commission under this chapter.

“(b) EXCEPTIONS.—(1) The Secretary of Defense, in consultation with the Attorney

General, may make such exceptions in the applicability in trials by military commission under this chapter from the procedures and rules of evidence otherwise applicable in general courts-martial as may be required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need.

"(2) Notwithstanding any exceptions authorized by paragraph (1), the procedures and rules of evidence in trials by military commission under this chapter shall include, at a minimum, the following rights:

"(A) To examine and respond to all evidence considered by the military commission on the issue of guilt or innocence and for sentencing.

"(B) To be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) To the assistance of counsel.

"(D) To self-representation, if the accused knowingly and competently waives the assistance of counsel, subject to the provisions of paragraph (4).

"(E) To the suppression of evidence that is not reliable or probative.

"(F) To the suppression of evidence the probative value of which is substantially outweighed by—

"(i) the danger of unfair prejudice, confusion of the issues, or misleading the members; or

"(ii) considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3) In making exceptions in the applicability in trials by military commission under this chapter from the procedures and rules otherwise applicable in general courts-martial, the Secretary of Defense may provide the following:

"(A) Evidence seized outside the United States shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or authorization.

"(B) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(C) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient evidence that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(D) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission only if—

"(i) the proponent of the evidence makes known to the adverse party, sufficiently in advance of trial or hearing to provide the adverse party with a fair opportunity to meet the evidence, the proponent's intention to offer the evidence, and the particulars of the evidence (including information on the circumstances under which the evidence was obtained); and

"(ii) the military judge finds that the totality of the circumstances render the evidence more probative on the point for which it is offered than other evidence which the proponent can procure through reasonable efforts, taking into consideration the unique circumstances of the conduct of military and intelligence operations during hostilities.

"(4)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (2)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (2)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"§ 949b. Unlawfully influencing action of military commission

"(a) IN GENERAL.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or their functions in the conduct of the proceedings.

"(2) No person may attempt to coerce or, by any unauthorized means, influence—

"(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

"(B) the action of any convening, approving, or reviewing authority with respect to their judicial acts; or

"(C) the exercise of professional judgment by trial counsel or defense counsel.

"(3) The provisions of this subsection shall not apply with respect to—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

"(B) statements and instructions given in open proceedings by a military judge or counsel.

"(b) PROHIBITION ON CONSIDERATION OF ACTIONS ON COMMISSION IN EVALUATION OF FITNESS.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

"(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

"(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

"§ 949c. Duties of trial counsel and defense counsel

"(a) TRIAL COUNSEL.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

"(b) DEFENSE COUNSEL.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

"(2) The accused shall be represented by military counsel detailed under section 948k of this title.

"(3) The accused may be represented by civilian counsel if retained by the accused, provided that such civilian counsel—

"(A) is a United States citizen;

"(B) is admitted to the practice of law in a State, district, or possession of the United States, or before a Federal court;

"(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

"(D) has been determined to be eligible for access to information classified at the level Secret or higher; and

"(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

"(4) If the accused is represented by civilian counsel, military counsel detailed shall act as associate counsel.

"(5) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in such person's sole discretion, may detail additional military counsel to represent the accused.

"(6) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

"§ 949d. Sessions

"(a) SESSIONS WITHOUT PRESENCE OF MEMBERS.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

"(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

"(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

"(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

"(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

"(2) Except as provided in subsections (b), (c), and (d), any proceedings under paragraph (1) shall be conducted in the presence of the accused, defense counsel, and trial counsel, and shall be made part of the record.

"(b) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

"(c) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter.

"(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

"(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

"(B) ensure the physical safety of individuals.

"(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

"(4)(A) Subject to the provisions of this paragraph, classified information shall be handled in accordance with rules applicable in trials by general courts-martial of the United States.

"(B) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. This subparagraph applies to all stages of proceedings of military commissions under this chapter.

"(C) After the original classification authority or head of the agency concerned has certified in writing that evidence and the sources thereof have been declassified to the maximum extent possible, consistent with the requirements of national security, the military judge may, to the extent practicable in accordance with the rules applicable in trials by court-martial, authorize—

"(i) the deletion of specified items of classified information from documents made available to the accused;

"(ii) the substitution of a portion or summary of the information for such classified documents; or

"(iii) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(D) A claim of privilege under this paragraph, and any materials in support thereof, shall, upon the request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

"(d) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

"(1) to ensure the physical safety of individuals; or

"(2) to prevent disruption of the proceedings by the accused.

"§ 949e. Continuances

"The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

"§ 949f. Challenges

"(a) CHALLENGES AUTHORIZED.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the military commission. The military judge shall determine the relevance and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—The accused and trial counsel are each entitled to one peremptory challenge, but the military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, the accused and trial counsel are each entitled to one peremptory challenge against members not previously subject to peremptory challenge.

"§ 949g. Oaths

"(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording thereof, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as provided in regulations prescribed by the Secretary of Defense. The regulations may provide that—

"(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

"(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

"(c) OATH DEFINED.—In this section, the term 'oath' includes an affirmation.

"§ 949h. Former jeopardy

"(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

"§ 949i. Pleas of the accused

"(a) PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

"(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the military commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

"§ 949j. Opportunity to obtain witnesses and other evidence

"(a) IN GENERAL.—(1) Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(2) Process issued in military commissions under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

"(A) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

"(B) shall run to any place where the United States shall have jurisdiction thereof.

"(b) DISCLOSURE OF EXCULPATORY EVIDENCE.—As soon as practicable, trial counsel in a military commission under this chapter shall disclose to the defense the existence of any known evidence that reasonably tends to exculpate or reduce the degree of guilt of the accused.

"(c) TREATMENT OF CERTAIN ITEMS.—In accordance with the rules applicable in trials by general courts-martial in the United States, and to the extent provided in such rules, the military judge in a military commission under this chapter may authorize trial counsel, in making documents available to the accused pursuant to subsections (a) and (b)—

"(1) to delete specified items of classified information from such documents;

"(2) to substitute an unclassified summary of the classified information in such documents; or

"(3) to substitute an unclassified statement admitting relevant facts that classified information in such documents would tend to prove.

"§ 949k. Defense of lack of mental responsibility

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members as to the defense of lack of mental responsibility under this section and shall charge the members to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

"(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

"§ 949l. Voting and rulings

"(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

"(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

"(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

“(c) Instructions Prior to Vote.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

“(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

“(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

“(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

“(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

“§ 949m. Number of votes required

“(a) Conviction.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

“(b) Sentences.—(1) Except as provided in paragraphs (2) and (3), sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

“(2) No person may be sentenced to death by a military commission, except insofar as—

“(A) the penalty of death has been expressly authorized under this chapter, chapter 47 of this title, or the law of war for an offense of which the accused has been found guilty;

“(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

“(C) the accused was convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

“(D) all members present at the time the vote was taken concurred in the sentence of death.

“(3) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

“(c) Number of Members Required for Penalty of Death.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12 members.

“(2) In any case described in paragraph (1) in which 12 members are not reasonably available for a military commission because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 5 members), and the military commission may be assembled, and the trial held, with not less than the number of members so specified. In any such case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

“§ 949n. Military commission to announce action

“A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

“§ 949o. Record of trial

“(a) Record; Authentication.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

“(b) Complete Record Required.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

“(c) Provision of Copy to Accused.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall receive a redacted version of the record consistent with the requirements of section 949d(c)(4) of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

“SUBCHAPTER V—SENTENCES

“Sec.
“949s. Cruel or unusual punishments prohibited.
“949t. Maximum limits.
“949u. Execution of confinement.

“§ 949s. Cruel or unusual punishments prohibited

“Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

“§ 949t. Maximum limits

“The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

“§ 949u. Execution of confinement

“(a) In General.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

“(1) in any place of confinement under the control of any of the armed forces; or

“(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

“(b) Treatment During Confinement by Other Than the Armed Forces.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

“SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

“Sec.
“950a. Error of law; lesser included offense.
“950b. Review by the convening authority.
“950c. Waiver or withdrawal of appeal.
“950d. Appeal by the United States.
“950e. Rehearings.
“950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court.
“950g. Appellate counsel
“950h. Execution of sentence; suspension of sentence.
“950i. Finality of proceedings, findings, and sentences.

“§ 950a. Error of law; lesser included offense

“(a) Error of Law.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

“(b) Lesser Included Offense.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

“§ 950b. Review by the convening authority

“(a) Notice to Convening Authority of Findings and Sentence.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

“(b) Submittal of Matters by Accused to Convening Authority.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

“(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after accused has been give an authenticated record of trial under section 949o(c) of this title.

“(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

“(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing, and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

“(c) Action by Convening Authority.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

“(2) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, only—

“(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

“(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

"(3)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

"(B) Subject to regulations prescribed by the Secretary of Defense, action under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

"(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

"(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

"(d) Order of Revision or Rehearing.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

"(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—.

"(i) there is an apparent error or omission in the record; or

"(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

"(B) In no case may a proceeding in revision—

"(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

"(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

"(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

"§950c. Waiver or withdrawal of appeal

"(a) Waiver of Right of Review.—(1) An accused may file with the convening authority a statement expressly waiving the right of the accused to appellate review. by the United States Court of Appeals for the Armed Forces under section 950f(a) of this title of the final decision of the military commission under this chapter.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice of the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(b) Withdrawal of Appeal.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(c) Effect of Waiver or Withdrawal.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

"§950d. Appeal by the United States

"(a) Interlocutory Appeal.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Appeals for the Armed Forces under section 950f of this title of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (c) or (d) of section 949d of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) Notice of Appeal.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of the order or ruling.

"(c) Appeal.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the United States Court of Appeals for the Armed Forces. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"§950e. Rehearings

"(a) Composition of Military Commission for Rehearing.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

"(b) Scope of Rehearing.—(1) Upon a rehearing—

"(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

"(B) no sentence in excess of or more than the original sentence may be imposed unless—

"(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

"(ii) the sentence prescribed for the offense is mandatory.

"(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

"§950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court

"(a) Review by United States Court of Appeals for the Armed Forces.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

"(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

"(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

"(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

"(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

"(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

"(b) Review by Supreme Court.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the Armed Forces in a determination under subsection (a).

"§950g. Appellate counsel

"(a) Appointment.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

"(b) Representation of United States.—Appellate counsel may represent the United States in any appeal or review proceeding under this chapter. Appellate Government counsel may represent the United States before the Supreme Court in case arising under this chapter when requested to do so by the Attorney General.

"(c) Representation of Accused.—The accused shall be represented before the United States Court of Appeals for the Armed Forces or the Supreme Court by military appellate counsel, or by civilian counsel if retained by him.

"§950h. Execution of sentence; suspension of sentence

"(a) Execution of Sentence of Death Only Upon Approval by the President.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

"(b) Execution of Sentence of Death Only Upon Final Judgment of Legality of Proceedings.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgement as to the legality of the proceedings (and with respect to death, approval under subsection (a)).

"(2) A judgement as to legality of proceedings is final for purposes of paragraph (1) when—

"(A) the time for the accused to file a petition for review by the United States Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by the Court; or

"(B) review is completed in accordance with the judgment of the United States Court of Appeals for the Armed Forces and (A) a petition for a writ of certiorari is not timely filed, (B) such a petition is denied by the Supreme Court, or (C) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(c) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

"§ 950i. Finality of proceedings, findings, and sentences

"(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

"(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of enactment of this chapter, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

"SUBCHAPTER VII—PUNITIVE MATTERS

"Sec.
"950aa. Definitions; construction of certain offenses; common circumstances.
"950bb. Principals.
"950cc. Accessory after the fact.
"950dd. Conviction of lesser offenses.
"950ee. Attempts.
"950ff. Conspiracy.
"950gg. Solicitation.
"950hh. Murder of protected persons.
"950ii. Attacking civilians.
"950jj. Attacking civilian objects.
"950kk. Attacking protected property.
"950ll. Pillaging.
"950mm. Denying quarter.
"950nn. Taking hostages.
"950oo. Employing poison or similar weapons.
"950pp. Using protected persons as a shield.
"950qq. Using protected property as a shield.
"950rr. Torture.
"950ss. Cruel, unusual, or inhumane treatment or punishment.
"950tt. Intentionally causing serious bodily injury.
"950uu. Mutilating or maiming.
"950vv. Murder in violation of the law of war.
"950ww. Destruction of property in violation of the law of war.
"950xx. Using treachery or perfidy.
"950yy. Improperly using a flag of truce.
"950zz. Improperly using a distinctive emblem.
"950aaa. Intentionally mistreating a dead body.
"950bbb. Rape.
"950ccc. Hijacking or hazarding a vessel or aircraft.
"950ddd. Terrorism.
"950eee. Providing material support for terrorism.
"950fff. Wrongfully aiding the enemy.
"950ggg. Spying.
"950hhh. Contempt.
"950iii. Perjury and obstruction of justice.

"§ 950aa. Definitions; construction of certain offenses; common circumstances

"(a) DEFINITIONS.—In this subchapter:

"(1) The term 'military objective' means combatants and those objects during an armed conflict which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a definite military advantage to the attacker under the circumstances at the time of an attack.

"(2) The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including civilians not taking an active part in hostilities, military personnel placed out of combat by sickness, wounds, or detention, and military medical or religious personnel.

"(3) The term 'protected property' means any property specifically protected by the law of war, including buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, but only if and to the extent such property is not being used for military purposes or is not otherwise a military objective. The term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

"(b) CONSTRUCTION OF CERTAIN OFFENSES.—The intent required for offenses under sections 950hh, 950ii, 950jj, 950kk, and 950ss of this title precludes their applicability with regard to collateral damage or to death, damage, or injury incident to a lawful attack.

"(c) COMMON CIRCUMSTANCES.—An offense specified in this subchapter is triable by military commission under this chapter only if the offense is committed in the context of and associated with armed conflict.

"§ 950bb. Principals

"Any person punishable under this chapter who—

"(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or

"(2) causes an act to be done which if directly performed by him would be punishable by this chapter,

is a principal.

"§ 950cc. Accessory after the fact

"Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

"§ 950dd. Conviction of lesser offenses

"An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

"§ 950ee. Attempts

"(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

"(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

"(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

"§ 950ff. Conspiracy

"Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this subchapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950gg. Solicitation

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

"§ 950hh. Murder of protected persons

"Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§ 950ii. Attacking civilians

"Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950jj. Attacking civilian objects

"Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"§ 950kk. Attacking protected property

"Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"§ 950ll. Pillaging

"Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"§950mm. Denying quarter

"Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"§950nn. Taking hostages

"Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950oo. Employing poison or similar weapons

"Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950pp. Using protected persons as a shield

"Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950qq. Using protected property as a shield

"Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"§950rr. Torture

"(a) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(b) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"§950ss. Cruel, unusual, or inhumane treatment or punishment

"Any person subject to this chapter who subjects another person in their custody or under their physical control, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"§950tt. Intentionally causing serious bodily injury

"(a) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(b) SERIOUS BODILY INJURY DEFINED.—In this section, the term 'serious bodily injury' means bodily injury which involves—

"(1) a substantial risk of death;

"(2) extreme physical pain;

"(3) protracted and obvious disfigurement; or

"(4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"§950uu. Mutilating or maiming

"Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950vv. Murder in violation of the law of war

"Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§950ww. Destruction of property in violation of the law of war

"Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"§950xx. Using treachery or perfidy

"Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950yy. Improperly using a flag of truce

"Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"§950zz. Improperly using a distinctive emblem

"Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"§950aaa. Intentionally mistreating a dead body

"Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessary, shall be punished as a military commission under this chapter may direct.

"§950bbb. Rape

"Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"§950ccc. Hijacking or hazarding a vessel or aircraft

"Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950ddd. Terrorism

"Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950eee. Providing material support for terrorism

"(a) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in section 950ddd of this title), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the

United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(b) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this section, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"§ 950fff. Wrongfully aiding the enemy

"Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"§ 950ggg. Spying

"Any person subject to this chapter who, in violation of the law of war and with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§ 950hhh. Contempt

"A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

"§ 950iii. Perjury and obstruction of justice

"A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to the military commission.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A and part II of subtitle A of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"Chapter 47A. Military Commissions 948a".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—

(1) SUBMITTAL OF PROCEDURES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

(2) SUBMITTAL OF MODIFICATIONS.—Not later than 60 days before the date on which any proposed modification of the procedures described in paragraph (1) shall go into effect, the Secretary shall submit to the committees of Congress referred to in that paragraph a report describing such modification.

SEC. 5. AMENDMENTS TO OTHER LAWS.

(a) DETAINEE TREATMENT ACT OF 2005.—Section 1004(b) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 42 U.S.C. 200dd–1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection.".

(b) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of title, 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) Section 802 (article 2 of the Uniform Code of Military Justice) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(3) of this title) who violate the law of war.".

(2) Section 821 (article 21 of the Uniform Code of Military Justice) is amended by striking "by statute or law of war".

(3) Section 836(a) (article 36(a) of the Uniform Code of Military Justice) is amended by inserting "(other than military commissions under chapter 47A of this title)" after "other military tribunals".

(c) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice)), is amended—

(1) by inserting "(a)" before "Any person"; and

(2) by adding at the end the following new subsection:

"(b) Any person subject to this chapter or chapter 47A of this title who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

(d) REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.—

(1) REVIEW BY SUPREME COURT.—Section 1259 of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) Cases tried by military commission and reviewed by the United States Court of Appeals for the Armed Forces under section 950f of title 10,".

(2) DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(A) in paragraphs (3) and (4), by striking "United States Court of Appeals for the District of Columbia Circuit" each place it appears and inserting "United States Court of Appeals for the Armed Forces"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(ii) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(ii) GRANT OF REVIEW.—Review under this paragraph shall be as of right.";

(iii) in subparagraph (C)—

(I) in clause (i)—

(aa) by striking "pursuant to the military order" and inserting "by a military commission"; and

(bb) by striking "at Guantanamo Bay, Cuba"; and

(II) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(iv) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

SEC. 6. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended—

(1) by striking subsection (e) (as added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742)) and by striking subsection (e) (as added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477)); and

(2) by adding at the end the following new subsection:

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained outside of the United States who—

"(A) is currently in United States custody; or

"(B) has been determined by the United States to have been properly detained as an enemy combatant.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial of an alien detained outside of the United States who—

"(A) is currently in United States custody; or

"(B) has been determined by the United States to have been properly detained as an enemy combatant.

"(3) In this subsection, the term 'United States', when used in a geographic sense, has the meaning given that term in section 1005(g) of the Detainee Treatment Act of 2005.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, treatment, or trial of an alien detained outside the United States (as that term is defined in section 2241(e)(3) of title 28, United States Code (as added by subsection (a)) since September 11, 2001.

SEC. 7. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto as an individually enforceable right in any civil action against an officer, employee, member of the Armed Forces or another agent of the United States Government, or against the United States, for the purpose of any claim for damages for death, injury, or damage to property in any court of the United States or its States or territories. This subsection does not affect the obligations of the United States under the Geneva Conventions.

(b) GENEVA CONVENTIONS DEFINED. In this section, the term "Geneva conventions" means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 8. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

(2) by adding at the end the following new subsection:

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.".

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

"(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign source of law shall be considered in defining or interpreting the obligations of the United States under this title.

"(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.".

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

"(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.".

SEC. 9. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking "the Department of Defense at Guantanamo Bay, Cuba" and inserting "the United States".

SEC. 10. SEVERABILITY.

If any provision of this Act or amendment made by a provision of this Act, or the application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of such provisions and amendments to any other person or circumstance, shall not be affected thereby.

SA 5076. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international and maritime borders of the United States, which was ordered to lie on the table; as follows;

On page ___, between lines _____ and _____ and insert the following:

(3) EXCEPTION TO RETROACTIVE APPLICABILITY.—Notwithstanding paragraph (2), the amendments made by this subsection shall take effect with respect to any individual appointed by the President to a position in any agency or department of the United States on the date of the enactment of this Act

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SA 5077. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie in the table; as follows:

On page 5, line 19, add at the end the following: "The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date.".

SA 5078. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY PROGRAMS.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program of the Central Intelligence Agency during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of any detention facility operated or used by the Central Intelligence Agency.

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) where each detainee was apprehended;

(iii) the suspected activities on the basis of which each detainee is being held; and

(iv) where each detainee is being held.

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detainees who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) For each detainee who was transferred to the custody of the Department of Defense for prosecution before a military commission, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(B) For each detainee who was transferred to the custody of the Department of Defense for any other purpose, the name of the detainee and the purpose of the transfer.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;

(ii) the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three months—

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the efforts made by the United States Government to obtain that information;

(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee;

(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee;

(iv) the current status of the detainee;

(v) the status of any parliamentary, judicial, or other investigation about the rendition or other transfer; and

(vi) any other information about potential risks to United States interests resulting from the rendition or other transfer.

(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORTS.—

(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation and rendition programs of the Central Intelligence Agency during the preceding year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:

(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(B) Any violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else associated with the detention, interrogation, and rendition programs of the Central Intelligence Agency in the conduct of such programs.

(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.

(3) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) or any other law.

(d) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques for use by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(1) an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations; and

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.

(f) AVAILABILITY OF REPORTS.—Each report under this section shall be fully accessible by each member of the congressional intelligence committees.

(g) DEFINITIONS.—In this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) LAW.—The term "law" includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.

SA 5079. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 11. DEADLINE FOR TRANSFER OF DETAINEES HELD BY THE CENTRAL INTELLIGENCE AGENCY.

(a) DEADLINE FOR TRANSFER.—Except as provided in subsection (b), not later than one year after the commencement of the detention of an individual by the Central Intelligence Agency, the Director of the Central Intelligence Agency shall—

(1) transfer the individual to the custody of the Department of Defense for prosecution before a military commission or for any other lawful purpose for which the Department of Defense may hold the individual;

(2) transfer the individual to the Attorney General for prosecution in a United States district court; or

(3) transfer the individual to a foreign nation in a manner consistent with the treaty obligations of the United States.

(b) EXTENSION.—The President may extend the period otherwise provided by subsection (a), as previously extended (if at all) under this subsection, for the transfer of an individual under this section by an additional period of 180 days if the President submits to the congressional intelligence committees a classified certification that it is in the national security interest of the United States to retain the individual in the custody of the Central Intelligence Agency for such additional period. A separate certification shall be submitted with respect to each extension under this subsection.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SA 5080. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 2, line 18, strike "prevention" and all that follows through line 21, and insert the following: "effective prevention of unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband, as determined by the Secretary of Homeland Security.".

SA 5081. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 93, strike line 5 and all that follows through page 94, line 9.

SA 5082. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, line 2, strike the quotation marks and the second period and insert the following:

"(3)(A) Paragraph (1) shall not apply to an application for a writ of habeas corpus challenging the legality of the detention of an alien described in paragraph (1), including a claim of innocence, filed by or on behalf of such an alien who has been detained by the United States for longer than 1 year.

"(B) No second or successive application for a writ of habeas corpus may be filed by or on behalf of an alien described in paragraph (1).".

SA 5083. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 94, strike lines 10 through 12 and insert the following:

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005.

(a) PERMISSIBLE INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—Section 1002 of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2739; 10 U.S.C. 801 note) is amended by striking "Department of Defense" each place it appears in subsections (a) and (b) and inserting "United States Government".

(2) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"SEC. 1002. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE UNITED STATES GOVERNMENT.".

SA 5084. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 5036 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 83, between lines 8 and 9, insert the following:

(2) PROTECTION OF UNITED STATES PERSONS.—The Secretary of State shall notify other parties to the Geneva Conventions that—

(A) the United States has historically interpreted the law of war and the Geneva Conventions, including in particular common Article 3, to prohibit a wide variety of cruel, inhuman, and degrading treatment of members of the United States Armed Forces and United States persons;

(B) during and following previous armed conflicts, the United States Government has prosecuted persons for engaging in cruel, inhuman, and degrading treatment, including the use of waterboarding techniques, stress positions, including prolonged standing, the use of extreme temperatures, beatings, sleep deprivation, and other similar acts;

(C) this Act and the amendments made by this Act preserve the capacity of the United States to prosecute nationals of enemy powers for engaging in acts against members of the United States Armed Forces and United States persons that have been prosecuted by the United States as war crimes in the past; and

(D) should any United States person be subjected to the following acts, without limitation, under circumstances in which the Geneva Conventions are applicable, the United States would consider such acts to constitute punishable offenses under common Article 3 and would act accordingly: forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shocks, burns, or other forms of physical pain to the person; waterboarding the person; using dogs on the person; inducing hypothermia or heat injury in the person; conducting a mock execution of the person; and depriving the person of necessary food, water, or medical care.

SA 5085. Mr. FRIST proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Military Commissions Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Construction of Presidential authority to establish military commissions.
Sec. 3. Military commissions.
Sec. 4. Amendments to Uniform Code of Military Justice.
Sec. 5. Treaty obligations not establishing grounds for certain claims.
Sec. 6. Implementation of treaty obligations.
Sec. 7. Habeas corpus matters.
Sec. 8. Revisions to Detainee Treatment Act of 2005 relating to protection of certain United States Government personnel.
Sec. 9. Review of judgments of military commissions.
Sec. 10. Detention covered by review of decisions of Combatant Status Review Tribunals of propriety of detention.

SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

SEC. 3. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

"CHAPTER 47A—MILITARY COMMISSIONS

"Subchapter
"I. General Provisions 948a
"II. Composition of Military Commissions 948h
"III. Pre-Trial Procedure 948q
"IV. Trial Procedure 949a
"V. Sentences 949s
"VI. Post-Trial Procedure and Review of Military Commissions 950a
"VII. Punitive Matters 950p

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"948a. Definitions.
"948b. Military commissions generally.
"948c. Persons subject to military commissions.
"948d. Jurisdiction of military commissions.
"948e. Annual report to congressional committees.

"§ 948a. Definitions

"In this chapter:

"(1) UNLAWFUL ENEMY COMBATANT.—(A) The term 'unlawful enemy combatant' means—

"(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

"(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

"(B) CO-BELLIGERENT.—In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

"(2) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means a person who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(3) ALIEN.—The term 'alien' means a person who is not a citizen of the United States.

"(4) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(5) GENEVA CONVENTIONS.—The term 'Geneva Conventions' means the international conventions signed at Geneva on August 12, 1949.

"§ 948b. Military commissions generally

"(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

"(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

"(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

"(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

"(e) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"(f) STATUS OF COMMISSIONS UNDER COMMON ARTICLE 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary 'judicial guarantees which are recognized as indispensable by civilized peoples' for purposes of common Article 3 of the Geneva Conventions.

"(g) GENEVA CONVENTIONS NOT ESTABLISHING SOURCE OF RIGHTS.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

"§ 948c. Persons subject to military commissions

"Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

"§ 948d. Jurisdiction of military commissions

"(a) JURISDICTION.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

"(b) LAWFUL ENEMY COMBATANTS.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable under this chapter.

"(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

"(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

"§ 948e. Annual report to congressional committees

"(a) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

"(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

"SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

"Sec.
"948h. Who may convene military commissions.
"948i. Who may serve on military commissions.
"948j. Military judge of a military commission.
"948k. Detail of trial counsel and defense counsel.
"948l. Detail or employment of reporters and interpreters.
"948m. Number of members; excuse of members; absent and additional members.

"§ 948h. Who may convene military commissions

"Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

"§ 948i. Who may serve on military commissions

"(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter.

"(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members of the commission such members of the armed forces eligible under subsection (a), as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

"(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

"§ 948j. Military judge of a military commission

"(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

"(b) QUALIFICATIONS.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

"(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members of the commission except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members of the commission.

"(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

"(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

"§ 948k. Detail of trial counsel and defense counsel

"(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

"(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

"(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the swearing of charges against the accused.

“(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such commissions.

“(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

“(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice) who—

“(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(B) is certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

“(2) a civilian who—

“(A) is a member of the bar of a Federal court or of the highest court of a State; and

“(B) is otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

“(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

“(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

“(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

“(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

“(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

“§948l. Detail or employment of reporters and interpreters

“(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the commission qualified court reporters, who shall make a verbatim recording of the proceedings of and testimony taken before the commission.

“(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the commission and, as necessary, for trial counsel and defense counsel and for the accused.

“(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the commission, who shall also be responsible for preparing the record of the proceedings.

“§948m. Number of members; excuse of members; absent and additional members

“(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

“(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

“(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

“(1) as a result of challenge;

“(2) by the military judge for physical disability or other good cause; or

“(3) by order of the convening authority for good cause.

“(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

“SUBCHAPTER III—PRE-TRIAL PROCEDURE

“Sec.
“948q. Charges and specifications.
“948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements.
“948s. Service of charges.

“§948q. Charges and specifications

“(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

“(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

“(2) that they are true in fact to the best of the signer's knowledge and belief.

“(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges against him as soon as practicable.

“§948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements

“(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

“(b) EXCLUSION OF STATEMENTS OBTAINED BY TORTURE.—A statement obtained by use of torture shall not be admissible in a military commission under this chapter, except against a person accused of torture as evidence that the statement was made.

“(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

“(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

“(2) the interests of justice would best be served by admission of the statement into evidence.

“(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

“(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

“(2) the interests of justice would best be served by admission of the statement into evidence; and

“(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

“§948s. Service of charges

“The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused understands. Such service shall be made sufficiently in advance of trial to prepare a defense.

“SUBCHAPTER IV—TRIAL PROCEDURE

“Sec.
“949a. Rules.
“949b. Unlawfully influencing action of military commission.
“949c. Duties of trial counsel and defense counsel.
“949d. Sessions.
“949e. Continuances.
“949f. Challenges.
“949g. Oaths.
“949h. Former jeopardy.
“949i. Pleas of the accused.
“949j. Opportunity to obtain witnesses and other evidence.
“949k. Defense of lack of mental responsibility.
“949l. Voting and rulings.
“949m. Number of votes required.
“949n. Military commission to announce action.
“949o. Record of trial.

“§949a. Rules

“(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense, in consultation with the Attorney General. Such procedures shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence in trial by general courts-martial. Such procedures and rules of evidence may not be contrary to or inconsistent with this chapter.

“(b) RULES FOR MILITARY COMMISSION.—(1) Notwithstanding any departures from the law and the rules of evidence in trial by general courts-martial authorized by subsection (a), the procedures and rules of evidence in trials by military commission under this chapter shall include the following:

"(A) The accused shall be permitted to present evidence in his defense, to cross-examine the witnesses who testify against him, and to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

"(B) The accused shall be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) The accused shall receive the assistance of counsel as provided for by section 948k.

"(D) The accused shall be permitted to represent himself, as provided for by paragraph (3).

"(2) In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe the following provisions:

"(A) Evidence shall be admissible if the military judge determines that the evidence would have probative value to a reasonable person.

"(B) Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

"(C) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(D) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient basis to find that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(E)(i) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to provide the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949j(c) of this title.

"(ii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the evidence demonstrates that the evidence is unreliable or lacking in probative value.

"(F) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

"(i) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

"(ii) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (1)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) Delegation of Authority to Prescribe Regulations.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"(d) Notification to Congressional Committees of Changes to Procedures.—Not later than 60 days before the date on which any proposed modification of the procedures in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the modification.

"§ 949b. Unlawfully influencing action of military commission

"(a) In General.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or his functions in the conduct of the proceedings.

"(2) No person may attempt to coerce or, by any unauthorized means, influence—

"(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

"(B) the action of any convening, approving, or reviewing authority with respect to his judicial acts; or

"(C) the exercise of professional judgment by trial counsel or defense counsel.

"(3) Paragraphs (1) and (2) do not apply with respect to—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

"(B) statements and instructions given in open proceedings by a military judge or counsel.

"(b) Prohibition on Consideration of Actions on Commission in Evaluation of Fitness.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

"(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

"(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

"§ 949c. Duties of trial counsel and defense counsel

"(a) Trial Counsel.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

"(b) Defense Counsel.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

"(2) The accused shall be represented by military counsel detailed under section 948k of this title.

"(3) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

"(A) is a United States citizen;

"(B) is admitted to the practice of law in a State, district, or possession of the United States or before a Federal court;

"(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

"(D) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

"(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

"(4) Civilian defense counsel shall protect any classified information received during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may not divulge such information to any person not authorized to receive it.

"(5) If the accused is represented by civilian counsel, detailed military counsel shall act as associate counsel.

"(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in that person's sole discretion, may detail additional military counsel to represent the accused.

"(7) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

"§ 949d. Sessions

"(a) Sessions Without Presence of Members.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

"(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

"(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

"(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

"(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

"(2) Except as provided in subsections (c) and (e), any proceedings under paragraph (1) shall—

"(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

"(B) be made part of the record.

"(b) Proceedings in Presence of Accused.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

"(1) be in the presence of the accused, defense counsel, and trial counsel; and

"(2) be made a part of the record.

"(c) Deliberation or Vote of Members.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

"(d) Closure of Proceedings.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

"(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

"(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

"(B) ensure the physical safety of individuals.

"(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

"(e) Exclusion of Accused From Certain Proceedings.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

"(1) to ensure the physical safety of individuals; or

"(2) to prevent disruption of the proceedings by the accused.

"(f) Protection of Classified Information.—

"(1) National security privilege.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.

"(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

"(i) the information is properly classified; and

"(ii) disclosure of the information would be detrimental to the national security.

"(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

"(2) Introduction of classified information.—

"(A) Alternatives to disclosure.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission;

"(ii) the substitution of a portion or summary of the information for such classified documents; or

"(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

"(B) Protection of sources, methods, or activities.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that (i) the sources, methods, or activities by which the United States acquired the evidence are classified, and (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

"(C) Assertion of national security privilege at trial.—During the examination of any witness, trial counsel may object to any question, line of inquiry, or motion to admit evidence that would require the disclosure of classified information. Following such an objection, the military judge shall take suitable action to safeguard such classified information. Such action may include the review of trial counsel's claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

"(3) Consideration of privilege and related materials.—A claim of privilege under this subsection, and any materials submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

"(4) Additional regulations.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the use and protection of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

"§ 949e. Continuances

"The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

"§ 949f. Challenges

"(a) Challenges Authorized.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) Peremptory Challenges.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) Challenges Against Additional Members.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

"§ 949g. Oaths

"(a) In General.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that—

"(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

"(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) Witnesses.—Each witness before a military commission under this chapter shall be examined on oath.

"§ 949h. Former jeopardy

"(a) In General.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) Scope of Trial.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

"§ 949i. Pleas of the accused

"(a) Entry of Plea of Not Guilty.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

"(b) Finding of Guilt After Guilty Plea.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

"§ 949j. Opportunity to obtain witnesses and other evidence

"(a) Right of Defense Counsel.—Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(b) Process for Compulsion.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

“(1) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

“(2) shall run to any place where the United States shall have jurisdiction thereof.

“(c) PROTECTION OF CLASSIFIED INFORMATION.—(1) With respect to the discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

“(A) the deletion of specified items of classified information from documents to be made available to the accused;

“(B) the substitution of a portion or summary of the information for such classified documents; or

“(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

“(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired evidence if the military judge finds that the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require trial counsel to provide, to the extent practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence.

“(d) EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel shall disclose to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

“(2) In this subsection, the term ‘evidence known to trial counsel’, in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

“§ 949k. Defense of lack of mental responsibility

“(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

“(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

“(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

“(1) guilty;

“(2) not guilty; or

“(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

“(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

“§ 949l. Voting and rulings

“(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

“(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

“(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

“(c) INSTRUCTIONS PRIOR TO VOTE:—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

“(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

“(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

“(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

“(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

“§ 949m. Number of votes required

“(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

“(b) SENTENCES.—(1) No person may be sentenced by a military commission to suffer death, except insofar as—

“(A) the penalty of death is expressly authorized under this chapter or the law of war for an offense of which the accused has been found guilty;

“(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

“(C) the accused is convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

“(D) all the members present at the time the vote is taken concur in the sentence of death.

“(2) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

“(3) All other sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

“(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12.

“(2) In any case described in paragraph (1) in which 12 members are not reasonably available because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 9 members), and the military commission may be assembled, and the trial held, with not fewer than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

“§ 949n. Military commission to announce action

“A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

“§ 949o. Record of trial

“(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

“(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

“(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 949d of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

“SUBCHAPTER V—SENTENCES

“Sec.
“949s. Cruel or unusual punishments prohibited.
“949t. Maximum limits.
“949u. Execution of confinement.

“§ 949s. Cruel or unusual punishments prohibited

“Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

“§ 949t. Maximum limits

“The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

“§ 949u. Execution of confinement

“(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

"(1) in any place of confinement under the control of any of the armed forces; or

"(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

"(b) Treatment During Confinement by Other Than the Armed Forces.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

"SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

"Sec.

"950a. Error of law; lesser included offense.
"950b. Review by the convening authority.
"950c. Appellate referral; waiver or withdrawal of appeal.
"950d. Appeal by the United States.
"950e. Rehearings.
"950f. Review by Court of Military Commission Review.
"950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court.
"950h. Appellate counsel.
"950i. Execution of sentence; procedures for execution of sentence of death.
"950j. Finality or proceedings, findings, and sentences.

"§950a. Error of law; lesser included offense

"(a) Error of Law.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

"(b) Lesser Included Offense.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

"§950b. Review by the convening authority

"(a) Notice to Convening Authority of Findings and Sentence.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

"(b) Submittal of Matters by Accused to Convening Authority.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

"(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section 949o(c) of this title.

"(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

"(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

"(c) Action by Convening Authority.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

"(2)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

"(B) Subject to regulations prescribed by the Secretary of Defense, action on the sentence under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

"(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

"(3) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, may—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

"(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

"(d) Order of Revision or Rehearing.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

"(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

"(i) there is an apparent error or omission in the record; or

"(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

"(B) In no case may a proceeding in revision—

"(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

"(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

"(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

"§950c. Appellate referral; waiver or withdrawal of appeal

"(a) Automatic Referral for Appellate Review.—Except as provided under subsection (b), in each case in which the final decision of a military commission (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

"(b) Waiver of Right of Review.—(1) In each case subject to appellate review under section 950f of this title, except a case in which the sentence as approved under section 950b of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(c) Withdrawal of Appeal.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(d) Effect of Waiver or Withdrawal.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

"§950d. Appeal by the United States

"(a) Interlocutory Appeal.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the Court of Military Commission Review of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (d), (e), or (f) of section 949d of this title or section 949j(c) of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) Notice of Appeal.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of such order or ruling.

"(c) Appeal.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the Court of Military Commission Review. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"(d) Appeal From Adverse Ruling.—The United States may appeal an adverse ruling on an appeal under subsection (c) to the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals.

“§950e. Rehearings

“(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

“(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

“(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

“(B) no sentence in excess of or more than the original sentence may be imposed unless—

“(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

“(ii) the sentence prescribed for the offense is mandatory.

“(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

“§950f. Review by Court of Military Commission Review

“(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing military commission decisions under this chapter, the court may sit in panels or as a whole in accordance with rules prescribed by the Secretary.

“(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948j(b) of this title or shall be a civilian with comparable qualifications. No person may be serve as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

“(c) CASES TO BE REVIEWED.—The Court of Military Commission Review, in accordance with procedures prescribed under regulations of the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter of law raised by the accused.

“(d) SCOPE OF REVIEW.—In a case reviewed by the Court of Military Commission Review under this section, the Court may act only with respect to matters of law.

“§950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

“(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in subparagraph (B), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

“(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

“(2) A petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—

“(A) written notice of the final decision of the Court of Military Commission Review is served on the accused or on defense counsel; or

“(B) the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review under section 950f of this title.

“(b) STANDARD FOR REVIEW.—In a case reviewed by it under this section, the Court of Appeals may act only with respect to matters of law.

“(c) SCOPE OF REVIEW.—The jurisdiction of the Court of Appeals on an appeal under subsection (a) shall be limited to the consideration of—

“(1) whether the final decision was consistent with the standards and procedures specified in this chapter; and

“(2) to the extent applicable, the Constitution and the laws of the United States.

“(d) SUPREME COURT.—The Supreme Court may review by writ of certiorari the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

“§950h. Appellate counsel

“(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

“(b) REPRÉSENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

“(1) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review; and

“(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

“(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

“§950i. Execution of sentence; procedures for execution of sentence of death

“(a) IN GENERAL.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

“(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

“(c) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

“(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when—

“(A) the time for the accused to file a petition for review by the Court of Appeals for the District of Columbia Circuit has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court; or

“(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

“(i) a petition for a writ of certiorari is not timely filed;

“(ii) such a petition is denied by the Supreme Court; or

“(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

“(d) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

“§950j. Finality or proceedings, findings, and sentences

“(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

“(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

“SUBCHAPTER VII—PUNITIVE MATTERS

“Sec.
“950p. Statement of substantive offenses.
“950q. Principals.
“950r. Accessory after the fact.
“950s. Conviction of lesser included offense.
“950t. Attempts.
“950u. Solicitation.
“950v. Crimes triable by military commissions.
“950w. Perjury and obstruction of justice; contempt.

“§950p. Statement of substantive offenses

“(a) PURPOSE.—The provisions of this subchapter codify offenses that have traditionally been triable by military commissions. This chapter does not establish new crimes that did not exist before its enactment, but rather codifies those crimes for trial by military commission.

“(b) EFFECT.—Because the provisions of this subchapter (including provisions that incorporate definitions in other provisions of law) are declarative of existing law, they do not preclude trial for crimes that occurred before the date of the enactment of this chapter.

"§ 950q. Principals

"Any person is punishable as a principal under this chapter who—

"(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

"(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

"(3) is a superior commander who, with regard to acts punishable under this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

"§ 950r. Accessory after the fact

"Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

"§ 950s. Conviction of lesser included offense

"An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

"§ 950t. Attempts

"(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

"(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

"(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

"§ 950u. Solicitation

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

"§ 950v. Crimes triable by military commissions

"(a) DEFINITIONS AND CONSTRUCTION.—In this section:

"(1) MILITARY OBJECTIVE.—The term 'military objective' means—

"(A) combatants; and

"(B) those objects during an armed conflict—

"(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

"(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

"(2) PROTECTED PERSON.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

"(A) civilians not taking an active part in hostilities;

"(B) military personnel placed hors de combat by sickness, wounds, or detention; and

"(C) military medical or religious personnel.

"(3) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

"(4) CONSTRUCTION.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

"(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"(11) TORTURE.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(12) CRUEL OR INHUMAN TREATMENT.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) DEFINITIONS.—In this paragraph:

"(i) The term 'serious physical pain or suffering' means bodily injury that involves—

"(I) a substantial risk of death;

"(II) extreme physical pain;

"(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

"(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

"(I) the term 'serious' shall replace the term 'severe' where it appears; and

"(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

"(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) protracted and obvious disfigurement; or

"(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war; intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

"(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950w. Perjury and obstruction of justice; contempt

"(a) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to military commissions under this chapter.

"(b) CONTEMPT.—A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"47A. Military Commissions .... 948a".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

“(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.”.

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: “This section does not apply to a military commission established under chapter 47A of this title.”.

(3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—

(A) in subsection (a), by inserting “, except as provided in chapter 47A of this title,” after “but which may not”; and

(B) in subsection (b), by inserting before the period at the end “, except insofar as applicable to military commissions established under chapter 47A of this title”.

(b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting “(a)” before “Any person”; and

(2) by adding at the end the following new subsection:

“(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.”.

SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term “Geneva Conventions” means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention 'for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) GENEVA CONVENTIONS.—The term “Geneva Conventions” means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term “Third Geneva Convention” means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

“(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or”; and

(B) by adding at the end the following new subsection:

“(d) COMMON ARTICLE 3 VIOLATIONS.—

“(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

“(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

“(B) CRUEL OR INHUMAN TREATMENT.—The act of a person who commits, or conspires or attempts to commit, an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

“(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

“(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

“(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

“(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

“(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

“(H) SEXUAL ASSAULT OR ABUSE.—The act of a person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

“(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title;

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title;

"(D) the term 'serious physical pain or suffering' shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(E) the term 'serious mental pain or suffering' shall be applied for purposes of paragraph (1)(B) in accordance with the meaning given the term 'severe mental pain or suffering' (as defined in section 2340(2) of this title), except that—

"(i) the term 'serious' shall replace the term 'severe' where it appears; and

"(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.".

(2) RETROACTIVE APPLICABILITY.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 583 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.

SEC. 7. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking both the subsection (e) added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742) and the subsection (e) added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and inserting the following new subsection (e):

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection".

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(1) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.";

(3) in subparagraph (C)—

(A) in clause (i)—

(i) by striking "pursuant to the military order" and inserting "by a military commission"; and

(ii) by striking "at Guantanamo Bay, Cuba"; and

(B) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(4) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking "the Department of Defense at Guantanamo Bay, Cuba" and inserting "the United States".

SA 5086. Mr. LEVIN (for himself, Mr. DAYTON, and Mr. REED) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Commissions Act of 2006".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Constitution of the United States grants to Congress the power "To define and punish . . . Offenses against the Law of Nations", as well as the power "To declare War . . . To raise and support Armies . . . [and] To provide and maintain a Navy".

(2) The military commission is the traditional tribunal for the trial of persons engaged in hostilities for violations of the law of war.

(3) Congress has, in the past, both authorized the use of military commission by statute and recognized the existence and authority of military commissions.

(4) Military commissions have been convened both by the President and by military commanders in the field to try offenses against the law of war.

(5) It is in the national interest for Congress to exercise its authority under the Constitution to enact legislation authorizing and regulating the use of military commissions to try and punish violations of the law of war.

(6) Military commissions established and operating under chapter 47A of title 10, United States Code (as enacted by this Act), are regularly constituted courts affording, in

the words of Common Article 3 of the Geneva Conventions, "all the judicial guarantees which are recognized as indispensable by civilized peoples".

SEC. 3. AUTHORIZATION FOR MILITARY COMMISSIONS.

(a) IN GENERAL.—The President is authorized to establish military commissions for the trial of alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses specifically made triable by military commission as provided in chapter 47 of title 10, United States Code, and chapter 47A of title 10, United States Code (as enacted by this Act).

(b) CONSTRUCTION.—The authority in subsection (a) may not be construed to alter or limit the authority of the President under the Constitution and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

(c) SCOPE OF PUNISHMENT AUTHORITY.—A military commission established pursuant to subsection (a) shall have authority to impose upon any person found guilty under a proceeding under chapter 47A of title 10, United States Code (as so enacted), a sentence that is appropriate for the offense or offenses for which there is a finding of guilt, including a sentence of death if authorized under such chapter, imprisonment for life or a term of years, payment of a fine or restitution, or such other lawful punishment or condition of punishment as the military commission shall direct.

(d) EXECUTION OF PUNISHMENT.—The Secretary of Defense is authorized to carry out a sentence of punishment imposed by a military commission established pursuant to subsection (a) in accordance with such procedures as the Secretary may prescribe.

(e) ANNUAL REPORT ON TRIALS BY MILITARY COMMISSIONS.—

(1) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions established pursuant to subsection (a) during such year.

(2) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 4. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

"CHAPTER 47A—MILITARY COMMISSIONS

"SUBCHAPTER	Sec.
"I. General Provisions	948a.
"II. Composition of Military Commissions	948h.
"III. Pre-Trial Procedure	948q.
"IV. Trial Procedure	949a.
"V. Sentences	949s.
"VI. Post-Trial Procedure and Review of Military Commissions	950a.
"VII. Punitive Matters	950aa.

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"948a. Definitions.
"948b. Military commissions generally.
"948c. Persons subject to military commissions.
"948d. Jurisdiction of military commissions.

"§ 948a. Definitions

"In this chapter:

"(1) ALIEN.—The term 'alien' means an individual who is not a citizen of the United States.

"(2) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(3) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means an individual who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(4) UNLAWFUL ENEMY COMBATANT.—The term 'unlawful enemy combatant' means an individual engaged in hostilities against the United States who is not a lawful enemy combatant.

"§ 948b. Military commissions generally

"(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

"(b) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided therein or in this chapter, and many of the provisions of chapter 47 of this title are by their terms inapplicable to military commissions. The judicial construction and application of chapter 47 of this title, while instructive, is therefore not of its own force binding on military commissions established under this chapter.

"(c) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by the terms of such provisions or by this chapter.

"(d) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"§ 948c. Persons subject to military commissions

"Any alien unlawful enemy combatant engaged in hostilities or having supported hostilities against the United States is subject to trial by military commission as set forth in this chapter.

"§ 948d. Jurisdiction of military commissions

"A military commission under this chapter shall have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter, sections 904 and 906 of this title (articles 104 and 106 of the Uniform Code of Military Justice), or the law of war, and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter, chapter 47 of this title, or the law of war.

"SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

"Sec.
"948h. Who may convene military commissions.
"948i. Who may serve on military commissions.
"948j. Military judge of a military commission.
"948k. Detail of trial counsel and defense counsel.
"948l. Detail or employment of reporters and interpreters.
"948m. Number of members; excuse of members; absent and additional members.

"§ 948h. Who may convene military commissions

"Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

"§ 948i. Who may serve on military commissions

"(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter, including commissioned officers of the reserve components of the armed forces on active duty, commissioned officers of the National Guard on active duty in Federal service, or retired commissioned officers recalled to active duty.

"(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members thereof such members of the armed forces eligible under subsection (a) who, as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

"(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

"§ 948j. Military judge of a military commission

"(a) Detail of Military Judge.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

"(b) Eligibility.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) Ineligibility of Certain Individuals.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

"(d) Consultation With Members; Ineligibility to Vote.—A military judge detailed to a military commission under this chapter may not consult with the members except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members.

"(e) Other Duties.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

"(f) Prohibition on Evaluation of Fitness by Convening Authority.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

"§ 948k. Detail of trial counsel and defense counsel

"(a) Detail of Counsel Generally.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

"(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

"(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable.

"(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such military commissions.

"(b) Trial Counsel.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

"(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice)) who is—

"(A) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(B) certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

"(2) a civilian who is—

"(A) a member of the bar of a Federal court or of the highest court of a State; and

"(B) otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

"(c) Military Defense Counsel.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

"(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

"(d) Chief Prosecutor; Chief Defense Counsel.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

"(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

"(e) Ineligibility of Certain Individuals.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

"§ 948l. Detail or employment of reporters and interpreters

"(a) Court Reporters.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the military commission qualified court reporters, who shall prepare a verbatim record of the proceedings of and testimony taken before the military commission.

"(b) Interpreters.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the military commission, and, as necessary, for trial counsel and defense counsel for the military commission, and for the accused.

"(c) Transcript; Record.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the military commission, who shall also be responsible for preparing the record of the proceedings of the military commission.

"§ 948m. Number of members; excuse of members; absent and additional members

"(a) Number of Members.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

"(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

"(b) Excuse of Members.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

"(1) as a result of challenge;

"(2) by the military judge for physical disability or other good cause; or

"(3) by order of the convening authority for good cause.

"(c) Absent and Additional Members.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

"SUBCHAPTER III—PRE-TRIAL PROCEDURE

"Sec.
"948q. Charges and specifications.
"948r. Compulsory self-incrimination prohibited; statements obtained by torture or cruel, inhuman, or degrading treatment.
"948s. Service of charges.

"§ 948q. Charges and specifications

"(a) Charges and Specifications.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

"(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

"(2) that they are true in fact to the best of his knowledge and belief.

"(b) Notice to Accused.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges and specifications against him as soon as practicable.

"§ 948r. Compulsory self-incrimination prohibited; statements obtained by torture or cruel, inhuman, or degrading treatment

"(a) In General.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

"(b) Statements Obtained by Torture or Cruel, Inhuman, or Degrading Treatment.—A statement obtained by use of torture or by cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd), whether or not under color of law, shall not be admissible in a military commission under this chapter, except against a person accused of torture or such treatment as evidence the statement was made.

"(c) Statements Obtained by Alleged Coercion Not Amounting to Torture or Cruel, Inhuman, or Degrading Treatment.—An otherwise admissible statement obtained through the use of alleged coercion not amounting to torture or cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005 may be admitted in evidence in a military commission under this chapter only if the military judge finds that—

"(1) the totality of the circumstances under which the statement was made render it reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence.

"§948s. Service of charges

"The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had in English and, if appropriate, in another language that the accused understands, sufficiently in advance of trial to prepare a defense.

"SUBCHAPTER IV—TRIAL PROCEDURE

"Sec.
"949a. Rules.
"949b. Unlawfully influencing action of military commission.
"949c. Duties of trial counsel and defense counsel.
"949d. Sessions.
"949e. Continuances.
"949f. Challenges.
"949g. Oaths.
"949h. Former jeopardy.
"949i. Pleas of the accused.
"949j. Opportunity to obtain witnesses and other evidence.
"949k. Defense of lack of mental responsibility.
"949l. Voting and rulings.
"949m. Number of votes required.
"949n. Military commission to announce action.
"949o. Record of trial.

"§949a. Rules

"(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense. Such procedures may not be contrary to or inconsistent with this chapter. Except as otherwise provided in this chapter or chapter 47 of this title, the procedures and rules of evidence applicable in trials by general courts-martial of the United States shall apply in trials by military commission under this chapter.

"(b) EXCEPTIONS.—(1) The Secretary of Defense, in consultation with the Attorney General, may make such exceptions in the applicability in trials by military commission under this chapter from the procedures and rules of evidence otherwise applicable in general courts-martial as may be required by the unique circumstances of the conduct of military and intelligence operations during hostilities or by other practical need.

"(2) Notwithstanding any exceptions authorized by paragraph (1), the procedures and rules of evidence in trials by military commission under this chapter shall include, at a minimum, the following rights:

"(A) To examine and respond to all evidence considered by the military commission on the issue of guilt or innocence and for sentencing.

"(B) To be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) To the assistance of counsel.

"(D) To self-representation, if the accused knowingly and competently waives the assistance of counsel, subject to the provisions of paragraph (4).

"(E) To the suppression of evidence that is not reliable or probative.

"(F) To the suppression of evidence the probative value of which is substantially outweighed by—

"(i) the danger of unfair prejudice, confusion of the issues, or misleading the members; or

"(ii) considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3) In making exceptions in the applicability in trials by military commission under this chapter from the procedures and rules otherwise applicable in general courts-martial, the Secretary of Defense may provide the following:

"(A) Evidence seized outside the United States shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or authorization.

"(B) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(C) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient evidence that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(D) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission only if—

"(i) the proponent of the evidence makes known to the adverse party, sufficiently in advance of trial or hearing to provide the adverse party with a fair opportunity to meet the evidence, the proponent's intention to offer the evidence, and the particulars of the evidence (including information on the circumstances under which the evidence was obtained); and

"(ii) the military judge finds that the totality of the circumstances render the evidence more probative on the point for which it is offered than other evidence which the proponent can procure through reasonable efforts, taking into consideration the unique circumstances of the conduct of military and intelligence operations during hostilities.

"(4)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (2)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (2)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"§949b. Unlawfully influencing action of military commission

"(a) IN GENERAL.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or their functions in the conduct of the proceedings.

"(2) No person may attempt to coerce or, by any unauthorized means, influence—

"(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

"(B) the action of any convening, approving, or reviewing authority with respect to their judicial acts; or

"(C) the exercise of professional judgment by trial counsel or defense counsel.

"(3) The provisions of this subsection shall not apply with respect to—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

"(B) statements and instructions given in open proceedings by a military judge or counsel.

"(b) PROHIBITION ON CONSIDERATION OF ACTIONS ON COMMISSION IN EVALUATION OF FITNESS.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

"(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

"(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

"§949c. Duties of trial counsel and defense counsel

"(a) TRIAL COUNSEL.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

"(b) DEFENSE COUNSEL.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

"(2) The accused shall be represented by military counsel detailed under section 948k of this title.

"(3) The accused may be represented by civilian counsel if retained by the accused, provided that such civilian counsel—

"(A) is a United States citizen;

"(B) is admitted to the practice of law in a State, district, or possession of the United States, or before a Federal court;

"(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

"(D) has been determined to be eligible for access to information classified at the level Secret or higher; and

"(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

"(4) If the accused is represented by civilian counsel, military counsel detailed shall act as associate counsel.

"(5) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in such person's sole discretion, may detail additional military counsel to represent the accused.

“(6) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

“§949d. Sessions

“(a) SESSIONS WITHOUT PRESENCE OF MEMBERS.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

“(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

“(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

“(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

“(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

“(2) Except as provided in subsections (b), (c), and (d), any proceedings under paragraph (1) shall be conducted in the presence of the accused, defense counsel, and trial counsel, and shall be made part of the record.

“(b) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

“(c) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter.

“(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

“(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

“(B) ensure the physical safety of individuals.

“(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

“(4)(A) Subject to the provisions of this paragraph, classified information shall be handled in accordance with rules applicable in trials by general courts-martial of the United States.

“(B) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. This subparagraph applies to all stages of proceedings of military commissions under this chapter.

“(C) After the original classification authority or head of the agency concerned has certified in writing that evidence and the sources thereof have been declassified to the maximum extent possible, consistent with the requirements of national security, the military judge may, to the extent practicable in accordance with the rules applicable in trials by court-martial, authorize—

“(i) the deletion of specified items of classified information from documents made available to the accused;

“(ii) the substitution of a portion or summary of the information for such classified documents; or

“(iii) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

“(D) A claim of privilege under this paragraph, and any materials in support thereof, shall, upon the request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

“(d) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

“(1) to ensure the physical safety of individuals; or

“(2) to prevent disruption of the proceedings by the accused.

“§949e. Continuances

“The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

“§949f. Challenges

“(a) CHALLENGES AUTHORIZED.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the military commission. The military judge shall determine the relevance and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

“(b) PEREMPTORY CHALLENGES.—The accused and trial counsel are each entitled to one peremptory challenge, but the military judge may not be challenged except for cause.

“(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, the accused and trial counsel are each entitled to one peremptory challenge against members not previously subject to peremptory challenge.

“§949g. Oaths

“(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

“(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording thereof, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as provided in regulations prescribed by the Secretary of Defense. The regulations may provide that—

“(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

“(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

“(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

“(c) OATH DEFINED.—In this section, the term ‘oath’ includes an affirmation.

“§949h. Former jeopardy

“(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

“(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

“§949i. Pleas of the accused

“(a) PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

“(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the military commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

“§949j. Opportunity to obtain witnesses and other evidence

“(a) IN GENERAL.—(1) Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

“(2) Process issued in military commissions under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

“(A) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

“(B) shall run to any place where the United States shall have jurisdiction thereof.

“(b) DISCLOSURE OF EXCULPATORY EVIDENCE.—As soon as practicable, trial counsel in a military commission under this chapter shall disclose to the defense the existence of any known evidence that reasonably tends to exculpate or reduce the degree of guilt of the accused.

“(c) TREATMENT OF CERTAIN ITEMS.—In accordance with the rules applicable in trials by general courts-martial in the United States, and to the extent provided in such rules, the military judge in a military commission under this chapter may authorize trial counsel, in making documents available to the accused pursuant to subsections (a) and (b)—

“(1) to delete specified items of classified information from such documents;

“(2) to substitute an unclassified summary of the classified information in such documents; or

“(3) to substitute an unclassified statement admitting relevant facts that classified information in such documents would tend to prove.

“§949k. Defense of lack of mental responsibility

“(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

“(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

“(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members as to the defense of lack of mental responsibility under this section and shall charge the members to find the accused—

“(1) guilty;

“(2) not guilty; or

“(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

“(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

“§ 949l. Voting and rulings

“(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

“(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

“(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

“(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

“(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

“(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

“(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

“(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

“§ 949m. Number of votes required

“(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

“(b) SENTENCES.—(1) Except as provided in paragraphs (2) and (3), sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

“(2) No person may be sentenced to death by a military commission, except insofar as—

“(A) the penalty of death has been expressly authorized under this chapter, chapter 47 of this title, or the law of war for an offense of which the accused has been found guilty;

“(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

“(C) the accused was convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

“(D) all members present at the time the vote was taken concurred in the sentence of death.

“(3) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

“(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12 members.

“(2) In any case described in paragraph (1) in which 12 members are not reasonably available for a military commission because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 5 members), and the military commission may be assembled, and the trial held, with not less than the number of members so specified. In any such case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

“§ 949n. Military commission to announce action

“A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

“§ 949o. Record of trial

“(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

“(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

“(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall receive a redacted version of the record consistent with the requirements of section 949d(c)(4) of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

“SUBCHAPTER V—SENTENCES

“Sec.
“949s. Cruel or unusual punishments prohibited.
“949t. Maximum limits.
“949u. Execution of confinement.

“§ 949s. Cruel or unusual punishments prohibited

“Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

“§ 949t. Maximum limits

“The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

“§ 949u. Execution of confinement

“(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

“(1) in any place of confinement under the control of any of the armed forces; or

“(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

“(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

“SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

“Sec.
“950a. Error of law; lesser included offense.
“950b. Review by the convening authority.
“950c. Waiver or withdrawal of appeal.
“950d. Appeal by the United States.
“950e. Rehearings.
“950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court.
“950g. Appellate counsel
“950h. Execution of sentence; suspension of sentence.
“950i. Finality of proceedings, findings, and sentences.

“§ 950a. Error of law; lesser included offense

“(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

“(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

“§ 950b. Review by the convening authority

“(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

"(b) Submittal of Matters by Accused to Convening Authority.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

"(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after accused has been give an authenticated record of trial under section 949o(c) of this title.

"(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

"(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing, and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

"(c) Action by Convening Authority.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

"(2) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, only—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

"(3)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

"(B) Subject to regulations prescribed by the Secretary of Defense, action under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

"(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

"(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

"(d) Order of Revision or Rehearing.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

"(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

"(i) there is an apparent error or omission in the record; or

"(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

"(B) In no case may a proceeding in revision—

"(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

"(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

"(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

"§ 950c. Waiver or withdrawal of appeal

"(a) Waiver of Right of Review.—(1) An accused may file with the convening authority a statement expressly waiving the right of the accused to appellate review by the United States Court of Appeals for the Armed Forces under section 950f(a) of this title of the final decision of the military commission under this chapter.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice of the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(b) Withdrawal of Appeal.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(c) Effect of Waiver or Withdrawal.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

"§ 950d. Appeal by the United States

"(a) Interlocutory Appeal.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Appeals for the Armed Forces under section 950f of this title of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (c) or (d) of section 949d of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) Notice of Appeal.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of the order or ruling.

"(c) Appeal.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the United States Court of Appeals for the Armed Forces. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"§ 950e. Rehearings

"(a) Composition of Military Commission for Rehearing.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

"(b) Scope of Rehearing.—(1) Upon a rehearing—

"(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

"(B) no sentence in excess of or more than the original sentence may be imposed unless—

"(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

"(ii) the sentence prescribed for the offense is mandatory.

"(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

"§ 950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court

"(a) Review by United States Court of Appeals for the Armed Forces.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

"(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

"(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

"(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

"(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

"(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

"(b) Review by Supreme Court.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the

Armed Forces in a determination under subsection (a).

“§ 950g. Appellate counsel

“(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

“(b) REPRESENTATION OF UNITED STATES.—Appellate counsel may represent the United States in any appeal or review proceeding under this chapter. Appellate Government counsel may represent the United States before the Supreme Court in case arising under this chapter when requested to do so by the Attorney General.

“(c) REPRESENTATION OF ACCUSED.—The accused shall be represented before the United States Court of Appeals for the Armed Forces or the Supreme Court by military appellate counsel, or by civilian counsel if retained by him.

“§ 950h. Execution of sentence; suspension of sentence

“(a) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

“(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgement as to the legality of the proceedings (and with respect to death, approval under subsection (a)).

“(2) A judgement as to legality of proceedings is final for purposes of paragraph (1) when—

“(A) the time for the accused to file a petition for review by the United States Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by the Court; or

“(B) review is completed in accordance with the judgment of the United States Court of Appeals for the Armed Forces and (A) a petition for a writ of certiorari is not timely filed, (B) such a petition is denied by the Supreme Court, or (C) review is otherwise completed in accordance with the judgment of the Supreme Court.

“(c) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

“§ 950i. Finality of proceedings, findings, and sentences

“(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

“(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of enactment of this chapter, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

“SUBCHAPTER VII—PUNITIVE MATTERS

“Sec.
“950aa. Definitions; construction of certain offenses; common circumstances.
“950bb. Principals.
“950cc. Accessory after the fact.
“950dd. Conviction of lesser offenses.
“950ee. Attempts.
“950ff. Conspiracy.
“950gg. Solicitation.
“950hh. Murder of protected persons.
“950ii. Attacking civilians.
“950jj. Attacking civilian objects.
“950kk. Attacking protected property.
“950ll. Pillaging.
“950mm. Denying quarter.
“950nn. Taking hostages.
“950oo. Employing poison or similar weapons.
“950pp. Using protected persons as a shield.
“950qq. Using protected property as a shield.
“950rr. Torture.
“950ss. Cruel, unusual, or inhumane treatment or punishment.
“950tt. Intentionally causing serious bodily injury.
“950uu. Mutilating or maiming.
“950vv. Murder in violation of the law of war.
“950ww. Destruction of property in violation of the law of war.
“950xx. Using treachery or perfidy.
“950yy. Improperly using a flag of truce.
“950zz. Improperly using a distinctive emblem.
“950aaa. Intentionally mistreating a dead body.
“950bbb. Rape.
“950ccc. Hijacking or hazarding a vessel or aircraft.
“950ddd. Terrorism.
“950eee. Providing material support for terrorism.
“950fff. Wrongfully aiding the enemy.
“950ggg. Spying.
“950hhh. Contempt.
“950iii. Perjury and obstruction of justice.

“§ 950aa. Definitions; construction of certain offenses; common circumstances

“(a) DEFINITIONS.—In this subchapter:

“(1) The term ‘military objective’ means combatants and those objects during an armed conflict which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a definite military advantage to the attacker under the circumstances at the time of an attack.

“(2) The term ‘protected person’ means any person entitled to protection under one or more of the Geneva Conventions, including civilians not taking an active part in hostilities, military personnel placed out of combat by sickness, wounds, or detention, and military medical or religious personnel.

“(3) The term ‘protected property’ means any property specifically protected by the law of war, including buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, but only if and to the extent such property is not being used for military purposes or is not otherwise a military objective. The term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

“(b) CONSTRUCTION OF CERTAIN OFFENSES.—The intent required for offenses under sections 950hh, 950ii, 950jj, 950kk, and 950ss of this title precludes their applicability with regard to collateral damage or to death, damage, or injury incident to a lawful attack.

“(c) COMMON CIRCUMSTANCES.—An offense specified in this subchapter is triable by military commission under this chapter only if the offense is committed in the context of and associated with armed conflict.

“§ 950bb. Principals

“Any person punishable under this chapter who—

“(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or

“(2) causes an act to be done which if directly performed by him would be punishable by this chapter,

is a principal.

“§ 950cc. Accessory after the fact

“Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

“§ 950dd. Conviction of lesser offenses

“An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

“§ 950ee. Attempts

“(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

“(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

“(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

“§ 950ff. Conspiracy

“Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this subchapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

“§ 950gg. Solicitation

“Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

"§ 950hh. Murder of protected persons

"Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§ 950ii. Attacking civilians

"Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950jj. Attacking civilian objects

"Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"§ 950kk. Attacking protected property

"Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"§ 950ll. Pillaging

"Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"§ 950mm. Denying quarter

"Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"§ 950nn. Taking hostages

"Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950oo. Employing poison or similar weapons

"Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950pp. Using protected persons as a shield

"Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950qq. Using protected property as a shield

"Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"§ 950rr. Torture

"(a) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(b) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"§ 950ss. Cruel, unusual, or inhumane treatment or punishment

"Any person subject to this chapter who subjects another person in their custody or under their physical control, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950tt. Intentionally causing serious bodily injury

"(a) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(b) SERIOUS BODILY INJURY DEFINED.—In this section, the term 'serious bodily injury' means bodily injury which involves—

"(1) a substantial risk of death;

"(2) extreme physical pain;

"(3) protracted and obvious disfigurement; or

"(4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"§ 950uu. Mutilating or maiming

"Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950vv. Murder in violation of the law of war

"Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§ 950ww. Destruction of property in violation of the law of war

"Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"§ 950xx. Using treachery or perfidy

"Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950yy. Improperly using a flag of truce

"Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"§ 950zz. Improperly using a distinctive emblem

"Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"§ 950aaa. Intentionally mistreating a dead body

"Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessary, shall be punished as a military commission under this chapter may direct.

"§950bbb. Rape

"Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"§950ccc. Hijacking or hazarding a vessel or aircraft

"Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950ddd. Terrorism

"Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§950eee. Providing material support for terrorism

"(a) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in section 950ddd of this title), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(b) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this section, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"§950fff. Wrongfully aiding the enemy

"Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"§950ggg. Spying

"Any person subject to this chapter who, in violation of the law of war and with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"§950hhh. Contempt

"A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

"§950iii. Perjury and obstruction of justice

"A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to the military commission.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A and part II of subtitle A of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"Chapter 47A. Military Commissions 948a".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—

(1) SUBMITTAL OF PROCEDURES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

(2) SUBMITTAL OF MODIFICATIONS.—Not later than 60 days before the date on which any proposed modification of the procedures described in paragraph (1) shall go into effect, the Secretary shall submit to the committees of Congress referred to in that paragraph a report describing such modification.

SEC. 5. AMENDMENTS TO OTHER LAWS.

(a) DETAINEE TREATMENT ACT OF 2005.—Section 1004(b) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 42 U.S.C. 200dd-1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection,".

(b) UNIFORM CODE OF MILITARY JUSTICE.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) Section 802 (article 2 of the Uniform Code of Military Justice) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(3) of this title) who violate the law of war.".

(2) Section 821 (article 21 of the Uniform Code of Military Justice) is amended by striking "by statute or law of war".

(3) Section 836(a) (article 36(a) of the Uniform Code of Military Justice) is amended by inserting "(other than military commissions under chapter 47A of this title)" after "other military tribunals".

(c) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person"; and

(2) by adding at the end the following new subsection:

"(b) Any person subject to this chapter or chapter 47A of this title who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

(d) REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.—

(1) REVIEW BY SUPREME COURT.—Section 1259 of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) Cases tried by military commission and reviewed by the United States Court of Appeals for the Armed Forces under section 950f of title 10.".

(2) DETAINEE TREATMENT ACT OF 2005.—Section 1005(e) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(A) in paragraphs (3) and (4), by striking "United States Court of Appeals for the District of Columbia Circuit" each place it appears and inserting "United States Court of Appeals for the Armed Forces"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1. dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(ii) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(ii) GRANT OF REVIEW.—Review under this paragraph shall be as of right.";

(iii) in subparagraph (C)—

(I) in clause (i)—

(aa) by striking "pursuant to the military order" and inserting "by a military commission"; and

(bb) by striking "at Guantanamo Bay, Cuba"; and

(II) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(iv) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

SEC. 6. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended—

(1) by striking subsection (e) (as added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742)) and by striking subsection (e) (as added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477)); and

(2) by adding at the end the following new subsection:

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained outside of the United States who—

"(A) is currently in United States custody; or

"(B) has been determined by the United States to have been properly detained as an enemy combatant.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial of an alien detained outside of the United States who—

"(A) is currently in United States custody; or

"(B) has been determined by the United States to have been properly detained as an enemy combatant.

“(3) In this subsection, the term ‘United States’, when used in a geographic sense, has the meaning given that term in section 1005(g) of the Detainee Treatment Act of 2005.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, treatment, or trial of an alien detained outside the United States (as that term is defined in section 2241(e)(3) of title 28, United States Code (as added by subsection (a)) since September 11, 2001.

SEC. 7. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto as an individually enforceable right in any civil action against an officer, employee, member of the Armed Forces or another agent of the United States Government, or against the United States, for the purpose of any claim for damages for death, injury, or damage to property in any court of the United States or its States or territories. This subsection does not affect the obligations of the United States under the Geneva Conventions.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term “Geneva conventions” means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 8. REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.

(a) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

“(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or”; and

(2) by adding at the end the following new subsection:

“(d) COMMON ARTICLE 3 VIOLATIONS.—

“(1) GRAVE BREACH OF COMMON ARTICLE 3.—In subsection (c)(3), the term ‘grave breach of common Article 3’ means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

“(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

“(B) CRUEL, UNUSUAL, OR INHUMANE TREATMENT OR PUNISHMENT.—The act of a person who subjects another person in the custody or under the physical control of the United States Government, regardless of nationality or physical location, to cruel, unusual, or inhumane treatment or punishment prohibited by the Fifth, Eighth, and 14th Amendments to the Constitution of the United States.

“(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

“(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause.

“(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this section, one or more persons taking no active part in hostilities, including those placed out of active combat by sickness, wounds, detention, or any other cause, by disfiguring such person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of the body of such person or persons, without any legitimate medical or dental purpose.

“(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

“(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

“(H) SEXUAL ASSAULT OR ABUSE.—The act of person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

“(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

“(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

“(A) the term ‘severe mental pain or suffering’ shall be applied for purposes of paragraph (1)(A) in accordance with the meaning given that term in section 2340(2) of this title;

“(B) the term ‘serious bodily injury’ shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title; and

“(C) the term ‘sexual contact’ shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title.

“(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) of paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

“(A) collateral damage; or

“(B) death, damage, or injury incident to a lawful attack.

“(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.”.

(b) CONSTRUCTION.—Such section is further amended by adding at the end the following new subsections:

“(e) INAPPLICABILITY OF FOREIGN SOURCES OF LAW IN INTERPRETATION.—No foreign source of law shall be considered in defining or interpreting the obligations of the United States under this title.

“(f) NATURE OF CRIMINAL SANCTIONS.—The criminal sanctions in this section provide penal sanctions under the domestic law of the United States for grave breaches of the international conventions done at Geneva August 12, 1949. Such criminal sanctions do not alter the obligations of the United States under those international conventions.”.

(c) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—Such section is further amended by adding at the end the following new subsection:

“(g) PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.—The provisions of section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution relating to the detention and interrogation of individuals described in such provisions that is grounded in an offense under subsection (a) by reason of subsection (c)(3) with respect to actions occurring between September 11, 2001, and December 30, 2005.”.

SEC. 9. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking “the Department of Defense at Guantanamo Bay, Cuba” and inserting “the United States”.

SEC. 10. SEVERABILITY.

If any provision of this Act or amendment made by a provision of this Act, or the application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of such provisions and amendments to any other person or circumstance, shall not be affected thereby.

SA 5087. Mr. SPECTER (for himself, Mr. LEAHY, Mr. DORGAN, Mr. DODD, Mr. DAYTON, Mr. FEINGOLD, Mrs. CLINTON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:

On page 93, strike line 9 and all that follows through page 94, line 13.

SA 5088. Mr. KENNEDY (for himself, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 3930,, to authorize trial by military commission for violations of the law of war, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, between lines 8 and 9, insert the following:

(2) PROTECTION OF UNITED STATES PERSONS.—The Secretary of State shall notify other parties to the Geneva Conventions that—

(A) the United States has historically interpreted the law of war and the Geneva Conventions, including in particular common Article 3, to prohibit a wide variety of cruel, inhuman, and degrading treatment of members of the United States Armed Forces and United States citizens;

(B) during and following previous armed conflicts, the United States Government has prosecuted persons for engaging in cruel, inhuman, and degrading treatment, including the use of waterboarding techniques, stress positions, including prolonged standing, the use of extreme temperatures, beatings, sleep deprivation, and other similar acts;

(C) this Act and the amendments made by this Act preserve the capacity of the United States to prosecute nationals of enemy powers for engaging in acts against members of the United States Armed Forces and United States citizens that have been prosecuted by the United States as war crimes in the past; and

(D) should any United States person to whom the Geneva Conventions apply be subjected to any of the following acts, the United States would consider such act to constitute a punishable offense under common Article 3 and would act accordingly. Such acts, each of which is prohibited by the Army Field Manual include forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shocks, burns, or other forms of physical pain to the person; waterboarding the person; using dogs on the person; inducing hypothermia or heat injury in the person; conducting a mock execution of the person; and depriving the person of necessary food, water, or medical care.

SA 5089. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 5066 submitted by Mrs. HUTCHISON (for herself and Mr. KYL) and intended to be proposed to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 1, between lines 2 and 3, insert the following:

(d) OPERATIONAL CONTROL DEFINED.—Notwithstanding subsection (b), for purposes of this section the term "operational control" means effective prevention of unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband, as determined by the Secretary of Homeland Security.

SA 5090. Mr. BENNETT (for Mr. FRIST) proposed an amendment to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; as follows:

On page 12, line 2, strike "45 days" and insert "46 days".

SA 5091. Mr. BENNETT (for Mr. FRIST) proposed an amendment to amendment SA 5090 proposed by Mr. BENNETT (for Mr. FRIST) to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; as follows:

Strike "46 days" and insert "44 days".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 27, 2006, at 10 a.m., to conduct a hearing on the nominations of Mr. Christopher A. Padilla, of the District of Columbia, to be Assistant Secretary of the Department of Commerce; and Mr. Bijan Rafiekian, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a committee markup on Wednesday, September 27, 2006 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 27, 2006, at a time and location to be determined, following a vote on the Senate Floor, to consider favorably reporting the nominations of John K. Veroneau, to be Deputy United States Trade Representative, with the Rank of Ambassador, Executive Office of the President, and Robert K. Steel, to be Under Secretary, U.S. Department of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 27, 2006, at 2:30 p.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 27, 2006, at 10 a.m. for a hearing titled, "Development of an Artificial Pancreas: Will New Technologies Improve Care for People With Diabetes and Reduce the Burden on the Health Care System?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 27, 2006, at 10 a.m. for a hearing titled, "The Potential of an Artificial Pancreas: Improving Care for People With Diabetes."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, September 27, 2006, to hold a meeting to mark up the nomination of Robert T. Howard to be Assistant Secretary for Information and Technology, Department of Veterans' Affairs.

The meeting will take place in the Reception Room off the Senate Floor in the Capitol following the first roll call vote of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 27, 2006 at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON BIOTERRORISM AND PUBLIC HEALTH PREPAREDNESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on bioterrorism and Public Health Preparedness, be authorized to hold a hearing during the session of the Senate on Wednesday, September 27, 2006 at 2:30 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, Border Security and Citizenship be authorized to meet to conduct a hearing on "Oversight Hearing: U.S. Refugee Admissions and Policy" on Wednesday, September 27, at 3 p.m. in SD–226.

Witness List

Panel I: The Honorable Ellen Sauerbray, Assistant Secretary of State, Population, Refugees and Migration, Department of State, Washington, DC; Jonathan "Jock" Scharfen, Deputy Director, U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, DC.

Panel II: Michael Horowitz, Director, Project for Civil Justice Reform and Project for International Religious Liberty, Hudson Institute, Washington, DC; Father Kenneth Gavin, S.J., Vice-Chair, Refugee Council U.S.A. and National Director, Jesuit Refugee Service, U.S.A., Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, September 27 at 10 a.m.

The purpose of the hearing is to receive testimony on the following bills: S. 3000, a bill to grant rights-of-way for electric transmission lines over certain native allotments in the State of Alaska; S. 3599, to establish the Prehistoric Trackways National Monument in the State of New Mexico; S. 3794, to provide for the implementation of the Owyhee Initiative Agreement, and for other purposes; S. 3854, to designate certain land in the State of Oregon as wilderness, and for other purposes; H.R. 3603, to promote the economic development and recreational use of National Forest System lands and other public lands in Central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in Central Idaho to the National Wilderness Preservation System, and for other purposes; and H.R. 5025, to protect for future generations the recreational opportunities, forest, timber, clean water, wilderness and scenic values, and diverse habitat of Mount Hood National Forest, Oregon, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. LOTT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on September 27, 2006, at 10 a.m., to receive testimony on U.S. policy and practice with respect to the use of riot control agents by the U.S. Armed forces.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WARNER. I ask unanimous consent a fellow from Senator GRAHAM's staff, Adam Brake, have floor privileges for the duration of the Military Commissions Act of 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that William Johnson, a fellow in Senator KENNEDY's office, be granted floor privileges during the consideration of S. 3930.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that two of my law clerks, Natasha Solce and John Huffman, be granted the privilege of the floor during the remainder of the week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 5132

Mr. BENNETT. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5132) to direct the Secretary of Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the battles of the River Raisin during the War of 1812.

Mr. BENNETT. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 3936

Mr. BENNETT. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3936) to invest in innovation and education to improve the competitiveness of the United States in the global economy.

Mr. BENNETT. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

STAR PRINT—S. 3867

Mr. BENNETT. Mr. President, I ask unanimous consent that S. 3867 be star printed with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL TRIBUTE TO DR. NORMAN E. BORLAUG ACT OF 2006

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of S. 2250, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2250) to award a Congressional Gold Medal to Dr. Norman E. Borlaug.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, today the Senate pays tribute to a true American hero and fellow native Iowan in passing S. 2250, a bill to award Dr. Norman E. Borlaug the Congressional Gold Medal, which is the highest congressional expression of national appreciation for distinguished achievement and contribution. This is a fitting honor to a man who is frequently credited with saving more lives than anyone who has ever lived.

Commonly known as "The Father of the Green Revolution," Dr. Borlaug's scientific and humanitarian efforts have saved countless people from starvation and hunger while raising standards of living throughout the world.

Dr. Borlaug was born in 1914 near Cresco, IA. Like many Iowans at the time, he grew up on a small farm and attended a one-room school house for his first 8 years of education. After graduating from high school, he attended the University of Minnesota and earned his bachelor of science in forestry. Immediately after receiving his degree in 1937, he worked for the U.S. Forestry Service. He returned to the University of Minnesota to receive his master's degree in 1939 and doctorate in 1942.

In 1944 Dr. Borlaug accepted an appointment as a geneticist and plant pathologist with the Cooperative Wheat Research and Production Program in Mexico. This program was a joint undertaking by the Mexican Government and the Rockefeller Foundation involving research in plant genetics, plant breeding; plant pathology, agronomy, soil science, and cereal technology. He spent two decades working with farmers in Mexico to develop a new disease resistant variety of wheat that could triple its output in grain. This breakthrough achievement in plant breeding enabled Mexico to become self-sufficient in wheat production while vastly improving the livelihood of many poor farmers.

The United Nations asked Dr. Borlaug to travel to India and Pakistan in the 1960s to help the warring countries, which were threatened with an imminent pandemic famine. Working with scientists from both countries, Dr. Borlaug convinced India and Pakistan to adopt his new seeds and approach to agriculture to avert potential starvation and famine. In a short time, both countries attained self-sufficiency in wheat production and millions of people were saved from hunger, famine and death. Dr. Borlaug continued his work in Southeast Asia, and the results were the same.

In 1970, Dr. Borlaug was awarded the Nobel Peace Prize for his work in agriculture, reversing food shortages and saving millions of lives. Today, at the age of 92, Dr. Borlaug continues his tireless work to alleviate and prevent hunger throughout the world. He is the head of the Sasakawa Global 2000 program, which is working to bring the Green Revolution to Africa and alleviate hunger and malnutrition in the sub-Saharan region. He founded the World Food Prize in 1986 as a means to recognize and inspire achievements in increasing the quality, quantity and availability of food in the world. He also continues his role as an educator at Texas A&M University while also continuing research at the International Center for the Improvement of Wheat and Maize in Mexico.

Dr. Borlaug has been awarded the Presidential Medal of Freedom, the National Academy of Science's Public Service Medal and the Rotary International Award for World Understanding and Peace. Today the Senate approves legislation to award Dr. Borlaug the Congressional Gold Medal. Dr. Borlaug is a true American hero and it is fitting that Congress honors this man who has done so much to alleviate hunger and human suffering, improve the quality of life around the globe and promote understanding and peace among all of the world's people.

I would like to thank Senator GRASSLEY and the many cosponsors of this bill for their support and work to honor Dr. Borlaug with this high distinction.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Tribute to Dr. Norman E. Borlaug Act of 2006".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Dr. Norman E. Borlaug, was born in Iowa where he grew up on a family farm, and received his primary and secondary education.

(2) Dr. Borlaug attended the University of Minnesota where he received his B.A. and Ph.D. degrees and was also a star NCAA wrestler.

(3) For the past 20 years, Dr. Borlaug has lived in Texas where he is a member of the faculty of Texas A&M University.

(4) Dr. Borlaug also serves as President of the Sasakawa Africa Association.

(5) Dr. Borlaug's accomplishments in terms of bringing radical change to world agriculture and uplifting humanity are without parallel.

(6) In the immediate aftermath of World War II, Dr. Borlaug spent 20 years working in the poorest areas of rural Mexico. It was there that Dr. Borlaug made his breakthrough achievement in developing a strand of wheat that could exponentially increase yields while actively resisting disease.

(7) With the active support of the governments involved, Dr. Borlaug's "green revolution" uplifted hundreds of thousands of the rural poor in Mexico and saved hundreds of millions from famine and outright starvation in India and Pakistan.

(8) Dr. Borlaug's approach to wheat production next spread throughout the Middle East. Soon thereafter his approach was adapted to rice growing, increasing the number of lives Dr. Borlaug has saved to more than a billion people.

(9) In 1970, Dr. Borlaug received the Nobel Prize, the only person working in agriculture to ever be so honored. Since then he has received numerous honors and awards including the Presidential Medal of Freedom, the Public Service Medal, the National Academy of Sciences' highest honor, and the Rotary International Award for World Understanding and Peace.

(10) At age 91, Dr. Borlaug continues to work to alleviate poverty and malnutrition. He currently serves as president of Sasakawa Global 2000 Africa Project, which seeks to extend the benefits of agricultural development to the 800,000,000 people still mired in poverty and malnutrition in sub-Saharan Africa.

(11) Dr. Borlaug continues to serve as Chairman of the Council of Advisors of the World Food Prize, an organization he created in 1986 to be the "Nobel Prize for Food and Agriculture" and which presents a $250,000 prize each October at a Ceremony in Des Moines, Iowa, to the Laureate who has made an exceptional achievement similar to Dr. Borlaug's breakthrough 40 years ago. In the almost 20 years of its existence, the World Food Prize has honored Laureates from Bangladesh, India, China, Mexico, Denmark, Sierra Leone, Switzerland, the United Kingdom, and the United States.

(12) Dr. Borlaug has saved more lives than any other person who has ever lived, and likely has saved more lives in the Islamic world than any other human being in history.

(13) Due to a lifetime of work that has led to the saving and preservation of an untold amount of lives, Dr. Norman E. Borlaug is deserving of America's highest civilian award: the congressional gold medal.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President Pro Tempore of the Senate and the Speaker of the House of Representatives are authorized to make appropriate arrangements for the presentation, on behalf of Congress, of a gold medal of appropriate design, to Dr. Norman E. Borlaug, in recognition of his enduring contributions to the United States and the world.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 3 at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS AS NATIONAL MEDALS.

(a) NATIONAL MEDAL.—The medal struck under this Act is a national medal for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all duplicate medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There are authorized to be charged against the United States Mint Public Enterprise Fund, such sums as may be necessary to pay for the cost of the medals struck under this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 4 shall be deposited in the United States Mint Public Enterprise Fund.

BYRON NELSON CONGRESSIONAL GOLD MEDAL ACT

Mr. BENNETT. Mr. President, I ask unanimous consent the Committee on Banking, Housing and Urban Affairs be discharged from further consideration of S. 2491 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2491) to award a Congressional Gold Medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2491) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Byron Nelson Congressional Gold Medal Act".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Byron Nelson was a top player in the sport of golf during the World War II era and his accomplishments as a player, a teacher, and commentator are renowned.

(2) Byron Nelson won 54 career victories, including a record 11 in a row in 1945, during his short 13-year career.

(3) Byron Nelson won 5 majors, including 2 Masters (1937 and 1942), 2 Professional Golf Association (PGA) Championships (1940 and 1945) and the U.S. Open (1939).

(4) Sports journalist Bill Nichols recently ranked the greatest seasons on the PGA tour for The Dallas Morning News and picked Roanoke, Texas-resident Byron Nelson's 1945 tour as the greatest season of golf in American history.

(5) In 1945, Byron Nelson accumulated 18 total victories, 11 of which were consecutive, while averaging 68.33 strokes per round for 30 tournaments.

(6) At the Seattle Open in 1945, Byron Nelson shot a record 62 for 18 holes and the world record 259, 29 shots under par for 72 holes.

(7) Byron Nelson is one of only 2 golfers to be named "Male Athlete of the Year" twice by the Associated Press: in 1944, when he won 7 tournaments and averaged 69.67 strokes for 85 rounds, and again after his 1945 season.

(8) The World Golf Hall of Fame honored Byron Nelson in 2004 by featuring an exhibit entitled "Byron Nelson: A Champion ... A Gentleman".

(9) Byron Nelson was selected for the Ryder Cup 4 times—in 1937, 1939, 1947 and 1965, and on that last occasion he led the United States Ryder Cup team as team captain to victory over Great Britain.

(10) Byron Nelson was also a pioneer in the golf business, helping to develop the golf shoes and umbrellas used today.

(11) In 1966, True Temper created the "Iron Byron" robot to replicate Byron Nelson's swing in order to test the company's equipment, but the robot was eventually used for club and ball testing by the United States Golf Association (USGA) and many other manufacturing companies.

(12) Byron Nelson mentored many golf hopefuls, including 1964 Player of the Year Ken Venturi and 6-time PGA Player of the Year Tom Watson.

(13) Byron Nelson was one of the first golf analysts on network television where his understanding of the game in general, and the golf swing in particular, was demonstrably profound.

(14) Byron Nelson received the United States Golf Association's Bob Jones Award for distinguished sportsmanship in golf in 1974.

(15) In 1974, the Golf Writers Association of America presented Byron Nelson with the Richardson Award for consistently outstanding contributions to golf.

(16) Since 1983, the Byron and Louise Nelson Golf Endowment Fund has provided over $1,500,000 in endowment funds to Abilene Christian University in Abilene, Texas.

(17) Byron Nelson received the PGA Distinguished Service Award in 1993. This award is presented to an individual who has helped perpetuate the ideals and values of the PGA.

(18) Byron Nelson has served as an honorary chairperson for the Metroport Meals on Wheels since 1992.

(19) In 1994, the Golf Course Superintendents Association of America presented Byron Nelson with the Old Tom Morris Award for outstanding contributions to the game.

(20) Byron Nelson helped to develop the Tournament Players Course (TPC) Four Seasons at Los Colinas, Texas, site of the EDS Byron Nelson Championship and the Byron Nelson Golf School, into a world-class facility.

(21) The EDS Byron Nelson Championship is the only PGA tour event named in honor of a professional golfer and traditionally attracts the strongest players in the sport.

(22) Since its inception, the EDS Byron Nelson Championship has raised $88,000,000 for Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services for more than 2,700 children and their families in the greater Dallas area.

(23) In 2002, Byron Nelson received the prestigious Donald Ross Award from the American Society of Golf Course Architects (ASGCA) for his significant contribution to the game of golf and the profession of golf course architecture.

(24) The United States Golf Association presented Byron Nelson the Ike Grainger Award for volunteer service to the game of golf in 2002.

(25) In 2002, the National Golf Foundation presented Byron Nelson with the Graffis Award for outstanding lifelong contributions to the game of golf.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD INTERSTATE ABORTION NOTIFICATION ACT

Mr. BENNETT. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill (S. 403) to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 403

Resolved, That the bill from the Senate (S. 403) entitled "An Act to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Interstate Abortion Notification Act".

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

"Sec

"2431. Transportation of minors in circumvention of certain laws relating to abortion.

"2432. Transportation of minors in circumvention of certain laws relating to abortion.

"§2431. Transportation of minors in circumvention of certain laws relating to abortion

"(a) OFFENSE.—

"(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

"(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed or induced on the minor, in a State or a foreign nation other than the State where the minor resides, without the parental consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

"(b) EXCEPTIONS.—

"(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

"(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

"(c) Affirmative Defense.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant—

"(1) reasonably believed, based on information the defendant obtained directly from a parent of the minor, that before the minor obtained the abortion, the parental consent or notification took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides; or

"(2) was presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence waived any parental notification required by the laws of that State, or otherwise authorized that the minor be allowed to procure an abortion.

"(d) Civil Action.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed an act of incest with the minor subject to subsection (a).

"(e) Definitions.—For the purposes of this section—

"(1) the term 'abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

"(2) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court; and

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(3) the term 'minor' means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision;

"(4) the term 'parent' means—

"(A) a parent or guardian;

"(B) a legal custodian; or

"(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required; and

"(5) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States; and any Indian tribe or reservation.

"§2432. Transportation of minors in circumvention of certain laws relating to abortion

"Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both. For the purposes of this section, the terms 'State', 'minor', and 'abortion' have, respectively, the definitions given those terms in section 2435.".

SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.

Title 18, United States Code, is amended by inserting after chapter 117A the following:

"CHAPTER 117B—CHILD INTERSTATE ABORTION NOTIFICATION

"Sec

"2435. Child interstate abortion notification

"§2435. Child interstate abortion notification

"(a) Offense.—

"(1) Generally.—A physician who knowingly performs or induces an abortion on a minor in violation of the requirements of this section shall be fined under this title or imprisoned not more than one year, or both.

"(2) Parental notification.—A physician who performs or induces an abortion on a minor who is a resident of a State other than the State in which the abortion is performed must provide, or cause his or her agent to provide, at least 24 hours actual notice to a parent of the minor before performing the abortion. If actual notice to such parent is not possible after a reasonable effort has been made, 24 hours constructive notice must be given to a parent.

"(b) Exceptions.—The notification requirement of subsection (a)(2) does not apply if—

"(1) the abortion is performed or induced in a State that has, in force, a law requiring parental involvement in a minor's abortion decision and the physician complies with the requirements of that law;

"(2) the physician is presented with documentation showing with a reasonable degree of certainty that a court in the minor's State of residence has waived any parental notification required by the laws of that State, or has otherwise authorized that the minor be allowed to procure an abortion;

"(3) the minor declares in a signed written statement that she is the victim of sexual abuse, neglect, or physical abuse by a parent, and, before an abortion is performed on the minor, the physician notifies the authorities specified to receive reports of child abuse or neglect by the law of the State in which the minor resides of the known or suspected abuse or neglect;

"(4) the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, or because in the reasonable medical judgment of the minor's attending physician, the delay in performing an abortion occasioned by fulfilling the prior notification requirement of subsection (a)(2) would cause a substantial and irreversible impairment of a major bodily function of the minor arising from continued pregnancy, not including psychological or emotional conditions, but an exception under this paragraph does not apply unless the attending physician or an agent of such physician, within 24 hours after completion of the abortion, notifies a parent in writing that an abortion was performed on the minor and of the circumstances that warranted invocation of this paragraph; or

"(5) the minor is physically accompanied by a person who presents the physician or his agent with documentation showing with a reasonable degree of certainty that he or she is in fact the parent of that minor.

"(c) Civil Action.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed an act of incest with the minor subject to subsection (a).

"(d) Definitions.—For the purposes of this section—

"(1) the term 'abortion' means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

"(2) the term 'actual notice' means the giving of written notice directly, in person, by the physician or any agent of the physician;

"(3) the term 'constructive notice' means notice that is given by certified mail, return receipt requested, restricted delivery to the last known address of the person being notified, with delivery deemed to have occurred 48 hours following noon on the next day subsequent to mailing on which regular mail delivery takes place, days on which mail is not delivered excluded;

"(4) the term a 'law requiring parental involvement in a minor's abortion decision' means a law—

"(A) requiring, before an abortion is performed on a minor, either—

"(i) the notification to, or consent of, a parent of that minor; or

"(ii) proceedings in a State court;

"(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

"(5) the term 'minor' means an individual who is not older than 18 years and who is not emancipated under State law;

"(6) the term 'parent' means—

"(A) a parent or guardian;

"(B) a legal custodian; or

"(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides;

as determined by State law;

"(7) the term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which such doctor practices medicine, or any other person legally empowered under State law to perform an abortion; and

"(8) the term 'State' includes the District of Columbia and any commonwealth, possession, or other territory of the United States, and any Indian tribe or reservation.".

SEC. 4. CLERICAL AMENDMENT.

The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new items:

"117A. Transportation of minors in circumvention of certain laws relating to abortion 2431
"117B. Child interstate abortion notification .... 2435".

SEC. 5. SEVERABILITY AND EFFECTIVE DATE.

(a) The provisions of this Act shall be severable. If any provision of this Act, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of the Act not so adjudicated.

(b) This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.

AMENDMENT NO. 5090

Mr. BENNETT. Mr. President, on behalf of the majority leader, I move to concur in the amendment of the House and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FRIST, proposes an amendment numbered 5090 to the House amendment.

Mr. BENNETT. I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 2, strike "45 days" and insert "46 days"

Mr. BENNETT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5091 TO AMENDMENT NO. 5090

Mr. BENNETT. Mr. President, on behalf of the majority leader, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FRIST, proposes an amendment numbered 5091 to amendment No. 5090.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike "46 days" and insert "44 days".

CLOTURE MOTION

Mr. BENNETT. Mr. President, on behalf of the leader, I send a cloture motion to the desk.

The PRESIDING OFFICER. Without objection, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to concur in the House amendment to S. 403: a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

Bill Frist, John Ensign, Tom Coburn, Craig Thomas, Jim DeMint, Wayne Allard, Mitch McConnell, Trent Lott, Jim Bunning, Conrad Burns, Ted Stevens, Johnny Isakson, John Cornyn, Jeff Sessions, Larry Craig, Mike Crapo, John Thune.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent we now return to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, SEPTEMBER 28, 2006

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, September 28. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the majority leader or his designee, and the final 15 minutes under the control of the Democratic leader or his designee; further, that following morning business, the Senate resume consideration of S. 3930, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. Mr. President, today we were able to reach an agreement on the military tribunal legislation. We have disposed of one amendment today. The Levin substitute amendment was defeated this afternoon. The Specter amendment is pending, and there will be some additional debate time on that tomorrow. Under the agreement, we have three other amendments to consider and then final passage of the bill. Therefore, Senators can expect rollcall votes throughout tomorrow's session.

As a reminder, the majority leader has outlined a number of items that we need to complete before we leave for the recess. We will be here until we can get these items finished.

ORDER FOR ADJOURNMENT

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks made by the Senator from Illinois for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, does the Senator from Illinois require more than 10 minutes?

Mr. OBAMA. If I could, I do not think I will need more than 15 minutes. It may be a little more than 10 minutes.

Mr. BENNETT. Mr. President, I amend my request that the Senate stand in adjournment under the previous order following the remarks of the Senator from Illinois for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, thank you very much. And I thank my dear friend from Utah.

HABEAS CORPUS—AMENDMENT NO. 5087

Mr. OBAMA. Mr. President, I would like to address the habeas corpus amendment that is on the floor and that we just heard a lengthy debate about between Senator SPECTER and Senator WARNER.

A few years ago, I gave a speech in Boston that people talk about from time to time. In that speech, I spoke about why I love this country, why I love America, and what I believe sets this country apart from so many other nations in so many areas. I said:

> That is the true genius of America—a faith in simple dreams, an insistence on small miracles; that we can tuck in our children at night and know that they are fed and clothed and safe from harm; that we can say what we think, write what we think, without hearing a sudden knock on the door. . . .

Without hearing a sudden knock on the door. I bring this up because what is at stake in this bill, and in the amendment that is currently being debated, is the right, in some sense, for people who hear that knock on the door and are placed in detention because the Government suspects them of terrorist activity to effectively challenge their detention by our Government.

Now, under the existing rules of the Detainee Treatment Act, court review of anyone's detention is severely restricted. Fortunately, the Supreme Court in Hamdan ensured that some meaningful review would take place. But in the absence of Senator SPECTER's amendment that is currently pending, we will essentially be going back to the same situation as if the Supreme Court had never ruled in Hamdan, a situation in which detainees effectively have no access to anything other than the Combatant Status Review Tribunal, or the CSRT.

Now, I think it is important for all of us to understand exactly the procedures that are currently provided for under the CSRT. I have actually read a few of the transcripts of proceedings under the CSRT. And I can tell you that oftentimes they provide detainees no meaningful recourse if the Government has the wrong guy.

Essentially, reading these transcripts, they proceed as follows: The Government says: You are a member of the Taliban. And the detainee will say: No, I'm not. And then the Government will not ask for proof from the detainee that he is not. There is no evidence that the detainee can offer to rebut the Government's charge.

The Government then moves on and says: And on such and such a date, you perpetrated such and such terrorist crime. And the detainee says: No. I didn't. You have the wrong guy. But again, he has no capacity to place into evidence anything that would rebut the Government's charge. And there is no effort to find out whether or not what he is saying is true.

And it proceeds like that until effectively the Government says, OK, that is the end of the tribunal, and he goes back to detention. Even if there is evidence that he was not involved in any terrorist activity, he may not have any mechanism to introduce that evidence into the hearing.

Now, the vast majority of the folks in Guantanamo, I suspect, are there for a reason. There are a lot of dangerous people. Particularly dangerous are people like Khalid Shaikh Mohammed. Ironically, those are the guys who are going to get real military procedures because they are going to be charged by the Government. But detainees who have not committed war crimes—or where the Government's case is not strong—may not have any recourse whatsoever.

The bottom line is this: Current procedures under the CSRT are such that a perfectly innocent individual could be held and could not rebut the Government's case and has no way of proving his innocence.

I would like somebody in this Chamber, somebody in this Government, to tell me why this is necessary. I do not want to hear that this is a new world and we face a new kind of enemy. I know that. I know that every time I think about my two little girls and worry for their safety—when I wonder if I really can tuck them in at night and know that they are safe from harm. I have as big of a stake as anybody on the other side of the aisle and anybody in this administration in capturing terrorists and incapacitating them. I would gladly take up arms myself against any terrorist threat to make sure my family is protected.

But as a parent, I can also imagine the terror I would feel if one of my family members were rounded up in the middle of the night and sent to Guantanamo without even getting one chance to ask why they were being held and being able to prove their innocence.

This is not just an entirely fictional scenario, by the way. We have already had reports by the CIA and various generals over the last few years saying that many of the detainees at Guantanamo should not have been there. As one U.S. commander of Guantanamo told the Wall Street Journal:

> Sometimes, we just didn't get the right folks.

We all know about the recent case of the Canadian man who was suspected of terrorist connections, detained in New York, sent to Syria—through a rendition agreement—tortured, only to find out later it was all a case of mistaken identity and poor information.

In this war, where terrorists can plot undetected from within our borders, it is absolutely vital that our law enforcement agencies are able to detain and interrogate whoever they believe to be a suspect, and so it is understandable that mistakes will be made and identities will be confused. I don't blame the Government for that. This is an extraordinarily difficult war we are prosecuting against terrorists. There are going to be situations in which we cast too wide a net and capture the wrong person.

But what is avoidable is refusing to ever allow our legal system to correct these mistakes. By giving suspects a chance—even one chance—to challenge the terms of their detention in court, to have a judge confirm that the Government has detained the right person for the right suspicions, we could solve this problem without harming our efforts in the war on terror one bit.

Let me respond to a couple of points that have been made on the other side. You will hear opponents of this amendment say it will give all kinds of rights to terrorist masterminds, such as Khalid Shaikh Mohammed. But that is not true. The irony of the underlying bill as it is written is that someone like Khalid Shaikh Mohammed is going to get basically a full military trial, with all of the bells and whistles. He will have counsel, he will be able to present evidence, and he will be able to rebut the Government's case. The feeling is that he is guilty of a war crime and to do otherwise might violate some of our agreements under the Geneva Conventions. I think that is good, that we are going to provide him with some procedure and process. I think we will convict him, and I think he will be brought to justice. I think justice will be carried out in his case.

But that won't be true for the detainees who are never charged with a terrorist crime, who have not committed a war crime. Under this bill, people who may have been simply at the wrong place at the wrong time—and there may be just a few—will never get a chance to appeal their detention. So, essentially, the weaker the Government's case is against you, the fewer rights you have. Senator SPECTER's amendment would fix that, while still ensuring that terrorists like Mohammed are swiftly brought to justice.

You are also going to hear a lot about how lawyers are going to file all kinds of frivolous lawsuits on behalf of detainees if habeas corpus is in place. This is a cynical argument because I think we could get overwhelming support in this Chamber right now for a measure that would restrict habeas to a one-shot appeal that would be limited solely to whether someone was legally detained or not. I am not interested in allowing folks at Guantanamo to complain about whether their cell is too small or whether the food they get is sufficiently edible or to their tastes. That is not what this is about. We can craft a habeas bill that says the only question before the court is whether there is sufficient evidence to find that this person is truly an unlawful enemy combatant and belongs in this detention center. We can restrict it to that. And although I have seen some of those amendments floating around, those were not amendments that were admitted during this debate. It is a problem that is easily addressed. It is not a reason for us to wholesale eliminate habeas corpus.

Finally, you will hear some Senators argue that if habeas is allowed, it renders the CSRT process irrelevant because the courts will embark on de novo review, meaning they will completely retry these cases, take new evidence. So whatever findings were made in the CSRT are not really relevant because the court is essentially going to start all over again.

I actually think some of these Senators are right on this point. I believe we could actually set up a system in which a military tribunal is sufficient to make a determination as to whether someone is an enemy combatant and would not require the sort of traditional habeas corpus that is called for as a consequence of this amendment, where the court's role is simply to see whether proper procedures were met. The problem is that the way the CSRT is currently designed is so insufficient that we can anticipate the Supreme Court overturning this underlying bill, once again, in the absence of habeas corpus review.

I have had conversations with some of the sponsors of the underlying bill who say they agree that we have to beef up the CSRT procedures. Well, if we are going to revisit the CSRT procedures to make them stronger and make sure they comport with basic due process, why not leave habeas corpus in place until we have actually fixed it up to our satisfaction? Why rush through it 2 days before we are supposed to adjourn? Because some on the other side of the aisle want to go campaign on the issue of who is tougher on terrorism and national security.

Since 9/11, Americans have been asked to give up certain conveniences and civil liberties—long waits in airport security lines, random questioning because of a foreign-sounding last name—so that the Government can defeat terrorism wherever it may exist. It is a tough balance to strike. I think we have to acknowledge that whoever was in power right now, whoever was in the White House, whichever party was in control, that we would have to do some balancing between civil liberties and our need for security and to get tough on those who would do us harm.

Most of us have been willing to make some sacrifices because we know that, in the end, it helps to make us safer. But restricting somebody's right to challenge their imprisonment indefinitely is not going to make us safer. In fact, recent evidence shows it is probably making us less safe.

In Sunday's New York Times, it was reported that previous drafts of the recently released National Intelligence Estimate, a report of 16 different Government intelligence agencies, describe:

> . . . actions by the United States Government that were determined to have stoked the jihad movement, like the indefinite detention of prisoners at Guantanamo Bay. . . .

This is not just unhelpful in our fight against terror, it is unnecessary. We don't need to imprison innocent people to win this war. For people who are guilty, we have the procedures in place to lock them up. That is who we are as a people. We do things right, and we do things fair.

Two days ago, every Member of this body received a letter, signed by 35 U.S. diplomats, many of whom served under Republican Presidents. They urged us to reconsider eliminating the rights of habeas corpus from this bill, saying:

> To deny habeas corpus to our detainees can be seen as a prescription for how the captured members of our own military, diplomatic, and NGO personnel stationed abroad may be treated. . . . The Congress has every duty to insure their protection, and to avoid anything which will be taken as a justification, even by the most disturbed minds, that arbitrary arrest is the acceptable norm of the day in the relations between nations, and that judicial inquiry is an antique, trivial and dispensable luxury.

The world is watching what we do today in America. They will know what we do here today, and they will treat all of us accordingly in the future—our soldiers, our diplomats, our journalists, anybody who travels beyond these borders. I hope we remember this as we go forward. I sincerely hope we can protect what has been called the "great writ"—a writ that has been in place in the Anglo-American legal system for over 700 years.

Mr. President, this should not be a difficult vote. I hope we pass this amendment because I think it is the only way to make sure this underlying bill preserves all the great traditions of our legal system and our way of life.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until 9:30 a.m.

There being no objection, the Senate, at 7:39 p.m., adjourned until Thursday, September 28, 2006, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, September 27, 2006*

The House met at 10 a.m.

The Reverend Anthony George, Pastor, Aloma Baptist Church, Winter Park, Florida, offered the following prayer:

Our Father in heaven, we come to You this day acknowledging Your greatness, thanking You for Your benevolent and providential guidance in the founding and sustaining of this great Nation.

In these times of uncertainty as nations rage against us, we humbly ask that You protect our people by Your intervening mercy, that You grant favor to our troops in their efforts to preserve the hope of freedom, and that You bless our President and the men and women of this Chamber in all their deliberations which they undertake for the safety and prosperity of our great country.

Help us in our efforts to eliminate poverty, oppression and wickedness, and empower us to pursue truth, justice and righteousness.

Though our sins are many, we ask that You show us mercy. Grant us wisdom, grant us courage that we fail not man nor Thee. In the name of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. KELLER) come forward and lead the House in the Pledge of Allegiance.

Mr. KELLER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING PASTOR ANTHONY GEORGE OF ALOMA BAPTIST CHURCH

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, I rise to welcome today's guest chaplain, Pastor Anthony George of Aloma Baptist Church in Winter Park, Florida. Thanks to Pastor George's leadership, Aloma Baptist is making a difference in central Florida and beyond. Let me give you some examples.

When Hurricane Katrina hit a little more than a year ago, Aloma Baptist Church acted, immediately dispatching teams to the gulf coast to provide humanitarian relief. Today, 1 year later, teams from Aloma Baptist have stayed the course and are still helping our gulf coast neighbors rebuild. And in central Florida, through Aloma Baptist Great Days of Service campaign, church members have gone into my community and poured countless hours into efforts like feeding the homeless, volunteering at the Ronald McDonald House, and mentoring children at summer camps.

Mr. Speaker, my community and this country are better places today because this humble country preacher from Mississippi came to central Florida to serve God and serve people. Pastors from across the country could learn a thing or two from Anthony George about how to build a difference-making church.

PERILS OF AMATEUR STRATEGY

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. Speaker, in 1926, Sir Gerald Ellison published the book, "Perils of Amateur Strategy," the subject of which was a disastrous British campaign at Gallipoli in 1915. Here we are, in 2006, and we find that the Bush administration is busy writing its sequel, "Perils of Amateur Strategy II," about the misadventure of the American attempt in Iraq. The high hopes of bringing stability and democracy are fading, mainly because of strategic mistakes that were avoidable.

These mistakes include the diplomatic failure to ensure passage for our troops through Turkey at an early phase of the war; disbanding the Iraqi army; failure to control the looting after the fall of Baghdad; the failure to secure the weapons caches; and of course the failure to use enough troops to successfully complete the mission.

In addition thereto, Mr. Speaker, on another subject, I note the failure of this Congress to fully implement the recommendations of the 9/11 Commission. Mr. Speaker, we must not adjourn until we pass those recommendations into law, which will prepare us against future terrorist attacks.

BULGARIAN MIRACLE CONTINUES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, today is a joyous day for the people of Bulgaria. This week, the European Commission recommended Bulgaria be admitted into the European Union in January 2007. In less than 16 years, Bulgaria has successfully transitioned from a Communist totalitarian regime into a free market democracy.

Just 3 years ago, I was honored to be at the White House with former Prime Minister Simeon Saxe-Coburg Gotha as Bulgaria was admitted into NATO. Bulgaria has proven to be a true ally in the global war on terrorism, and Bulgarian troops have bravely served in Iraq and Afghanistan. There are currently plans for three U.S. bases to be located within Bulgaria.

Bulgaria has one of the fastest growing economies, and membership in the EU will accelerate its pace. Economically and militarily, Bulgaria is secure.

Congratulations to Prime Minister Georgi Parvanov, Prime Minister Sergey Stanishev, Ambassador to Washington Elena Poptodorova, and my longtime friend Ambassador to Athens Stefan Stoyanov.

I am grateful to serve with Congresswoman ELLEN TAUSCHER as cochair of the Bulgarian Caucus, promoting the growing partnership between Bulgaria and America.

In conclusion, God bless our troops and we will never forget September 11th.

THE TIME TO IMPLEMENT THE RECOMMENDATIONS OF THE 9/11 COMMISSION IS NOW

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute.)

Mr. HASTINGS of Florida. Mr. Speaker, according to the majority leader, the House will adjourn 2 days from now and take a political vacation for 6 weeks. We will do this despite the fact that we will leave 300 million Americans less safe than if we stay here and implement the recommendations of the bipartisan 9/11 Commission.

Continuing to do nothing in the face of continued threats to our people and our way of life is hardly what the American people elected us to do. The 9/11 Commission focused their recommendations into three broad areas:

We need to attack terrorists and their organizations; we need to prevent the continued growth of Islamist terrorism; and we need to protect against and prepare for terrorist attacks.

It pains me to say, though the American people must know, this administration and this Congress have failed miserably on all three of these counts. Instead of going after terrorists, we invaded Iraq and have caused an all-out civil war there that costs American lives on a daily basis.

The war in Iraq has not prevented the growth of terrorism. We are learning now that it has actually enhanced the growth of terrorism. Instead of protecting and preparing for the next terrorist attack, we busy ourselves building partial "let's pretend" fences. I recommend and unanimously request that we consider the bipartisan recommendations of the 9/11 Commission, less jaw jacking and more action.

THE DEMOCRATS MAY NOT LIKE IT, BUT WE ARE WINNING THE GLOBAL WAR ON TERROR

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, we have heard an awful lot in the last couple of days from the Democrats over the national intelligence estimate which partly says that our involvement in Iraq is creating a new generation of jihadist leaders.

What they fail to say is that the same NIE says that, I quote, "Should jihadists leaving Iraq perceive themselves or be perceived to have failed, we judge fewer fighters will be inspired to carry on the fight."

Mr. Speaker, I want to remind my colleagues that one of those new leaders cited in the report, Abu Musaab al Zarqawi, is now very much dead. Let's just say that he has failed.

The NIE says that the best way to kill the jihadist movement is to spread hope and democracy, which is exactly what we are doing in Iraq and Afghanistan.

Mr. Speaker, national security is the first and foremost responsibility of the Federal Government and of every Member of Congress, and we always need to put national security ahead of politics. And yet, the Democratic minority leader just last week said that she thinks that national security should not be an issue in this campaign.

She actually said that, that national security should not be an issue. Think about that.

HOMELAND SECURITY

(Ms. SCHWARTZ of Pennsylvania asked and was given permission to address the House for 1 minute.)

Ms. SCHWARTZ of Pennsylvania. Every day, Americans work hard to fulfill their obligations to their families, to pay their mortgage, to send their children to college, to save for retirement. Americans understand these priorities. At all times, but particularly at a time of war, Americans expect their leaders to understand that our priority should be securing our homeland. Yet this administration and the Republican Congress have no such plan.

The bipartisan 9/11 Commission noted, quote, "a lack of urgency" by this administration and the Republican Congress in addressing our homeland security vulnerabilities, and called their failures shocking.

Democrats have a plan to lead our Nation in a new direction. Democrats will immediately implement the recommendations of the 9/11 Commission. Democrats will secure our borders. Democrats will ensure that our police and firefighters can communicate with each other during times of crisis. And Democrats would never approve the sale of port security to a foreign nation. It is time for a new direction.

Americans deserve to feel secure and to know that our government is working hard to ensure that safety and security every day. Democrats know that government's paramount responsibility is to defend our citizens. Democrats will keep our country safe.

THE PRESIDENT AND GAS PRICES

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to address gas prices and the Democrats selective agenda on talking about them.

Up until recently, over the last year, gas prices have risen, and the Democrats jumped on this issue and played the blame game. They condemned President Bush repeatedly saying it was the President's fault.

The Republican-led Congress and administration began to explore new options to increase domestic output to help lower the cost at the pump. The Republican Congress continued their battle to open ANWR. Seventy-five percent of Alaskans want ANWR opened for oil exploration and all of the elected officials at the Federal level want it open. The area that would be explored is roughly the size of a postage stamp on a football field, yet the Democrats continue to obstruct this effort.

The Democrat solution to rising gas problems was not a policy or a proposal; it was simply "no" to Republican and administration proposals and blaming the President.

What astounds me so is now that the gas prices are falling, where is the Democrats' praise for the President's efforts? Gas prices are falling, and all I hear from the other side of the aisle are crickets.

□ 1015

FIRST TEE BENEFITS INNER CITY YOUTH

(Mr. TANNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I come here this morning with the Congressional Roll Call Golf Cup here. We have Roll Call, a Capitol Hill newspaper here, which sponsors baseball games and football and basketball, and we have a Congressional Ryder Cup golf competition between the Democrats and Republicans every year. We recently had this for the First Tee organization. The First Tee organization and its president, Joe Louis Barrow, Jr., is an organization that brings golf and the skills and the character values that golf teaches people to inner city youth all across our country and to those who might otherwise not be exposed to the game.

May I announce that this is not a hard chore for me because the Democrats won this year for the first time ever.

I was privileged to serve as captain of the Democratic team, and Mike Oxley, who was tied up in conference and asked me to go ahead with this this morning, was captain of the Republican team. The competition was fierce, but we did this for the children of our country who can be exposed to the principles of golf.

Golf is the only sport that doesn't have an umpire or referee. You play yourself, and the values that golf teaches is something that we think is worthwhile.

I want to congratulate the First Tee Roll Call, and the Republican team and the Democratic team who showed up for this very, very worthwhile project.

AMERICA'S STONEWALL

(Mr. POE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE. Mr. Speaker, Members of Congress are looking for border security answers, and the American people are demanding them. But it seems we are being stonewalled by our own Border Patrol hierarchy.

Get this, apparently our Border Patrol agents cannot talk or answer questions from Members of Congress without filing a lengthy detailed report, the same type of report they file when they arrest illegals, drug runners, or are even shot at by the Mexican military. This appears to intimidate our Border Patrol agents to not say a word about what is really going on.

When I have been on the border, the Border Patrol agents were very reluctant to say anything except scripted answers. Now I know why. What does the Border Patrol hierarchy have to hide? Apparently the truth because that is all we are after.

Why wouldn't homeland security want their agents talking to Members of Congress? Members of Congress are being forced to tear down the war of silence just to control our own border. The enemy is not Congress or the American people, it is the insurgents who infiltrate our border every day.

And that's just the way it is.

NO RECESS UNTIL ACTION ON ENERGY PRICES

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, the Bush administration and Republicans in this House enjoy a cozy relationship with big oil companies, one that is paying off for oil but is hurting American consumers.

For 5 years now, the President has stacked his administration with former energy executives, friends and former colleagues of his and the Vice President's. It is no wonder then that now the Nation's three largest oil companies have been posting record profits. They are benefiting from the Republican policies that allow them to price gouge and receive huge tax subsidies.

But when it comes to offering assistance or solutions to the American consumer, the Republicans in the Bush administration come up short. No money for home heating assistance, no money for consumer price relief, no money to invest in finding alternative fuels. Of course not, it is all going to the oil companies. There is just not enough left to help the average American.

Democrats demand action on this issue before Republicans take this House into yet another recess.

Therefore, I ask unanimous consent to bring up H.R. 4479, which repeals the oil company tax subsidies and allows us to find real solutions to the energy crisis.

The SPEAKER pro tempore (Mr. DUNCAN). Under the Speaker's announced guidelines, the Chair is constrained not to entertain such a request in the absence of express clearances by bipartisan committee and floor leadership.

NATIONAL INTELLIGENCE ESTIMATE AND WAR ON TERROR

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to thank President Bush for declassifying key judgments from the National Intelligence Estimate so the American people can understand the absolute critical importance of our war on terror, and why the bills we are debating this week, from defense appropriations to military commissions, are essential to keeping America safe and our homeland secure.

Mr. Speaker, despite what my colleagues on the other side of the aisle might claim, American is not responsible for the rise of terrorism. We did not bring this war on the terrorists. They brought this upon themselves when they attacked freedom and our way of life in Kenya, Tanzania, aboard the USS Cole, New York City, Pennsylvania, and right here in Washington, D.C. on September 11.

America has a winning strategy of relentlessly hunting down those who wish us harm, and working to defeat terrorism by encouraging democracy in the Middle East. If the terrorists are emboldened by the spread of this newfound freedom, it is because they know that free people will terminate the terrorist way of life.

Mr. Speaker, it is absolutely incumbent upon us and this body to give President Bush, our CIA, and our military the tools they need to prevent future attacks on our Nation.

I hope my colleagues on the other side of the aisle will join me this week in voting to protect the American people.

RAISING THE MINIMUM WAGE

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, for 10 years the Republicans have kept hardworking Americans away from an increase in the minimum wage. Over 7 million people who get up in the morning every day and go to work, all day long, all week long, all month long and all year long, and at the end of that year they end up in poverty. At the end of that year they end up with the inability to provide for their families.

For 10 years, the Republicans have fought an increase in the minimum wage. For 10 years the Republicans have made it official policy of this country that people who get up and go to work every day will end up in poverty. It is a poverty wage. And the Republicans are proud of it. The majority leader boasts that he has fought this his entire public life, and yet these people are stuck at 1950 wages.

But what is not stuck at 1950 is the price of groceries, the price of gasoline to go to work, the price of housing, and the price of health care. There is no relief for these hardworking Americans. There is no relief for their families because the Republicans refuse to entertain a clean vote on the minimum wage. A clean vote, so 7 million Americans could start to have an increase in their yearly take-home pay. That is what the Republicans refuse.

There is 72 hours left in this session. The Republicans can decide to do the decent thing, to provide a minimum wage increase for hardworking Americans. But the Republicans won't do that because they are not a party of decency. They have chosen to put these people into poverty and to keep them in poverty year after year after year. Yet they have chosen to have eight pay raises for Members of Congress at the same time they have chosen to keep hardworking Americans in poverty.

That's what the Republicans promise hardworking Americans, you end up in poverty.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent to take up H.R. 2429, the Fair Minimum Wage Act.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers, as recorded on page 734 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mr. GEORGE MILLER of California. Once again, the Republicans block a vote on the minimum wage.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must ask Members to heed the gavel. The gentleman from California far exceeded his allotted time.

RAISING THE MINIMUM WAGE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASCRELL. Mr. Speaker, when is House Republican leadership going to allow a vote on the minimum wage bill to come to this floor? A clean minimum wage bill? As health care, grocery, and energy costs skyrocket for average consumers, House Republican leadership would rather help their CEO friends than average Americans who are just trying to make ends meet.

The fact is that the median annual household income has actually increased by $1,700 after inflation during the course of the Bush administration. The fact is that today, full-time workers who earn the minimum wage are bringing home a paltry $10,700.

This is simply not fair. House Republican leadership have refused to allow a clean minimum wage vote. Close to 15 million Americans will be affected if we did this. Do Republicans really expect a family to live on less than $11,000 a year?

Contrary to what the President and Republican leadership would have you believe, everything is not coming up roses when it comes it our national economy. There are more poor, more uninsured than ever before.

Mr. Speaker, no congressional pay raise until minimum wage is increased, period. It is time we pass a minimum wage bill so that 6 million Americans get a much-deserved pay raise.

Mr. Speaker, if I may, I ask unanimous consent to bring up H.R. 2429, and I know what you are going to say, but I ask it anyway.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers, as recorded on page 734 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

RUBBER-STAMP CONGRESS

(Mr. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEK of Florida. Mr. Speaker, it is an outright shame what the Republican majority has done. They have expressed themselves as the rubber-stamp Republican majority to the Bush White House.

As you know, yesterday we took a vote here on this floor as relates to going into closed session to talk about the findings of the National Intelligence Estimate. I will tell you these are professionals that are working in clandestine agencies not only in this country, but throughout the world, and it is very, very important that the American people understand what is going on in Iraq.

We can only come to the floor and try to put forth some sort of representation on behalf of the American people on the Democratic side.

Mr. Speaker, the facts are right here. When it came down to voting for us to go into closed session to talk about national security, talk about the loss of our troops in Iraq, talk about those that are wounded, you want to talk about honor.

The bottom line is that one Republican voted to go into closed session to talk about this National Intelligence Estimate; and 215 Republicans voted against it; 14 didn't even show up to vote.

The bottom line is that the Democrats are willing to secure this country as we were voted and federalized to come up here and to do so. So when you walk up to this well here and see this word "justice," give the American people some justice so we can go into closed session and protect the United States of America and not come to this floor and just talk. We are about action.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair has allowed Members to exceed the 1-minute time limit in completing their thoughts, but the Chair would request that Members abide more closely by the 1-minute concept.

TIME FOR A NEW DIRECTION

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, I encourage everyone to keep in their hearts and minds and certainly in your prayers our men and women in uniform and those on the battlefield this morning.

Mr. Speaker, it is time, it is time for a new direction. It is time for health care that the American people can afford.

It is time for Social Security that we can depend on. It is time to have jobs that do not disappear. And it is amazing, it demonstrates the way the big oil companies have managed to abuse the American people to the point where they think $2.15 for gasoline is a good deal. That is shocking.

It is time for us to go in a new direction: Leadership that honestly serves our goals of peace and prosperity, security by getting the job done rather than blaming somebody else because of the failures of this administration.

It is time to go in this new direction, and we should not recess this Congress until these goals are reached.

HONORING OFFICER RODNEY JOHNSON

(Mr. AL GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AL GREEN of Texas. Mr. Speaker, I thank God for our peace officers; and I especially thank God for Officer Rodney Johnson, who will be laid to rest today.

On Thursday he left the comfort and safety of his home so we might be safe in our homes. On Thursday, he put his life at risk so that our lives would not be at risk. On Thursday, he sacrificed his life so that we might have a better life.

A wife has lost a husband, children have lost their father, humanity has lost a great humanitarian.

Thank God for peace officer Rodney Johnson. May he rest in peace.

FIGHTING HIV/AIDS

(Mr. WATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT. Mr. Speaker, the members of the Congressional Black Caucus have throughout a long period of time led the fight against HIV and AIDS by insisting on the creation of a global fund to attack it internationally, insisting that we address the issue here in the United States, and that we take it as a serious proposition. Unfortunately, as we have been addressing it, it has grown to epidemic proportions in the African-American community here right in our own backyard.

And so we will have today a series of speakers coming to address that issue from the Congressional Black Caucus because we think it is time for the United States to declare a state of emergency and we are intent on taking the lead ourselves on this issue to dramatize it in our own communities, to talk about it, to be tested ourselves, to insist on mandatory testing, and support some new initiatives that will address this problem and get it in control in this country.

□ 1030

THE 9/11 COMMISSION'S RECOMMENDATIONS: INTEROPERABILITY

(Mr. THOMPSON of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. THOMPSON of Mississippi. Mr. Speaker, earlier this month I wrote you to take action on measures that would fulfill many of the 9/11 Commission's recommendations.

On 9/11, the Commission's Republican Chair and Democratic Vice Chair expressed bipartisan concern that 5 years later, some of the most "elementary and fundamental" recommendations haven't been done. They said that "there is nothing more important on the agenda of any policymaker than to make the people of this country more secure."

Now they have told us, among other things, that we need to absolutely do interoperability.

We all remember the firefighters who lost their lives in the Twin Towers. And we remember the havoc in New Orleans during Katrina.

In light of that, Mr. Speaker, in light of the Republican leadership's unwillingness to move legislation on interoperability, I ask unanimous consent to bring up H.R. 1251, offered by Mrs. LOWEY of New York.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

IRAN

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, Hans Blix, former chief U.N. weapons inspector, cautioned the U.S. before it attacked Iraq that Iraq was not an imminent threat. He was right. Iraq did not have weapons of mass destruction. Now America is more vulnerable than ever because of this administration's pathological deceptions.

Yesterday, Dr. Blix said Iran is not an imminent threat and we should open up direct talks with Iran, not attack Iran. He is right again.

Last week Intelligence Committee staff reports' deliberate distortion of the degree of Iran's uranium enrichment was exposed by the International Atomic Energy Agency. Nevertheless, according to credible reports, the administration has had covert operations in Iran, selected 1,500 bombing targets, and is preparing a naval blockade of the Strait of Hormuz, which will set the stage not only for a war against Iran, but also for $5 a gallon gasoline.

Meanwhile, the State Department and the Department of Defense will not even appear in classified briefings to discuss the plans for a war against Iran.

Wake up, America. There is another war being planned.

BIOFUEL ACT

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise to call on this House to pass legislation to end America's dependency on foreign oil.

Earlier this week, I attended the opening of Piedmont Biofuels in Pittsboro, North Carolina. This plant is already producing thousands of gallons of B–100 biodiesel made from soybeans grown in my home State. This plant is a model for the future of our energy independence.

The technology exists today that can turn our crops into biofuels. What we don't have is the infrastructure to facilitate the use of these fuels.

My colleagues and I have introduced H.R. 5372, the BIOFUEL Act, to ramp up this infrastructure immediately. The legislation will facilitate the increased production of vehicles that run on biofuels and provide tax credits and incentives to gas station owners who update their equipment to be able to sell these fuels.

The legislation also increases research and development into biofuels, investing in cutting-edge technology that will utilize energy from sources such as agricultural waste and byproducts.

Now is the time to end America's dependency on foreign oil. The answer to our energy needs is growing in our fields.

THE DO-LESS-THAN-DO-NOTHING CONGRESS; NO RECESS UNTIL ACTION TAKEN ON 9/11 RECOMMENDATIONS

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, one duty we share as Members of this body is a solemn responsibility to make certain that we do everything possible to ensure the safety of the American citizens that we are elected to represent. Unfortunately, when it comes to homeland security and learning from the tragedy of September 11, this Republican Congress has failed miserably.

The independent and bipartisan 9/11 Commission put forth a report with recommendations for keeping our Nation secure. Despite their suggestions, the Bush administration and the Republican Congress have failed to pass or implement all of the recommendations for homeland security. In fact, the commission recently gave the administration and this Republican Congress five Fs and 12 Ds on homeland security.

Mr. Speaker, Democrats have been fighting to pass the 9/11 Commission's recommendations and to ensure the safety of our ports and airports. However, Republicans are preparing to adjourn for the campaign season without taking up these security measures.

So I ask unanimous consent to take up and pass and implement all of the 9/11 Commission's recommendations, Mr. Speaker.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

RAISING THE MINIMUM WAGE; WE SHOULD INCREASE THE MINIMUM WAGE TODAY

(Ms. EDDIE BERNICE JOHNSON asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, when are the House Republicans going to allow a minimum wage bill to come up on the floor where we actually vote on the minimum wage? It needs to become law.

As health care, groceries, energy, housing costs skyrocket for average consumers, House Republicans would rather help their CEO friends than average Americans who are just trying to make ends meet.

Today, full-time workers who earn the minimum wage are only bringing home $10,700 a year. The average corporate CEO makes that much money during his first 4 hours of work for the year. This is simply not fair. Yet, for months, House Republicans have refused to allow a clean minimum wage vote on this House floor. Do House Republicans really expect that a family can live on less than $11,000 a year?

The Democrats want to take the Nation in a new direction, one where the needs of all Americans are addressed. We want a clean vote on the minimum wage.

And, Mr. Speaker, in light of the Republican leadership's unwillingness to move legislation on the minimum wage, I ask unanimous consent to bring up H.R. 2429, the legislation to increase the minimum wage.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

HIV/AIDS

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, recent estimates indicate that there are 40,000 new AIDS infections each year in the United States.

African American men and women were disproportionately overrepresented among new AIDS diagnoses in 2004. African American women accounted for 67 percent of new AIDS diagnoses among women; and African American men accounted for nearly half, 44 percent, of new AIDS diagnoses among men. Today, African American women represent a staggering 71 percent of all the AIDS diagnoses among women.

Though African Americans comprised 17 percent of the teenage population, age 13 to 19 years of age, by the end of 2004, they represented 70 percent of all the HIV/AIDS cases among teenagers, age 13 to 19 years of age. Just more than one in ten, 13 percent and 15 percent, were represented by Latino and whites respectively in the same age groups.

The Congressional Black Caucus has decided that we are going to increase our efforts. Since the beginning of the HIV/AIDS epidemic, the Congressional Black Caucus has and will continue to assume a leadership role in addressing the issue through AIDS education and other actions. We are increasing our efforts to insist on personal responsibility, mandatory testing, outreach and education, advocating for increased funding, more legislation.

I have introduced H.R. 6038. This is a bill that would require routine testing of those entering prison, with counseling and treatment and referrals and follow-ups for those who are leaving.

We are going to conquer this epidemic.

REPUBLICANS PAD THE PROFIT MARGINS OF DRUG COMPANIES IN FLAWED PRESCRIPTION DRUG LAW

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, there is no question where the loyalty of Washington Republicans rests when it comes to prescription drug coverage for America's seniors. Their loyalty rests in the boardrooms of the Nation's huge pharmaceutical companies.

One need only look to last Friday for proof. In pharmacies around the country, many seniors heard the bad news. Their drug purchases would not be covered under Medicare part D because they had reached the "donut hole." These seniors lost coverage because they had already spent $2,250 on their prescriptions, and they won't qualify again until their expenses reach $5,100 for the year.

I heard from my constituent, Pauline, who said: "I'm sure somewhere along the way the 'donut hole' phenomenon was described, but obviously was passed over in the tons of Medicare D explanations. All I know is that last month what I paid was $20 and it now costs me $96, and that was only on one prescription. What adds insult to injury is that we must now pay the premium, too, while we lose our benefits. Prior to Medicare part D, it was costing me approximately $400 for all my prescriptions; so I am now faced with full freight, inflated pharmacy bills due to the 'donut hole.'"

Actually, Pauline will never get out of the donut hole. It is really a black hole for her.

So shame on Congress, Mr. Speaker, if it recesses before requiring the Secretary of HHS to negotiate for lower prescription drug prices for seniors and persons with disabilities.

THE HIV/AIDS CRISIS

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, I rise to tell just part of the Herculean and steadfast efforts, the story of the CBC to control HIV/AIDS and reverse its tragic toll in our communities.

I came here 10 years ago and cut my congressional teeth working with and learning from MAXINE WATERS and Lou Stokes as we created the Minority AIDS Initiative. In 1998, the Clinton administration responded to our call for a state of emergency with an investment of $158 million, which grew to $400 million:

Despite our repeated calls to action under this administration, funding has been stagnant; capacity-building in communities of color, the hardest hit, has been lost; and we have been burdened by political and ideological policies that caused lives to be destroyed or lost. So today African Americans are more than 50 percent of new HIV and AIDS cases, and our death rate is almost three times that of whites.

We are again in crisis. We need a state of emergency for our health. Each and every CBC member has always and will continue to do their part here in our districts and, with BARBARA LEE, across the world. We call on Congress and the President to respond.

AIDS

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, 25 years after the start of the devastating global HIV/AIDS pandemic, this disease is still devastating black America. Among young people, among women, among men, African Americans are most at risk of getting infected with HIV and developing AIDS and dying of this disease. Enough is enough.

Over the last 5 years, this Republican-led Congress has done nothing to recognize this pandemic and the scope of this problem. We need to focus our efforts on the spread of HIV and AIDS in our prison system and provide routine but rigorous HIV testing, linked with treatment, to all incarcerated individuals, and support Congresswoman WATERS' H.R. 6038, the Stop AIDS in Prisons Act.

We need to pass my bill, H.R. 6083, the JUSTICE Act, to allow condoms, yes, condoms, in our prisons and to demand accountability in stopping the spread of HIV and other sexually transmitted infections among incarcerated individuals.

Mr. Speaker, this is a state of emergency. Let us declare it. We must declare it. We must declare resources to confront it. The entire Congress needs to support more funding for the Minority AIDS Initiative, beginning with a minimum of $610 million for the Minority AIDS Initiative. Let us declare this state of emergency.

REPUBLICAN LEADERSHIP IGNORES LABOR-HHS-EDUCATION SPENDING BILL

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Mr. Speaker, the Republicans want to recess the House at the end of this week, but we should not leave town when there is serious business that the Republican leadership has failed to complete.

Why won't the Republican leadership let this House vote on the Labor-HHS-Education appropriations bill? This bill was reported out of committee on June 20. Here we are, 3 months later, still waiting for the Republicans to bring this critical bill to the House floor.

Does the Republican leadership, the Republican majority in this House, believe that funding for our public schools, our students, financial aid, health care systems, senior citizens, workers, and our youngest children simply does not matter, isn't important, that it is somehow okay to let this bill just sit around?

This Republican majority is out of touch and, come November 7, hopefully will be out of power. Mr. Speaker, I am more than happy to stay in town another day or two to finish this bill to help our kids, to help our senior citizens, to help our workers.

And in light of the Republican leadership's failure to move an agenda to help the American people, I ask unanimous consent to bring H.R. 5647 to the House floor for immediate consideration.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers, as recorded on page 734 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

□ 1045

A LITTLE TRUTH GOES A LONG WAY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, are you impressed by these irresponsible and childish and petty partisan antics of the minority today? It is divisive, disgraceful, does a disservice to our body and to our Nation.

Now, I understand that it is that crazy political season, but a little truth will go a long way. Leadership on the other side has voted against the Deficit Reduction Act and responsible spending, has voted against pension reform and welfare reform, has voted against border protection and immigration reform, has voted against higher education reauthorization, has voted against the 9/11 Recommendations Implementation Act.

Mr. Speaker, the American people see through this charade, these political antics, and I call on my colleagues to respect each other, to respect the Congress, and to respect our Nation and to act responsibly and join us in making Americans safer and more prosperous.

THE DO-LESS-THAN-DO-NOTHING CONGRESS

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, we have all heard about the do-nothing Congress of 1948 that met only 101 days. Well, Mr. Speaker, I am sad to report that this Republican-led Congress will go down in history as the do-less-than-nothing Congress.

Today is only the 78th day that we have met for legislative business. And yet the Republican leadership insists on recessing at the end of this week to allow extra time for campaigning. Democrats believe we should not adjourn this body until we address this needs of all Americans, not just major corporations and the wealthy few.

To do that, we must deal with the issue of the skyrocketing college tuition costs that are plaguing so many students and their families. Democrats are fighting to restore the $12 million in student aid recently cut by the Republican Congress, and to finally expand the size of available Pell Grants that those on the other side of the aisle have been blocking for so many years.

Mr. Speaker, since Republicans in this body have no plans to address college affordability, before they head back to campaign, I ask for unanimous consent to bring up a revised Labor, Health and Human Services budget bill that ends the Republican raid on student aid.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

NO CONGRESSIONAL RECESS UNTIL ACTION IS TAKEN ON ENERGY PRICES

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, as the major oil companies know, it pays to have friends in high places. The Bush administration and this Republican-controlled Congress have an all-too-cozy relationship with Big Oil that has helped those companies rake in the largest profits in American history. The American people paid the price.

Throughout the summer, record high costs at the pump hit families hard. Now, as the winter months approach, these same working families know they may soon face soaring home heating bills. Yet House Republicans refuse to repeal the $8 billion in tax breaks to their friends in Big Oil.

Democrats want to repeal these outrageous subsidies and use those funds to provide consumers with real relief and real investment in new fuel technologies and biofuels from America's heartland, including my home State of Missouri, and not the Middle East.

House Republicans seem dead set on standing with Big Oil instead of American consumers. Therefore, Mr. Speaker, I ask unanimous consent to bring up a bill I am proud to cosponsor, H.R. 4479, which repeals the oil companies' subsidies and gives those breaks instead to consumers, small business and funds the Low Income Home Energy Assistance Program.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

Mr. CARNAHAN. Mr. Speaker, may I make a parliamentary inquiry? Is that ruling tantamount to an objection to this?

The SPEAKER pro tempore. It is in the first instance an exercise of discretion in recognition. The gentleman was simply not recognized for the unanimous consent request under the previously announced guidelines for the exercise of discretion in recognition.

As recorded on page 734 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request unless it has been cleared by the bipartisan floor and committee leaderships.

HIV/AIDS IS WREAKING HAVOC ON AFRICAN AMERICAN COMMUNITIES ACROSS OUR NATION

(Ms. MOORE of Wisconsin asked and was given permission to address the House for 1 minute.)

Ms. MOORE of Wisconsin. Mr. Speaker, you have heard earlier today that the HIV/AIDS pandemic has wreaked havoc on the African American community across the Nation.

And that is also true for my own district in Milwaukee, Wisconsin, where since 1983 over 50 percent of the diagnosed AIDS cases were among African Americans. And while these data are appalling and frightening, we must remember that this is entirely preventable.

We must spread the hope of preventing AIDS. So despite this terrible human tragedy, we must never yield to complacency and silence and ignorance, because complacency and silence and ignorance, of course, leads to death.

We must encourage people to get educated, to get tested, to get involved in the fight against AIDS. But quite frankly, Mr. Speaker, it is this Congress's responsibility to fight this national epidemic by providing the resources for people to be involved in setting aside this pandemic. It is not enough to just say no to sex.

This commitment would involve reauthorizing the Ryan White Care Act. It would involve increasing funding for the Minority AIDS Initiative. Mr. Speaker, we must never look the other way and say that nothing can be done. And I urge my colleagues to take action and to fund these critical initiatives.

INCREASE COLLEGE GRANTS SO MORE TEENS CAN ATTEND COLLEGE

(Mr. BOREN asked and was given permission to address the House for 1 minute.)

Mr. BOREN. Mr. Speaker, at a time when America should be encouraging every high school student to attend college, the administration continues to drag its feet when it comes to making college more affordable.

While college costs at a 4-year public college have increased by 57 percent since 2001, the Pell Grant maximum has not been increased for 4 years straight. Investing in education must be a priority in the United States if it is going to maintain its advantage over other countries in an increasing global economy.

Our education policy must reflect that nothing is more important to our long-term economic growth than an educated work force. We should not leave this week without making this commitment to students across the country. We should bring up and pass an improved Labor, HHS appropriations bill that expands the size and the availability of the Pell Grants.

THE CONGRESSIONAL AGENDA REFLECTS ITS VALUES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, we have heard a lot of talk on this House floor about values. I would suggest that how we spend our time reveals our values in many ways. This Republican-controlled Congress was able to take the time to debate the fate of horses. They were able to take the time to provide $290 billion in tax relief for 7,500 of the richest people in the country each year.

They were able to take the time to provide new tax breaks for oil companies. But there was no time, apparently, for providing comprehensive health care reform, and there was certainly no time, apparently, to provide an increase in the minimum wage, which has been frozen for 9 years.

The CEOs from your wealthiest corporations in this country earn more in 4 hours than a minimum wage worker earns in an entire year. And yet the Republican majority found the time to make life easier for the most well-off 1 percent of people in this country, but no time at all to help those who need it most. What kind of values does that represent?

REPEAL TAX BREAKS TO BIG OIL

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, despite the fact that Americans have paid record high prices at the gas pump this summer, the Bush administration and the Republican friends in this body have voted to give tax breaks to big oil companies.

At the same time, they refuse to move forward on policies to achieve energy independence and keep our Nation from relying so heavily on foreign oil. Now American families are facing a long winter of high home heating bills with no end in sight.

Mr. Speaker, Democrats strongly believe that this body should not adjourn until action is taken to address the energy concerns of all Americans. We support a comprehensive policy that will roll back the tax cuts for big oil companies and invest the savings into developing alternative fuels and achieving energy independence.

Keeping fuel prices under control is essential to working Americans who are struggling to make ends meet. Mr. Speaker, in light of the Republican leadership's unwillingness to address the energy concerns of American families, I ask unanimous consent to bring up H.R. 4479, a bill to repeal subsidies for big oil companies and give them to consumers, low-income heating programs, and small businesses.

The SPEAKER pro tempore. Under the settled guidelines previously cited, the gentleman's request cannot be entertained.

NO CONGRESSIONAL RECESS UNTIL ACTION IS TAKEN ON PRESCRIPTION DRUG PRICES

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Mr. Speaker, the Republican leaders of this Congress talk about what they have accomplished during this session. But the fact is, that we have met fewer days than any Congress in history. I am ashamed to say that they have made us the most do nothing Congress ever to serve.

Instead of actually tackling the issues that concern average American families, the Republicans have passed legislation to help their wealthy friends and the huge corporations that support their campaigns.

One example of this is the flawed Medicare prescription drug benefit. This program could have provided significant help to those who need it the most. Instead, it now helps those who need it the least, the drug companies. Democrats believe that the Secretary of Health and Human Services should have the authority to negotiate for lower drug prices under Medicare, just as the VA does.

And so I call on the Republican majority, again, to allow HHS to negotiate drug prices. It will help our seniors and it will help balance the Federal budget.

REAUTHORIZE THE RYAN WHITE ACT

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, I am extremely disappointed that after an entire year, we cannot get the Ryan White reauthorization process right.

We should not be robbing Peter to pay Paul. That means we should not be cutting precious funds from places like New York, New Jersey, California, and many other States that have historically borne the burden of the HIV/AIDS epidemic.

We should have enough money to take care of the people who are most at risk, regardless of where they live. The amendment that I offered in committee that would have added the needed funds was defeated. But I plan to offer it again on the floor, and I hope that the outcome is very, very different.

We need to get the money to places that have substantially high HIV/AIDS populations, particularly African American and Hispanic women and men, and substance abusers. We cannot leave these most at-risk populations without medications and care.

This reauthorization in its present form does just that. And it is wrong, and I am hoping that the Members of this body will realize that we need to do something about this and should not leave people just to die and die because we are not acting properly.

☐ 1100

REAUTHORIZE THE RYAN WHITE ACT

(Ms. NORTON asked and was given permission to address the House for 1 minute.)

Ms. NORTON. Mr. Speaker, the international war chest of AIDS is black Africa, and in our country it is black America. How did half the cases become African-American? Even worse, new cases are overwhelmingly black.

We have seen this disease stereotyped as homosexual and now as black. The one constant is its spread. Yet, unlike many diseases today, AIDS is preventable and can be contained and defeated.

The answers are not complicated, beginning with far more visible and substantive leadership, leadership on testing—I will be tested on the Capitol complex grounds in a D.C. health van this afternoon to set an example to help prevent the epidemic spread of this disease among African Americans—leadership on safe sex and condoms; leadership on overcoming homophobia, which is in league with this disease in the black community; and above all, leadership from the Congress of the United States, which must not go home without reauthorizing the Ryan White Act.

HONORING BRUCE CARLSON

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to honor the life of Santa Ana Police Deputy Chief Bruce Carlson, who passed last Thursday after his long fight with liver cancer.

Bruce loved our community and the people of Santa Ana. Bruce joined the Santa Ana Police Department on January 7, 1973, as a patrolman. Through his dedication to service and understanding the concerns of others, Bruce rose in rank to become Field Operations Bureau Commander, overseeing the largest and the most complex operation at the department.

His legacy in Santa Ana is not confined to his work with the police department. Bruce's closest friends know him to be caring, to be a thoughtful man who would go out of his way to help his community.

Bruce demonstrated true courage and maintained a very positive outlook on life throughout his struggle with cancer. He was a tremendous leader and made many significant contributions that helped to make the Santa Ana Police Department the national leader that it is today, especially on homeland security.

Bruce Carlson is survived by his wife and his two children, and our thoughts and our prayers are with him today and with them.

COLLEGE LOANS

(Mr. PAYNE asked and was given permission to address the House for 1 minute.)

Mr. PAYNE. Mr. Speaker, middle-class Americans are feeling more and more squeezed by the economy that values productivity, but not enough to reward it with an increase in pay. Wages are simply not keeping up with inflation, making it more difficult for families to afford monthly bills.

One of the most daunting bills families face today is the bill for their children's college education. The average cost for a 4-year college at a State university is **$40.000** and the cost for private colleges top **$107.000**.

Democrats want to help families better afford these ever-increasing costs. Republicans, on the other hand, refuse to join us in making college more affordable. Earlier this year, they actually made college more expensive for our Nation's students when they cut $12 billion from the higher education budget, forcing college kids to pay more interest on loans.

Valuable dollars for college assistance are being siphoned off by the war in Iraq, which this administration chose to wage rather than to devote dollars not only to domestic priorities but to finding Osama bin Laden.

Thank you, President Clinton, for telling it like it is and making the administration more accountable for their lack of vision and failed policies.

CHANGE IN LEADERSHIP

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, when this House votes to adjourn, we will be voting to put politics above policies, to put the needs of us as politicians over the needs of the American people, for leadership will insist that we leave without dealing with energy independence; leave while our seniors are falling into the donut hole provided in the poorly planned part D of Medicare; leave before we deal with college affordability; before we deal with tax relief for the middle class, especially the alternative minimum tax, the dreaded AMT; and as I get to in a second, leave before we raise the minimum wage.

We should be working for the American people in October instead of spending the month going home to ask for their forgiveness for not working in October.

Let us look particularly at the minimum wage. We should be dealing with H.R. 2429 which would increase the minimum wage from its incredibly low $5.15 to something approaching a minimum wage.

So, Mr. Speaker, I ask unanimous consent to bring up H.R. 2429.

The SPEAKER pro tempore (Mr. SIMPSON). Under the guidelines consistently issued by successive Speakers, as recorded on page 734 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

PARLIAMENTARY INQUIRIES

Mr. SHERMAN. Mr. Speaker, point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. SHERMAN. What you are citing there is the mere custom of this House and not an official rule of this House; is that correct?

The SPEAKER pro tempore. It is part of the Speaker's guidelines for the exercise of discretion in recognition.

Mr. SHERMAN. And, in fact, for the first 150 years of this House, we had no such guidelines.

The SPEAKER pro tempore. Under the settled guidelines previously cited, the request cannot be entertained.

Mr. SHERMAN. Mr. Speaker, point of parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. SHERMAN. You say that we cannot bring up this needed raise in the minimum wage?

The SPEAKER pro tempore. The Chair is saying that he cannot entertain the instant unanimous-consent request to that end.

Mr. SHERMAN. You cannot even entertain the request because it has not been cleared by the leadership of both parties; is what you are saying?

The SPEAKER pro tempore. At both committee and floor levels, that is correct.

Mr. SHERMAN. Well, it has been cleared by the Democratic Party. So it is really just the Republican Party that says we cannot raise the minimum wage.

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

IMPLEMENT THE 9/11 COMMISSION RECOMMENDATIONS

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, the single most important thing this administration and this Republican Congress can do to keep us safe is immediately implement the 9/11 Commission recommendations, but this President and this Congress have failed to do so.

So what do we get instead? We get a bloody and costly war. We get incompetent leadership. We get Republican leadership in the House, the Senate and the White House that gets 5 Fs and 12 Ds from the 9/11 Commission. We get a Secretary of Defense that says that the next person that brings me a postwar plan, or asks us to do so, is going to get fired, and then no one in the administration gets fired for all the bumbling that goes on with this war. Not only do some of them not get fired, the Assistant Secretary of Defense actually got a promotion to the World Bank.

What else do we get? We get a report from a nonpartisan Intelligence Committee that said this war has made us less safe. We get $8 billion a month getting sent to a black hole. We are borrowing more money from foreign interests than we ever had. This President has borrowed more money from foreign interests than every President before him.

Mr. Speaker, the bottom line is this. This President, this Congress and his policies have made us less safe, not more safe.

REPUBLICAN INDIFFERENCE

(Mr. LARSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARSON of Connecticut. Mr. Speaker, I commend my colleagues for coming to the floor this morning, and certainly those of us listening today and throughout this country can understand that our frustration here is only superseded by the frustration of millions of Americans.

I am proud of the leadership on the Democratic side that is insisting that we take up these matters discussed here on this floor today, tomorrow, or Friday before we adjourn. They are that pressing.

The gentleman from Georgia came down and criticized this as being petty and not having respect. What about respect for the families of 9/11? What about the respect for people who need a minimum wage increase? For the middle class squeeze that is going on with energy and college tuition, what about respect for them?

Roosevelt said it best of our colleagues on the other side of the aisle, "We do not question your patriotism or love of country." What he said, though, rings true, that "you are frozen in the ice of your own indifference," your indifference towards working families, your indifference to the families of the 9/11 Commission report who seek a resolution here.

Please join us in bringing this forward.

CONGRESS SHOULD SHOW THAT IT IS COMMITTED TO SECURING THE AMERICAN PEOPLE TODAY

(Mr. WU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WU. Mr. Speaker, the chairman of the independent, bipartisan 9/11 Commission said the Federal Government is not fulfilling its job of protecting the American people. The 9/11 Commission went on to say that the war in Iraq is a distraction, draining resources from critical American security needs.

Like the 9/11 Commissioners, I am concerned that the war in Iraq is preventing us from dealing with the real threat, a terrorist attack in America. Over the last 3 years, the war in Iraq has cost the American taxpayers more than $320 billion, and yet, as the unanimous National Intelligence Estimate shows, we are less safe today because of the continuing war in Iraq. At the end of this year, the war in Iraq will have gone on longer than World War II.

Despite this distraction from the real struggle against terrorism, as the National Intelligence Estimate said, this Congress should show that it is committed to securing the American people today. We cannot afford to wait until after the November election.

NO RECESS UNTIL ACTION IS TAKEN ON ENERGY PRICES

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, this do-less-than-nothing Congress just returned from another recess, and already the Republicans are preparing to adjourn at the end of this week so they can go home and campaign. This is not what people sent us here to do. They expect us to address issues of importance and to do our best to improve their quality of life.

Yet, Republicans in this body seem content to head back home, having had "dead-horse week" and bills yesterday that will never see the light of day in the Senate; and they are expecting us at home to do this to improve their quality of life.

Democrats are committed to finding solutions, not ones that involve destroying our natural resources for short-term gains or ones that rely on Middle Eastern potentates to ensure our way of life, and certainly not the so-called solutions that provide tax breaks to oil companies and not to consumers.

Instead, we are committed to cracking down on price gouging, repealing the $8 billion in tax breaks to oil companies, and investing in new energy technologies to really end our dependence on foreign oil.

Mr. Speaker, we do not have time to do nothing about the energy crisis. I ask unanimous consent to bring up H.R. 4479 to repeal the oil company subsidies and give a break to consumers and small businesses.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

MEDICARE PRESCRIPTION DRUG BENEFIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, Medicare part D, confusing, complicated, very costly. In fact, the Bush administration lied about the cost. They had estimates that said it would cost $750 billion to $1 trillion, but they suppressed that to get votes from conservatives on their side. They said not a penny more than 400 million, and it is very costly to seniors.

We now have 3 million seniors who have fallen into something called the donut hole. They get to spend $2,600 out of pocket before they get any more Medicare prescription drug benefit, and they have to pay a higher price for the drugs during that time period than they could get at the local drugstore, let alone getting it from Canada or if it was centrally purchased by the government.

We have it in our power to fix it today, save the taxpayer $750 billion, get the seniors out of the donut hole, but they are going to say it is the custom and practice of the House not to consider such things.

The custom and the practice of the House is to fix problems confronting the people of the United States of America. It is cleared on my side of the aisle. If he objects, it is only the Republicans who object.

Mr. Speaker, I ask unanimous consent to take up the bill, H.R. 752.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

Mr. DEFAZIO. The Republicans have objected.

□ 1115

MILITARY COMMISSIONS ACT OF 2006

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the Military Commissions Act, which we are taking up today, will not make us more secure. It will endanger American personnel overseas, undermine the Geneva conventions, and give a get-out-of-jail-free card to people who may have committed war crimes.

If an American is captured in North Korea, Iran, Syria, or Somalia and held and interrogated under the same kangaroo court process this bill will create, every single Member of this House would be outraged at that miscarriage of justice.

The public is tired of a Republican majority that retreats to fear-mongering instead of trying to find constructive solutions to the serious security problems facing Americans. The Republicans refuse to screen for nuclear bomb material coming in in ships, they refuse to screen cargo going onto American passenger planes, and they refuse to require that chemical plants in our country have mandatory security built around them.

By passing this bill today, we are lowering our standards and we are encouraging other countries to lower their standards as well. And it will be the American troops captured on a future battlefield who will pay the price.

DO-LESS-THAN-NOTHING CONGRESS

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, working families are feeling the financial squeeze now more than ever. At a time when gas prices, tuition bills, and housing costs are skyrocketing, real wages for full-time workers are declining.

Low-income families are suffering even more, with the lowest inflation adjustment minimum wage in 50 years. The Bush economy has made it difficult for the income of all working Americans to keep up with the rising costs. Democrats have a plan to reserve these misguided tax cuts and redirect them to the middle class and working people who need them most.

Mr. Speaker, since the Republicans in this body have refused to raise the minimum wage for the past 9 years, and since they seem intent on adjourning this body before taking up a straight up-or-down vote on raising it, I now ask unanimous consent to bring up H.R. 2429, Congressman GEORGE MILLER's Fair Minimum Wage Act.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

Ms. CORRINE BROWN of Florida. Cannot be entertained under the Republican leadership.

REPUBLICANS HAVE GOOD RECORD IN PASSING COMMONSENSE ENERGY SOLUTIONS

(Mr. WESTMORELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WESTMORELAND. Mr. Speaker, over the last year, House Republicans have focused on common sense energy solutions to help lower gas prices, create jobs for American workers, and reduce America's reliance on foreign energy sources. And what have the Democrats done? Democrats voted against the Deep Ocean Energy Resources Act, which would create thousands of family wage American jobs and allow more of our energy resources to be produced in the deep seas while empowering States to protect their coastlines.

Democrats voted against the Refinery Permit Process Schedule Act, which would encourage new refinery capacity in order to increase gasoline supplies and drive down high prices.

Democrats voted against the American-Made Energy and Good Jobs Act, authorizing environmentally safe energy production in ANWR, creating 1 million family wage jobs and increasing the supply of American-made energy to lower gasoline prices.

Mr. Speaker, I keep hearing from the other side of the aisle this refrain of the "do-nothing Congress." I would say it is more the "do-nothing Democrats." Republicans have a strong record in passing commonsense energy solutions, something Democrats can't claim.

It is time for the other side to quit whining and start working.

CONGRESS SHOULD MAKE COLLEGE MORE AFFORDABLE TODAY BY PASSING LABOR-HHS BILL

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, for 6 years now, Washington Republicans have done absolutely nothing to help college students better afford college. President Bush promised to increase Pell Grants during his first presidential election in 2000, but has refused to live up to that promise. The maximum Pell Grant has been frozen for 4 straight years, and now only covers 32 percent of tuition costs.

Inaction was not the problem earlier this year when the Republican Congress raided student aid programs. Our Republican colleagues raided $12 billion from college education programs, forcing the Education Department to raise interest rates on college loans to over 8 percent.

Democrats reject these Republican actions. At a time when college students are confronting skyrocketing tuition costs, we think this Congress should be coming up with creative solutions to help college students better afford their education.

Today, we should pass an improved Labor-HHS appropriation bill that restores the massive cuts in college tuition assistance imposed on this Congress and expand the size and availability of Pell Grants.

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1042 and ask for its immediate consideration

The Clerk read the resolution, as follows:

H. RES. 1042

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on armed services and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and 92) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 days within which to revise and extend their remarks and insert tabular and extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, on Tuesday, the Rules Committee met and reported a closed rule for consideration of H.R. 6166, the Military Commissions Act of 2006. The rule provides 2 hours of debate, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill.

Additionally, it provides that the amendment printed in the Rules Committee report accompanying the resolution shall be considered as adopted, and it provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today in support of the resolution and the underlying bicameral compromise legislation. This critical legislation ensures that we align the procedural protections for captured terrorists with our Constitution. In doing so, we are extending unprecedented legal and procedural protections to enemies who provide no protections to their captives and victims, and who have neither signed nor operate by the Geneva Convention.

To further ensure American Security and to ensure that terrorist detainees are not released to once again wreak havoc, it is necessary to move this legislation and develop a clear set of standards for military commissions.

Mr. Speaker, make no mistake, time is of the essence in moving forward with this legislation. These commissions will provide an important tool for our servicemen and women in obtaining operationally sensitive information from terrorists captured on the battlefield. However, the reform of the tribunal system to ensure certain procedural rights for these terrorists will also provide an impetus and an opportunity for those currently in our detainee system to cooperate more fully.

Mr. Speaker, as I know you are aware, the underlying legislation was developed after intense negotiations between both the legislative and executive branches of government. Furthermore, its development has been supported by senior Members of both parties and has largely received bipartisan support in both the House and the Senate. Indeed, I predict once the legislation is actually presented, it will be passed by a strong bipartisan majority in this House.

Indeed, when an earlier, stronger and more restrictive version of this same bill moved through the House Armed Services Committee, it passed by a vote of 52-8, with one member voting present. This strong bipartisan majority on the primary committee of expertise and jurisdiction should be taken as a sign of its importance and the support for moving forward with the prosecution of those terrorists who, if set free, would resume killing American civilians and our servicemen and women as a matter of course and a tactic of terror.

Mr. Speaker, today we may well hear several concerns about the way in which the bill was brought forward to the floor. As we all know, when you can't win a debate on the merits of a piece of legislation, process attacks are the best way of slowing down and obstructing progress of that legislation. But the fact remains that within the last 2 weeks, both the House Armed Services Committee and the House Judiciary Committee passed legislation even stronger than the legislation we are voting on today. Since then, bicameral negotiations have resulted in even more modifications to the underlying legislation ensuring even more rights for the terrorists accused of war crimes. But, Mr. Speaker, time is of the essence. We must move this legislation to the President's desk. It does much to enhance America's security and to create an equitable system for prosecuting terrorists captured on the battlefield.

Lastly, Mr. Speaker, before I close, I would like to speak to what protections the underlying legislation provides to those who would like to kill Americans. It provides: The right to counsel, provided by the government at trial throughout the appellate process; an impartial military judge; a presumption of innocence; a standard of proof beyond a reasonable doubt; the right to be informed of the charges against the accused as soon as practicable; the right to service of charges sufficiently in advance of trial to prepare a defense; the right to reasonable continuances; the right to peremptory challenge against members of the commission and challenges for cause against members of the commission and the military judge; witnesses must testify under oath; judges, counsel, and members of the military commission must take an oath; a right to enter a plea of not guilty; the right to obtain witnesses and other evidence; the right to exculpatory evidence as soon as practicable; the right to be present in court with the exceptions of certain classified evidence involving national security, preservation of safety or preventing disruption of proceedings; the right to a public trial except for national security issues or physical safety issues; the right to have any findings or sentences announced as soon as determined; the right against compulsory self-incrimination; the right against double jeopardy; the defense of a lack of mental responsibility; prohibitions against unlawful command influence toward members of the commission, counsel, or military judges; it requires a two-thirds vote of members for conviction, three-fourths vote required for sentences of life or over 10 years, and unanimous verdict required for the death penalty; it requires a verbatim authenticated record of the trial; cruel or unusual punishments are prohibited; treatment and discipline during the confinement the same as afforded to prisoners in U.S. domestic courts; the right to review the full factual record by the convening authority; and the right to at least two appeals, including a Federal article 3 appellate appeal.

Mr. Speaker, with that said, all these protections that we are willing to provide terrorists are the very same protections that they ignore when beating, mutilating, and killing our civilians and servicemen. These terrorists have no respect for the rule of law. They are not signatories to the Geneva Convention. They do not fight in uniforms, and they kill innocent civilians of all faiths and all nationalities routinely, yet we are willing to grant to them substantive legal protections that I honestly believe go beyond the actual requirements of the Geneva Convention.

With that said, I would urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding, and I yield myself such time as I may consume.

Mr. Speaker, the critically important legislation before us today is being presented as a bipartisan compromise, but nothing could be further from the truth. It was authored by the administration and by the Republican leaders of this Congress.

As Chairman HUNTER testified in the Rules Committee yesterday, no Democrats were involved in any way in the negotiations that were conducted over the weekend to produce this bill, nor did the Rules Committee make in order any of the 15 amendments that Democrats offered to address the sections of the bill that most offend our democratic values and violate our most fundamental traditions.

The closed rule governing this bill means this Republican Congress is turning its back on a real debate here today. It is a reality made all the more egregious by the historic importance of this moment. We are at a crossroads today, and I fear we will not be judged kindly by future Americans for what my Republican friends want to do to us today.

□ 1130

The bill sends a clear message to both our friends and our enemies about what kind of people we are. It shows them whether or not we are really willing to practice what we preach about freedom and democracy and human dignity.

It is moments like this one when we reveal our true colors and even our true values. Sadly, Mr. Speaker, those watching today will conclude that when the going gets tough, America's leaders are willing to abandon our values, abandon them in favor of thuggish tactics that they hope might make them safer for a little while.

In his second inaugural address, our President used noble words to describe America's role in the world and its duty as a beacon of hope for all nations. He said, "From the day of our founding, we have proclaimed that every man and woman on this Earth has rights, and dignity, and matchless values."

That might be disputed by the generations of persons held in slavery and by the women of America who had no say in anything or standing anywhere, but, nonetheless, it sounds good. They are inspirational words.

But here is the reality: For years, this administration has circumvented our Constitution in the name of security. Its officials have dismissed even the most important of our legal documents, such as the Geneva Convention, as being nothing more than "quaint." It was described that way by the present Attorney General, the chief law officer, I might add.

This administration and Republican Congress have allowed detainees to sit in prison for years without charging them with any crime. They are willing to deprive people of even the most basic due process rights that our country has always afforded those held by the government. They are willing to convict people of crimes without giving them any opportunity to review the evidence the government is using against them. They are willing to try to convict people based on unreliable evidence acquired through cruel, inhumane and degrading treatment that the rest of the world recognizes as torture.

They are willing to allow government officials to degrade and torment other human beings in ways that civilized nations outlawed 60 years ago. They are even willing to take any new legislation that we pass today and make it retroactive to protect people who have already committed torture, so that past abuses will be forgotten instead of being sincerely addressed.

What this Congress is showing the world today is that they are willing to trade our national birthright for a false and temporary sense of security.

Let me emphasize that, because it is indeed a false sense of security, Mr. Speaker. After 5 years of secret detentions, torture, warrantless surveillance, hyped up stories about weapons of mass destruction, are we any safer today from the threat of terrorism? The answer is no, we are not. In fact, as we learned earlier this week, our country's intelligence agencies informed the President a few months ago that we are actually less safe than we were in 2001.

Mistreating our prisoners and depriving them of the basic due process rights of our legal system is not making us any safer. All it is doing is slowly wearing away at the fabric of our democratic society, undermining the essential nature that made us different from other countries. When we degrade and mistreat our prisoners, we degrade ourselves and the democratic values we have inherited from generations of brave and decent Americans.

We are ceding the moral high ground those who founded this country, and the men and women who served it ever since, won with their blood, sweat and tears.

What is more, legislation like this puts our soldiers at risk. During the course of the national debate on this issue, a number of prominent admirals, generals and other military leaders have spoken out against this bill. They have told us time and time again that ignoring our American values puts our U.S. military personnel deployed overseas in danger. That falls on deaf ears here. They have said that respect for the rules of military engagement and prisoner treatment are more than just important parts of our American heritage. They also protect Americans who are captured and imprisoned by foreign powers.

Mr. Speaker, how is endangering our troops making us any safer? How is undermining our moral standard helping us win allies in the war of ideas that we face?

The answer is simple. It is not. At this very moment, there are hundreds, if not thousands of people held in facilities whose fate will depend on this legislation. I want to take a moment to talk about one of them.

Bilal Hussein is an Iraqi who worked as a photographer for the Associated Press. He is also a Pulitzer Prize winner. He has been held in Iraq by American forces for 5 months. He was accused of aiding and abetting the insurgency, but he has yet to be charged with any crime. He has been given no access to a lawyer or to a court and has not been able to see any evidence against him. The Associated Press has stood by him and repeatedly defended his innocence. We want to make sure he is alive. We will be writing the Secretary of Defense today to give us some information on his case.

But under this bill, Mr. Speaker, Bilal Hussein could be declared to be an enemy combatant, sent to an American detention facility and kept there indefinitely. No charges would ever have to be brought against him. His permanent detention would never have to be defended in a court of law.

Imagine if another nation held an American citizen without charging him of a crime. Imagine if it refused to even let him see the evidence against him. What would we say about such a country?

So, I ask my friends on the other side of the aisle, what are we supposed to say about our country today? Again, in his inaugural address of 2 years ago, the President had this say about the soul of America: "When the Declaration of Independence was first read in public and the Liberty Bell was sounded in celebration, a witness said it rang as if it meant something. In our time, it means something still."

This bill gives the lie to that speech and it gives the lie to what should be our Nation's greatest asset, our greatest weapon in the fight against terrorism and oppression, and that is our values.

I ask everyone in the House to reject this bill. I ask everyone here to chart a new course for America. If we reject torture, if we stand up for a legal system and fundamental rights that are the basis for liberty and the only real source of security that we have, then we will have come a long way in our battle against the threats our Nation faces in the world today.

My friends and colleagues, please don't turn your back on the past. It is in its lessons and principles that we will find the key to a safer and more just future.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I just quickly want to note, I am very proud of my country. I am proud that we extend protections to our adversaries that they do not extend to us. I am proud that in the few cases where there are transgressions, those are vigorously prosecuted and exposed by this country. So I have great pride in the United States of America.

Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Rules Committee.

Mr. DREIER. Mr. Speaker, I want to begin by thanking my friend from Oklahoma and associating myself with his remarks.

This is a very, very important debate that we are having. I believe that yesterday's news conference that President Bush and the very brave and courageous President of Afghanistan, Hamid Karzai, held yesterday at the White House, underscores how important that debate that we are going to be facing today is.

We were reminded in the remarks that President Karzai offered in response to a question posed to him about how we are handling this issue with the following statement. I am going to read this from the transcript of the news conference, Mr. Speaker.

President Karzai said: "These extremist forces were killing people in Afghanistan and around for years, closing schools, burning mosques, killing children, uprooting vineyards, with vine trees, grapes hanging on them, forcing populations to poverty and misery."

Mr. Speaker, he went on to say, "They came to America on September 11th, but they were attacking you before September 11th in other parts of the world. We are a witness in Afghanistan to what they are and how they can hurt. You are a witness in New York. Do you forget people jumping off the 80th floor or the 70th floor when the planes hit them? Can you imagine what it will be for a man or a woman to jump off that high? Who did that? And where are they now? And how do we fight them? How do we get rid of them, other than going after them? Should we wait for them to come and kill us again? That is why we need more action around the world, in Afghanistan and elsewhere, to get them defeated, extremism, their allies, terrorists and the like."

Mr. Speaker, those were the words of President Hamid Karzai standing in the White House yesterday. He said we have absolute responsibility to make sure that we go after them and we must bring them to justice.

Now we are faced with a challenging situation here. We have a court decision with which we have to contend. When the Hamdan decision was handed down, I ask my friends on the other side of the aisle, did they offer their plan for interrogation or tribunals? Absolutely not. Nothing was offered whatsoever.

When we as Republicans were in the midst of an open and honest debate over the past several days, a bicameral debate, as we were reminded by Mr. COLE, about detainee treatment, did the Democrats offer their own plan? Did they come forward with a plan for interrogation and tribunals? No, they didn't.

When we met just last night at the Rules Committee, did the Democrats offer their own plan for interrogation and tribunals? Absolutely not.

And now, when faced with a critical vote for the safety of the American people, the Democrats are picking at procedure. They talk about closed rules, sunset provisions. They ask what is the urgency? Anything to distract from the fact that there is nothing behind their curtain.

Mr. Speaker, over the last hour, we have listened to our Democratic colleagues stand here and talk about the fact that we need to do everything that we possibly can to have an up-or-down vote on a wide range of issues. An up-or-down vote. Well, that is exactly what we are going to do right here.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend from Missouri.

Mr. SKELTON. I hasten to correct you. The Democrats did have a proposal in the Armed Services Committee, as you well know. Please give us credit for offering that.

Mr. DREIER. Reclaiming my time, I am going to get to that. I am going to get to that right now. Let me just first say that the urgency of this measure really needs no explanation. We have the alleged mastermind of 9/11 in our custody waiting to be brought to justice, and Members on the other side of the aisle ask, what is the rush? We have intelligence operatives hesitant to interrogate high value targets because their parameters are unclear, and Members on the other side of the aisle ask, what is the rush?

We need every single tool. As President Karzai underscored in his statement, we need every single tool to stay ahead of the people who want to kill us, and our friends on the other side of the aisle say, what is the rush?

Let me point out that during the Judiciary Committee markup, the Democrats offered no substitute at all. In response to my friend from Missouri (Mr. SKELTON), it is true that my friends, including Mr. SKELTON, in the Armed Services Committee, offered a substitute. What was that substitute? It was the McCain language. That was the Democratic alternative that was offered, the package submitted by our colleague, Senator MCCAIN.

The problem is that the bill before us represents an agreement between us, the administration and the very same Senators who propounded what was offered as the Democratic substitute in the Armed Services Committee.

We have heard a lot about Mr. SKELTON's amendment. As I understand it, this amendment would be somewhat redundant. The bill calls for expedited judicial review of H.R. 6166. We are here working on this legislation because the courts told us to do exactly what we are doing. The judicial branch directed Congress to establish procedures for military commissions. We have done that with this bill. Now the minority party wants to hand this issue back to the courts.

The bill before us, Mr. Speaker, represents a very delicate compromise that allows us to continue to vigorously prosecute the war on terror while at the same time upholding our international and moral obligations to humane treatment of prisoners.

I also want to make very clear that under this rule, the minority will still have an opportunity to offer a substitute or any other germane amendment by way of the motion to recommit. They will have an hour of debate time during the 2 hours that we have granted in this rule to offer an explanation of what their approach is.

But, Mr. Speaker, I believe that at the end of the day, we will see a strong bipartisan vote. Democrats have already spoken in support of this compromise that we are bringing forward today, and I believe that when it comes to the rollcall, we will have Republicans and Democrats voting to help us address the very, very pressing issue as was put forth so eloquently by Afghanistan's President Hamid Karzai.

□ 1145

Ms. SLAUGHTER. Mr. Speaker, I want to remind the Chair of the Rules

Committee that Democrats brought 15 amendments up last night, including amendments by the ranking members of Armed Services and Intelligence, that were not allowed.

Mr. DREIER. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. And let me just say that, again, as I mentioned, this is a very delicate compromise that we have been able to fashion and put together here, which enjoys bipartisan support. And while there were a wide range of amendments that were submitted, there was no firm alternative provided to our package that was a solution.

Ms. SLAUGHTER. I reclaim my time.

You negotiated with yourselves. We were completely shut out.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. The able Chair, who is so articulate and capable, also is the master of immediate revisionist history. As he cites the whole set of events that have brought us here, he ignores the fact that over the weekend all of the negotiations were with the administration and with the Republican majority.

Go to the record from yesterday's Rules hearing, and you will find that DUNCAN HUNTER, the Chair of the Armed Services Committee, said no Democrat was involved in those negotiations.

So how disingenuous can you be?

Mr. DREIER. Will the gentleman yield? That is exactly what I said in my remarks.

Mr. HASTINGS of Florida. How disingenuous can you be by suggesting, among other things, that we have offered no plan when we can't even get to the table to offer a plan? We were shut out.

And you, Mr. Chairman, have been the master of closed rules. No lesser person than you when I came to this body argued vehemently against closed rules.

We are about the business here of undertaking serious business without the will of the House being hampered.

Mr. DREIER. Will the gentleman yield?

Mr. HASTINGS of Florida. Mr. Chairman, I don't have sufficient time. If your body will give us time, then I will be happy to yield to you.

Mr. COLE of Oklahoma. I yield 30 seconds to the gentleman.

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. And let me just say that I believe that if you look at the remarks that I made, I talked about those negotiators. I never said that there were Democrats involved in those actual negotiations.

What I was saying is that we have a delicate compromise that was fashioned here that enjoys the support of many Democrats who have come forward and spoken in support of what it is that we are trying to do to make sure that we can successfully win this war on terror.

And I believe that we made it very clear in the record here, and I think that there was no substantive alternative that did come forward from the Members of the minority at all.

Mr. HASTINGS of Florida. No one really disputes whether or not this legislation is needed. In fact, all of us are acutely aware that it is imperative that we establish the legal parameters needed to properly apprehend and prosecute villains who act against this country. Those whom we deem a threat to our country should be given at least an opportunity to be put on trial properly, and if found guilty of their crimes, should be promptly put in prison or executed.

But our responsibility, that we are not discharging fairly, is to make law that is constitutional and consistent with our international obligations.

Mr. Speaker, I am not going to support today's legislation in its current form. We cannot overturn hundreds of years of judicial precedent specifically referring to habeas corpus for the sake of political expediency.

Our judicial system has guaranteed the right to be heard in court, the right to know the evidence presented against you—when Mr. COLE was giving his litany of the rights that are being offered these terrible people, he left out that particular aspect—and an opportunity to contest your charge in a meaningful way. The government should not deny the minimum legal process to certain individuals now and risk the loss of freedom for all people in the future.

Additionally, as the Supreme Court has ruled—and I predicted before, you are going to get a chance to rule on the constitutionality of this measure, and it should have been expedited pursuant to the plan offered by Mr. SKELTON that was ignored in the Rules Committee—the United States is required under the Supreme Court to uphold the standards codified in the Geneva Convention.

The current treatment of prisoners in Guantanamo Bay is questionable. Someone argued just a moment ago, what was the rush? We have this person who committed 9/11. And that is true. But everybody in the Intelligence Community has said all 14 of the prisoners that were transferred to Guantanamo, their intelligence has been exhausted and their value for intelligence has been exhausted.

We also run the risk of approving prior transgressions. I shan't spend much time on that.

This war on terror has reached global proportions and the world is watching our conduct closely. In the words of the distinguished late Senator William Fulbright, "If America has a service to perform in the world, and I believe she has, it is in large part the service of her own example."

I close, Mr. Speaker: Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety. Ask Ben Franklin. That is what he said.

Mr. COLE of Oklahoma. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, we are a nation at war. We are at war with terrorists who hide in the shadows and prey on the innocent because they want to strike fear in the hearts of Americans, because they hate our freedom. And there should be no doubt that terrorists who perpetrate these acts are the enemy, and we need to treat them like the enemy, and that is why we are here today.

This legislation will give this administration and future administrations the authority to try these terrorists. It also expands the definition of terrorists to those who would provide arms or financing to those who would seek to murder our citizens. It would allow confessions secured through tough interrogations to be used in court, confessions that have stopped many terrorist plots, plots to kill Americans.

And it is astonishing to hear some in this House speaking out against these provisions.

Mr. Speaker, if you contract for murder, you are a murderer, you are guilty of murder. And we need to give our professional interrogators clear direction and clear law, because right now, if you can believe it, they are actually faced with the prospect of buying liability insurance so they don't get sued as war criminals in a Federal court. This is ridiculous.

One of the reasons that we are the strongest fighting force the world has ever seen is that we are an all-volunteer military. And I would ask you, are you going to volunteer to serve in a military that may inadvertently make you a lawbreaker just because you are doing your job of protecting America? Are we going to be asking our marines, who are breaking down doors in Fallujah, whether or not they should be reading Miranda rights to insurgents?

I believe the American people are demanding that we stand strong against the terrorists and are demanding that we keep the information we need to keep our Nation safe.

Mr. Speaker, the first and foremost responsibility of the Federal Government is to provide for the national defense, that is in the preamble of our Constitution. And national defense should always be above politics. Yet, the Democratic minority leader of this

House has said that national security should not be an issue in the upcoming election. Think about that.

She has said that, that national security should not be an issue in the upcoming elections. And I would think that our brave men and women in the military would beg to differ with that.

It is my hope that we can stand together in a bipartisan fashion to do what is right for America. I urge my colleagues to support this rule and the underlying legislation.

Ms. SLAUGHTER. I yield 4 minutes to the gentlewoman from California (Ms. MATSUI).

Ms. MATSUI. I thank the gentlewoman from New York for yielding me time.

Mr. Speaker, I rise in opposition to this closed rule and the underlying bill. This is a debate about whether we are willing to preserve the fundamental protections our Nation has fought for centuries to maintain.

As written, the underlying bill rejects these essential protections in favor of vague assurances and provisions open to interpretation. The potential erosion of our legal safeguards is a serious matter. That is why several members of our armed services raised these concerns when they testified to Congress several weeks ago.

Mr. Speaker, certain rights are considered so fundamental to our Nation and to our Constitution that they cannot be sacrificed. The right of every American to have his or her day in court is one such right.

But a number of law experts, including Martin Lederman, who worked at the Department of Justice for both President Clinton and President Bush, believe that this legislation would put that right in jeopardy. As written, this legislation could be used by the President as evidence of congressional agreement of a number of his legal assertions. That includes his assertion that holding an American citizen indefinitely without access to a lawyer is legal.

From my family's personal experience, I know something about what can happen to the rights of Americans when the executive branch overreaches in a time of war.

Restricting the legal rights of our citizens is something which, if done at all, must be done carefully and with a proper balancing of concerns. I know that Members of both Chambers tried to meet that standard with the administration on this legislation, but this proposal fails to achieve that balance. For that reason alone, we should reject this bill.

I am also concerned because the history of this legislation fits a pattern we have seen before, one in which officials assert expanded powers while ignoring their career professionals in the process.

A few weeks ago, Congress heard from a long line of generals and judge advocates general. Their collective testimony outlined a swift, tough approach to these tribunals that protected our troops, and it did so while preserving our moral authority in the world. This bill disregards their testimony and their expertise.

They argued forcefully for detainees to see the evidence presented against them, with some adjustment for classified evidence. They stated that evidence obtained through torture should not be permitted, not only because it is morally offensive but also because it is inherently untrustworthy. They clearly reiterated their position that judicial review must be preserved.

And, above all, they argued strenuously that any legislation must affirm the United States' commitment to the Geneva Conventions. They believe this because they know, better than anyone, that these safeguards protect our troops fighting on battlefields around the globe.

Unfortunately, Congress did not listen to these experts in military law. Instead, the bill made in order under this closed rule would permit evidence obtained through torture in some cases.

The legislation does include a list of certain grave breaches of the law. Beyond those, however, it gives the President the authority to determine what is and what isn't torture as long as he publishes it in the Federal Register first.

These provisions undermine our Nation's moral authority, and, once given away, it will be that much harder to earn back.

In closing, Mr. Speaker, the underlying bill is vague when it should be specific; it is casual with regards to important legal protections when it should be vigilant; and it is a fundamentally flawed approach to prosecuting terrorists.

I urge all Members to reject this rule and to vote against the underlying bill.

Mr. COLE of Oklahoma. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California, my good friend, Mr. LUNGREN.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of the rule. Listening to the debate, it is very interesting. The gentlewoman from New York's description of our treatment of captured alleged terrorists was astonishing. As a matter of fact, after listening to her litany of complaints, President Chavez's comments at the United Nations appear mild.

We have not violated the rights of individuals. This bill creates a fair and orderly process to detain and prosecute al Qaeda members and others captured during the war on terror. We extend more rights to these individuals than our POWs would ever expect under the Geneva Accords.

And the suggestion raised by another Member on the other side, that somehow we are violating hundreds of years of precedent, is absolutely wrong. We are not talking about the great writ that is found in the Constitution, the great writ of habeas corpus. We are talking about a statutory writ, which the Supreme Court has said time and time again Congress has the right to create, Congress has the right to constrict, Congress has the right to eliminate.

We do not just leave these people devoid of an opportunity for appeal. Rather, we set up a mechanism where an appeal can go to a single court, the District Court of Appeals for the District of Columbia, so that we can avoid the violations of justice that take place by the abuse of habeas corpus by some already involved.

Besides, we already made this decision in this Congress a year ago. What this does is say to the Supreme Court, we meant what we said when we passed the law a year ago which said this should apply to people already in Guantanamo.

That was our intent. Unfortunately, the Supreme Court believed it not to be found in the language. This makes it clear that what we said a year ago we say again, only we say to the Supreme Court, "This time we really mean it. Please follow it."

It is not a violation of any rights. It extends more rights to these people than they are allowed under any other regime of law in the world, and any nonsense spoken on this floor to suggest otherwise ought to be rejected in whole and in part. We ought to support this rule and support this bill.

□ 1200

Ms. SLAUGHTER. Mr. Speaker, I think it is a proven fact that people have been imprisoned for several years without any due process.

I am pleased to yield 3 minutes to the gentleman from Missouri (Mr. SKELTON) who did not have an opportunity to have his amendment made in order.

Mr. SKELTON. Mr. Speaker, if you want to be tough on terrorists, pass a statute that will meet the scrutiny of the Supreme Court of our country. If you want to be tough on terrorists, let's not pass something that rushes to judgment and has legal loopholes that will reverse a conviction. Once a conviction occurs, you want it to stick.

Mr. Speaker, I had the privilege of practicing law a good number of years as a small town country lawyer, and part of that I was prosecuting attorney for Lafayette County, and I know what it is to obtain a hard-fought conviction of a criminal. And the specter that hangs over every prosecuting attorney on every case that is tried is a specter of that case being reversed on appeal.

There are two manners by which a case may be reversed. One is, of course, something went wrong in the evidence or the instructions, something occurred during the trial, maybe even a comment by one of the counsel. The other is a constitutional question regarding the statute on which the defendant was convicted. That's what we deal with here.

I am concerned that portions of the statute that you are attempting to pass will give an appellate court the opportunity to reverse the case and send it back. That bothers me.

I had an amendment that would give an expedited procedure. It was not allowed. Mrs. TAUSCHER of California had an amendment regarding common article 3 of the Geneva Convention. Ms. HARMAN had one regarding interrogation techniques. Ms. SANCHEZ had one regarding appeals process. And Mr. MEEHAN had one regarding habeas corpus, and they were all turned down.

I have in my possession a letter from the chief counsel to the commissions, Colonel Dwight H. Sullivan. And in this letter he points out just what I am talking about. We should have an expedited procedure, which my amendment would have given. so if there are flaws, and I think there are flaws in this statute, and he does, too, as I will point out, you should have it corrected and give this Congress an opportunity to correct it as quickly as possible.

DEPARTMENT OF DEFENSE,
OFFICE OF THE CHIEF DEFENSE COUNSEL,
Washington, DC, September 26, 2006.
Re Military Commission Act of 2006

Hon. DUNCAN HUNTER,
Hon. IKE SKELTON,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN HUNTER AND RANKING MEMBER SKELTON: I am writing to express my views on the desirability of requiring that the Federal courts provide expedited review of any new military commission system. I am the Chief Defense Counsel for the Office of Military Commissions and I am writing in that capacity. I do not purport to speak for the Administration, the Department of Defense, or any other entity.

In December 2005, Congress adopted legislation to preclude habeas corpus relief for Guantanamo detainees. Of course, in Hamdan v. Rumsfeld, the Supreme Court interpreted that legislation as applying only to future habeas petitions and not to habeas cases that had already been filed. If the Supreme Court had ruled the other way—an outcome that the current version of the Military Commission Act of 2006 would achieve—the results would have been disastrous.

In Hamdan, the Supreme Court declared that the old military commission system was "illegal." Having been intimately familiar with the actual practice in the old military commission system, I agree with the Supreme Court that the old system would not have produced trials that were fair or that appeared to be fair. If the Detainee Treatment Act of 2005 had been interpreted as applying retroactively, then I would be in Guantanamo Bay today for a military commission trial. The decision by the Supreme Court declaring the system illegal wouldn't have come for years. The result then would be to wipe out many convictions obtained at a cost of tens of millions of dollars. Thank goodness the Supreme Court reviewed the military commission system when it did.

Many aspects of the Military Commission Act of 2006 will be the subject of constitutional challenge. And whatever bill Congress passes will be the subject of judicial scrutiny. As Justice Kennedy noted in his crucial Hamdan concurrence, "Because Congress has prescribed these limits, Congress can change them, *requiring a new analysis consistent with the Constitution* and other governing laws." *Hamdan* v. *Rumsfeld*, 126 S. Ct. 2749, 2808 (2006) (Kennedy, J., concurring) (emphasis added).

Consider, for example, the bill's approach to hearsay evidence conflicts with the most basic Anglo-American concept of the right to confront one's accuser. The bill appears to set up a system in which an individual can be convicted—and possibly sentenced to death—on the basis of mere written statements. It would allow an individual to be sentenced to death without ever having the opportunity to look his accuser in the eye and subject him to cross-examination. As Justice Scalia has written for the Supreme Court, our Founding Fathers adopted the Confrontation Clause in response to arguments that "[n]othing can be more essential than the cross examining [of] witnesses, and generally before the triers of the facts in question. . . . [W]ritten evidence . . . [is] almost useless; it must be frequently taken ex parte, and but very seldom leads to the proper discovery of truth." *Crawford* v. *Washington*, 541 U.S. 36, 49 (2004) (quoting Richard Henry Lee, Letter IV by the Federal Farmer (Oct. 15, 1787), reprinted in 1 Bernard Schwartz, The Bill of Rights: A Documentary History 469, 473 (1971)). The military commission system established under this legislation is vulnerable to constitutional challenge along these lines, and many others. It is in everyone's interest to know sooner, rather than later, whether the new system is unconstitutional. If not, it is in everyone's interest to fix the legislation sooner rather than later.

Instead of seeking to delay judicial assessment of the military commission system, Congress should expedite it. The Military Commissions Act should provide for a three-judge district court to immediately hear a challenge to the constitutionality of the new system. In the Bipartisan Campaign Reform Act of 2002, Pub. L. 107–155, 116 Stat. 81, Congress anticipated a constitutional challenge and set up a system to quickly resolve such a challenge. That approach succeeded spectacularly. See *McConnell* v. *FEC*, 540 U.S. 93 (2003). If the new military commission system is constitutionally permissible, allow it to proceed with the judiciary's imprimatur. If, as I believe, it is constitutionally deficient, then allow the judiciary to quickly identify its faults so that they can be corrected.

But regardless of whether you agree with such an expedited approach, attempting to prevent the courts from analyzing the new military commission system for years is the worst approach of all. I urge you to reject the portions of the Military Commission Act of 2006 that would deprive the federal courts of any ability to review the military commission system until after it has produced a final conviction.

I would be happy to provide any additional information. The best way to contact me is by e-mail at sullivad@dodgc.osd.mil.

Very Respectfully,
DWIGHT H. SULLIVAN,
Colonel, USMCR.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), chairman of the Armed Services Committee.

Mr. HUNTER. I thank the gentleman for yielding.

My colleagues, let's get this straight, the Supreme Court did not say that Congress did not have the right to prescribe this new structure under which we are going to prosecute terrorists. They said we had the obligation. They said that the President couldn't do this himself, that it had to be participated in by Congress and we should put together these rules and regulations.

We have put together a structure that will allow us to prosecute terrorists efficiently and effectively, and at the same time, understand the exigencies of the battlefield.

If you use the UCMJ, which I know a lot of folks on the other side want to do, under the testimony of our experts, and that means JAG officers who have tried hundreds of cases, you would have to give Miranda warnings to an insurgent who shot at you outside of Kabul, Afghanistan, at the moment you captured him and threw him over the hood of your Humvee. You can't do that. You can't follow the UCMJ in that respect.

We have given a boatload of rights. We have given the right to counsel, the right to an impartial judge, presumption of innocence, standard of proof beyond a reasonable doubt, right to be informed of the charges as soon as practicable, right to service of charges sufficiently in advance of trial, right to reasonable continuances. This list goes on and on. So Khalid Sheikh Mohammed, who was alleged to have designed the attack on 9/11 that killed thousands of Americans, will have a greater body of rights, as Mr. LUNGREN has said, in his trial than anybody under a similar tribunal system has ever had.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, let me be very clear: I believe that there is a special place in hell reserved for the planners and perpetrators of 9/11. But 5 years after 9/11, we have yet to hold and try one single terrorist accountable. And sadly, today we have before us a bill that, if passed in its current form, will do nothing but put us in further legal limbo, further delaying punishment for these terrorists.

We need clear legislation and swift, tough and fair justice to be sure that we don't observe another 9/11 anniversary without these terrorists punished.

How do we go about that? Well, I can tell you that we don't do it by passing this bill. We need a bill that is not going to be turned over by the Supreme Court, a bill that is clear about our commitment in the United States to common article 3 and to the kind of rule of law and the law of war that will be sure that these perpetrators of 9/11 and others meet justice and do it quickly.

Right now, we have before us a bill that the Republicans pretty much negotiated among themselves that allows the President to redefine torture when and how he sees fit, and will put our armed services at risk for abuse if they are ever captured while doing little to obtain the intelligence we need from captured terrorists.

That is why so many retired generals, JAG officers and senior military experts oppose the President's plan and say very clearly that we must not go down this road that will put our troops in danger.

The former chairman of the Joint Chiefs, General Shalikashvili, and over 40 former military officers and Pentagon officials, wrote recently that the Geneva Conventions are currently the only source of legal protection for many of our troops deployed in harm's way throughout the world.

That is why my amendment that was not approved by the Rules Committee is an important opportunity to get this right. We do have to do this now. It is important to do it now. But we cannot rush to judgment and get it wrong again.

Keep in mind the President's original plan has not given us the ability to prosecute anyone because they got it wrong. And because they blew it, and are about to blow it again, we are still not going to be able to bring the 9/11 perpetrators to justice, which is what we want to do.

Ladies and gentlemen, please support a "no" vote on the previous question so we can amend this bill, do the right thing, and get a bill that we can bring to the President to sign soon.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, let me make a point about an error that was just made in the statement of my good friend, the gentlewoman from California.

The President cannot redefine torture. The grave offenses are prohibited and defined as war crimes. You cannot do them, and torture is defined as one of the grave offenses. The President cannot redefine torture. All the President can do is do administrative regulations with respect to offenses that are not grave offenses, and that includes torture. The President cannot redefine torture.

Mr. GINGREY. Mr. Speaker, I rise today in full support of the rule for H.R. 6166.

I hear from a number of my colleagues on the other side of the aisle, and particularly heard in our hearing yesterday in the Rules Committee, a complaint about process.

I understand that, Mr. Speaker. That is what the minority party does. That is what we would do if we were in that situation. That is what we have done in the past. I understand those complaints about process.

But this is now where the rubber meets the road. This is about policy. This is a bill that we need their full support on. The men and women that work in our intelligence community, the CIA agents, the interrogators, the military personnel, they need our support. We shouldn't be giving more rights to the terrorists than we do to our own people who are fighting every day to protect us.

Mr. Speaker, I want to remind my colleagues that these detainees, whether they are in prison in eastern Europe or at Guantanamo Bay, they are not there because they were caught chewing bubble gum in class, or throwing spitballs. These are very, very bad guys that were caught on the battlefield in Afghanistan with weapons in hand. Or in some instances, preparing improvised explosive devices to blow our young men and women to smithereens. So I don't think they deserve any special rights. They deserve the right to counsel and a fair trial, and that is what we are giving them. These people are out of uniform. They are not fighting for any particular government. They are targeting civilians. They are beheading the prisoners, including Daniel Pearl, Nick Berg, and from my own district, Mr. Speaker, a government contract worker, a husband and a father, Jack Helmsley.

They don't qualify for rights under the Geneva Convention, even though the President has tried to extend them those rights. The Supreme Court, of course, in their recent ruling, says we have to do that, so that is what we are doing. We are giving them rights. We are being a whole lot kinder to them than they ever would be to us because of our moral standards. I think that is important.

I think this is a bill that gets it right and it deserves the support of Members on both sides of the aisle. I hope my colleagues, when the rubber meets the road, when we get to the vote, they will think about policy and not process.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, as I always remind my colleagues, I am a mother of five children and I have five grandchildren going on six in October. Their personal safety is of paramount importance to me, as it is to every parent of their children and grandchildren in our country.

As elected officials, our primary responsibility is to protect and defend our country, to provide for the common defense. It is in the Constitution of the United States.

So to come to this floor on this very important debate and to hear the Representative from Georgia, to imply that this issue of punishing those who do harm or could do harm to our country is not a priority for every Member of this body is a disservice to this debate and dishonors our Constitution.

How dare you come to this floor and imply that we think that these people are being tried for chewing gum. They have committed the most heinous acts that we have witnessed in our lives. Every American wants them prosecuted and punished. Every American wants them prosecuted and punished.

I will not yield. You had your time. You demeaned this debate by implying that we think they were being tried for chewing gum. That is what you said. The RECORD will show it.

But it isn't just you. It isn't just you. It is the condescension and the disrespect for something that we should expect every Member of this body on both sides of the aisle to take very, very seriously: To provide for the common defense.

□ 1215

We have that officially as our responsibility. It is our first responsibility because, unless our people are safe, nothing else really matters. And as a mother, as a parent, as a mother of five and a grandmother of five going on six, as I constantly remind you all, I identify with the concerns of all of America's families for safety in their neighborhoods while these Republicans are cutting the Community Policing program, Cops on the Beat program. So it just is very pervasive.

But, again, we all want a safe home, a safe community, a safe neighborhood, homeland security, and to be able to protect our country wherever our interests are threatened in the world. And the ability to anticipate what those dangers may be is a very important one as well.

It is 5 years since 9/11. Not one person who has been directly responsible for 9/11 has been prosecuted and punished. There is something wrong with this picture. And this bill that is here today, because it does violence to the Constitution of the United States, also, as Mr. SKELTON said, will produce convictions that may well be overturned because the bill does not heed the instructions from the Supreme Court, a Supreme Court friendly to this administration, which has directed it to go back to the drawing board.

Democrats bring to this debate an unshakeable commitment, as do Republicans, to the proposition that terrorists who attack Americans must be caught, convicted, and punished in a judicial process that will withstand the scrutiny of the Supreme Court. We want them in jail. We want them punished, whatever that punishment is. We don't want it overturned. And that is what this debate is about today.

The American people want those who perpetrated and are responsible for 9/11 to be prosecuted without further delay. It is 5 years later, and they want convictions to stick so that justice will not be further postponed. It is inexplicable. How do you explain to people that 5 years later this has not happened, and not one single planner has even been brought to trial?

The bill does not help us achieve the goal of bringing anyone to trial. It is badly flawed. It threatens the safety of our troops, our ability to prosecute terrorists effectively, our ability to protect the American people, and to honor our oath of office to protect and defend the Constitution. Rather than welcoming suggestions for improvements, Republicans refuse to hear them at all.

The only one recourse that we have is to defeat this rule so that we can offer amendments to address some of the bill's most glaring deficiencies in the areas of, one, habeas corpus; two, Geneva Conventions standards; and the appeals process. If we do not, I believe, as I have said, that we will be headed for a repeat of Hamdan v. Rumsfeld, a Supreme Court defeat for the President and a decision that sends us back to square one in terms of bringing those responsible for 9/11 to trial.

By seeking to strip Federal courts of habeas corpus review, this bill is practically begging to be overturned by the courts. Habeas corpus is one of the hallmarks of our legal system and our democracy. It is the last line of defense against arbitrary executive power. And on that subject, we had a rule that was proposed by Mr. MEEHAN. It was rejected by the Rules Committee. Hopefully, we can reject the previous question so that we can bring that up.

Then, permitting indefinite detention under conditions that cannot be challenged in court is so contrary to our history and our values that it should raise all sorts of red flags. Yet this bill rushes us headlong into a court-stripping misadventure that will have disastrous consequences for our efforts to combat terrorism. Let us not go there. That is habeas corpus.

In addition, the bill establishes an appeals process, and it is interesting, Mr. Speaker. The appeals process in this bill ignores the existing highly respected appellate military system that provides a direct route to the Supreme Court, expedited. Rather than deferring to the military justice system that is very respected by the military and that is now in place, the bill creates a new appeals court with no track record and a longer, longer path to the Supreme Court review, which will delay justice.

Perhaps most distressing, this bill could very well boomerang on us, putting American troops in danger.

Redefining the Geneva Conventions in ways that lower the treatment standards the Conventions create poses a real risk to American forces.

This is a time when the Golden Rule really should be in effect. Do not do unto others what you would not have them do unto your troops, your CIA agents, your people in the field.

And God bless our military personnel, our men and women in uniform, our intelligence officers who are out there for their patriotic service to our country. They are best protected by an international commitment to the highest possible standards for the treatment of prisoners. Why would we want to do something that at the same time jeopardizes the safety of our troops and weakens the moral basis for our efforts against terrorists? And experts have testified over and over again that that kind of treatment does not produce intelligence that is of value and reliability that we need to protect the American people and to bring these terrorists to justice.

Democrats have proposed amendments on these issues, habeas corpus, Geneva Conventions, the appeals process, but the rule, as drafted, will not let us consider them. This House once again is shutting us down on debate. As yesterday, this House said "no" to the resolution that said we want all Members of Congress to see the National Intelligence Estimate so that we can stipulate, all of us together, to a set of facts of how the war in Iraq is having a negative impact on the war on terror. Yesterday they said "no." Today the Republicans said "no." It is just a constant chant.

These subjects are just too important to allow those results to stand. If we defeat the previous question, the opposition to which is being led by Congresswoman SLAUGHTER—and I thank you, Congresswoman SLAUGHTER, for your leadership on this important issue on the Rules Committee. Under your leadership, if we win, we can thoroughly debate all of the matters raised by this legislation.

Let us do the job that we were elected to do on this, one of the pivotal issues of our time. Let us honor our oath of office to protect and defend the Constitution and our responsibility to protect the American people and to prosecute and punish those who would do harm to them.

Mr. COLE of Oklahoma. Mr. Speaker, I just want to say quickly for the record I think we are operating by the Golden Rule. I wish our opponents were. I wish they extended to American soldiers the same rights that they are given under this legislation.

With that, Mr. Speaker, I would like to yield 2 minutes to the distinguished gentleman from Florida, my fellow Rules Committee member, Mr. LINCOLN DIAZ-BALART.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today in support of this important legislation.

Is it perfect? No. Do we have an obligation to pass it? Yes. It is very important that this Congress passes it as soon as possible.

First of all, the most important thing that this legislation does, that it accomplishes, is that it protects our troops and intelligence officers. Sources and methods of intelligence gathering are protected. The security of this country, the American people, thus and for many other reasons, the security of this country is protected and is enhanced by this legislation. And that is the most important ingredient, I believe, in this legislation.

Secondly, it conforms with the rule of law, including international law, specifically common article 3 of the Geneva Conventions. Ad hoc courts are not acceptable. And what is necessary is established by this legislation, regularly constituted courts established by law, with judgments appealable to the Federal appellate court in the District of Columbia. The rule of law is satisfied by this legislation.

It is a very delicately balanced legislation, that while satisfying our obligations under the Geneva Conventions, at the same time it protects the methods and sources of gathering intelligence and our intelligence officers and the troops in the field.

This is very important legislation. It is important that the Congress pass it as soon as possible. I strongly support it and urge its passage.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I rise in opposition to this closed rule and to the underlying bill. We are rushing through a bill under a closed rule without the right to debate amendments.

This is a bill which will have tremendous ramifications for our Nation, our judiciary, and our military, and we are given a closed rule. This process is an absolute outrage. It demeans our democracy. I regret that we must even consider such legislation, but we must because the Bush administration has broken and abused the honor, integrity, and standing of the United States.

For the past 5 years, the Bush administration has repeatedly acted in ways that betray America's commitment to the rule of law. Prisoners have been held in secret prisons without any due process or even access by the Red Cross. Others have been held at Guantanamo to avoid judicial oversight and the application of U.S. treaty obligations toward detainees.

The executive branch has operated under a bizarre set of legal theories that have been rejected by dozens of our highest-ranking former military officers and representatives of the Judge Advocates General Corps, all of whom have warned of the dangers such opinions pose to our own uniformed men and women in the field, now and in the future.

Interrogation practices were approved at the highest levels of the Pentagon, which General Counsel of the

Navy Alberto Mora described as "clearly abusive and clearly contrary to everything we were ever taught about American values."

According to press reports, the CIA has used a variety of methods that the United States has previously prosecuted as war crimes and routinely denounced as torture when they were used by other governments.

Mr. Speaker, we would not need to be here if the Bush administration had simply adhered to the letter and spirit of U.S. law and the Geneva Conventions. We would not be here if the Bush administration had called upon our best and most experienced military interrogators, those who undergo rigorous training at Fort Huachuca in Arizona, because violations of U.S. and international law would not have occurred, and we likely would have obtained intelligence of higher quality and value.

We would not be here if the Bush administration had directed all interrogators across all agencies to adhere to the letter of the Army Field Manual and the Geneva Conventions.

Now, I wish I could say President Bush and his advisers have come to grips with how they have undermined and tarnished America's reputation as a nation that stands foursquare in support of the rule of law, justice, and human rights. But this legislation proves that precious little has been learned.

Instead, this bill will prevent any accountability for violations of the law carried out in the past. It will immunize from prosecution anyone who might have committed abuses or crimes. And when we immunize those who carried out abuses, we extend that blessing to those who issued such orders and provided such guidance.

Mr. Speaker, scores of military officers in the field rejected the orders and guidance to use so-called "alternative methods" during interrogation, namely, torture. They knew those orders violated the law. But we are not rewarding those fine officers for sticking with the law. They are not being honored for their professionalism or for the quality of the intelligence they provided.

But those who broke the law will be rewarded along with those who ordered them to break the law. If this bill passes, we will even strip individuals who are detained of their rights and ability to challenge the factual and legal basis of their detention. Why? Because the White House does not believe in the checks and balances of democracy.

☐ 1230

They are angry that twice the Supreme Court has pointed out the failures of our detainee policies, practices and procedures.

Mr. Speaker, how can we do this? If some other country were holding American citizens in detention and rewriting their laws in just this way to deal with our people, would we be encouraging such an effort?

Mr. Speaker, let me say quite simply why I oppose this bill. I oppose this bill because I am a proud American, and this bill runs contrary to the very values on which our country was founded and for which we stand like a beacon to the rest of the world: The rule of law, due process and respect for human rights.

Mr. Speaker, I fear for the soul of this Nation.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, there are some things that need to be addressed. For one thing, putting the judge advocate generals of the service, as great as some of them are, on a pedestal is inappropriate. When I served 4 years in the Judge Advocate General Corps on active duty, we had one TJAG that did not even know what post he was at from time to time. So it must be taken in context.

But when I hear Members here on the floor say, gee, by passing this bill we are putting troops at risk, let me tell you what will put troops at risk, when we start applying criminal law standards that I observed during my years as a judge and chief justice, you start applying those, the forensics in the battleground area, you are putting troops at risk.

When a man and a woman has to fire in self-defense and also be thinking about, gee, can I go get that that has fingerprints, DNA, I better go collect evidence for the trial that will be upcoming, then that puts them at risk. Please do not put our troops at further risk by making them comply with civil standards back here in this country.

You know, people have declared war on us, and to say that those people will deserve constitutional standards, let me tell you, there are judges that have ruled the Constitution means inmates require electric typewriters, televisions, things like that. It is totally inappropriate.

The Constitution itself says, in article I, that: "We shall constitute tribunals." We will do these things. That is what we are doing. It is constitutional. To respond to perhaps the rhetorical question by the minority leader, how dare we? How dare we? How dare I? Because the Constitution says: We will provide for the common defense, not provide for the criminal defense of those at war with us. That is how dare I, that is how dare we.

Ms. SLAUGHTER. Mr. Speaker, I will be asking for a "no" vote on the previous question so that I can amend this closed rule and allow the House to consider three critical amendments that were rejected by the Rules Committee last evening.

Mr. Speaker, I ask unanimous consent to insert the text of the amendments and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, the first amendment offered by Representative MEEHAN would restore habeas corpus, one of the most basic principles in our legal system which allows a person detained by the Government to have a judge review his or her case.

The next amendment, which was offered by Mrs. TAUSCHER, strikes the provision in the bill that would reinterpret and weaken our commitment to the Geneva Conventions. The last amendment, by Representative LORETTA SANCHEZ, would modify the appeals process by providing that the existing and experienced U.S. Court of Appeals for the Armed Forces, and then the Supreme Court would be used instead of creating a brand new court system that is untested and untried.

Mr. Speaker, the bill we will be considering shortly makes very extraordinary changes to the way we deal with interrogation and treatment of prisoners of war, and those incarcerated from the war on terror.

It is undoubtedly one of the most deadly serious issues we will deal with in this Congress. The impact of this legislation is not just about the effect that it will have on those individuals that our Nation apprehends in wartime and in the War Against Terror.

Every bit as important are the far-reaching implications that it will have for our soldiers and citizens who may be captured. This is about protecting them from torture and other inhumane treatment. The three amendments are critical components in this process. They need to be a part of the process today.

Let's do the right thing and vote "no" on the previous question so that we may consider these issues today. The lives of the brave men and women protecting our great Nation depend on it. Again, I urge a "no" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, today in closing, I want to again draw the attention of Members to the strength of the underlying bicameral compromise legislation, H.R. 6166. We have had a vigorous and good debate on the rule which I believe will help convince the House to support this vital measure.

I honestly believe when Members sit back and consider the underlying legislation carefully, they know we must move forward and pass both the rule and the bill. This is not an issue that we can take lightly, and we must act to enhance and secure America's security by providing the proper legal tools for our forces.

I believe that my colleagues on the other side of the aisle who have spoken against this measure are very sincere and are very honorable in their intentions. But I want to conclude by adding a personal perspective on this particular issue. I had an uncle who served in the United States Navy during the Second World War.

He was captured in the Philippines in 1942, did the Bataan Death March, served throughout the war, first in the Philippines and then in the mainland of Japan as a prisoner of war.

During that process, he suffered enormous abuse. The first speech I gave on the floor of this House when I was privileged to serve was in support of a resolution that was presented in a bipartisan fashion that we would hold the then-Iraqi government of Saddam Hussein accountable for their treatment of any American POWs that might fall into their hands.

And, frankly, when we had the discussion on the Armed Services Committee about Abu Ghraib, I was probably as tough as anybody certainly on my side of the aisle in pointing out where I thought we had had inconsistencies, shortcomings and failures, and that those needed to be corrected.

But I have also had the opportunity, serving in this body, to go to Guantanamo and to talk to our interrogators and talk to our guards and talk to them about the nature of the enemy with which we deal. I need to remind my good friends, we are not dealing with criminals. We are dealing with terrorists.

We are not dealing with people who have broken our law, we are dealing with people that want to kill our citizens. We are dealing with an enemy that is very unlike any we have confronted before in the history of our country.

These are not uniformed combatants in the service of a foreign country; these terrorists are not uniformed; they are not under the supervision of legitimate governments; they do not recognize the Geneva Convention; they do not extend to the prisoners that they take of all faiths, of all nationalities, any rights, any privileges, any protections whatsoever.

We can be enormously proud as Americans that we have not stooped to that standard, that this legislation has been carefully crafted and negotiated, ensures the rights, ensures protections, sets up standards. And I have no doubt that our courts, our military, our judicial system, our legal system, will hold anybody who violates those rights to very high standards, as indeed we have done in the past.

Mr. Speaker, this is a very good rule and a very good bill. It offers us the opportunity for an up-or-down vote, which, as the chairman of the Rules Committee pointed out earlier, we have heard a great deal about this morning, the need for up and down votes and clarity. We have got that here.

Mr. Speaker, I predict at the end of the day we will have an exceptionally strong bipartisan vote in support of this resolution.

Mr. Speaker, I intend to vote for the rule and the underlying legislation—and I would urge my colleagues to do the same.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H. Res. 1042, a closed rule providing for consideration of H.R. 6166, the Military Commissions Act of 2006. I oppose the rule because it forecloses members from offering constructive amendments that would improve a bill that otherwise is unlikely to pass constitutional muster.

Mr. Speaker, among other things, H.R. 6166, seeks to correct the deficiencies in the Administration's regime of military commissions identified by the Supreme Court in *Hamdan* v. *Rumsfeld,* 548 U.S. ___, 05–184 (June 29, 2006).

Although there were more than a dozen amendments offered, the Rules Committee did not see fit to make any of them order. This is very unfortunate because many of these amendments would lessen the likelihood the bill would be found unconstitutional.

For example, I offered a simple and uncontroversial amendment. It simply provided that any costs incurred by the United States to ensure that an unlawful enemy combatant receives a fair trial under the system of military commissions established by the Act by affording him the right to a civilian attorney, interpreter fluent in his native language, and expert witnesses where necessary can and shall be recouped from any assets confiscated or seized from the terrorist organization to which the accused belongs.

I offered this amendment, Mr. Speaker, because the American people are generous and fair-minded. We believe in fundamental fairness and due process. We believe that the accused in a penal proceeding is entitled to the effective assistance of counsel. We believe that the adversary legal system depends upon vigorous advocacy, which in turns requires that the accused feel free to communicate with his counsel candidly and fully, secure in the knowledge that his communications to his counsel are privileged from disclosure. We believe that in a criminal case, the Government must bear the burden of proving guilt beyond a reasonable doubt, and it should be able to do so without resorting to secret evidence or evidence it unlawfully obtained.

But Americans are not foolish. And it would be foolish to expect Americans to pick up the tab to pay for competent counsel and expert witnesses to testify on his behalf when the accused, or his organization, has the means to pay for these services himself. Nothing in the Constitution, our law, traditions, or way of life entitles an accused to these services free of charge. After all, even in a regular criminal case, the Government is obligated to provide the accused an attorney only if he cannot afford one. It would be passing strange indeed if in our desire to afford an unlawful enemy combatant a fair trial, we treated the accused better than we do a common criminal.

My amendment would have ensured that if a member of al Qaeda is tried in a military commission, the costs of his defense would be paid out of the captured or confiscated resources of al Qaeda and it allies, and not out of the pockets of the American people. This common sense amendment was not made in order, as were other sensible and constructive amendments offered by my colleagues.

Mr. Speaker, the treatment and trials of detainees by the United States is too important not to do it right. This closed rule is not the right way to justice by the American people. I therefore cannot support this closed rule and urge my colleagues to vote against the rule. We have time to come up with a better product and we should. The American people deserve no less.

The material previously referred to by Ms. SLAUGHTER is as follows:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

"This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question.

That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Previous Question for H. Res. 1042

H.R. 6166—MILITARY COMMISSIONS ACT OF 2006

Strike all after the resolved clause and insert in lieu there of the following:

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. The amendment printed in Section 2 of this resolution shall be considered as adopted. No other amendments shall be in order except those printed in Section 3 of this resolution. Each such amendment may be offered only in the order printed in Section 3, may be offered only by the Member designated or a designee, shall be considered as read, shall be debatable 60 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment considered as adopted in Section 1 is as follows:

Page 18, line 21, strike "violate" and all that follows through the end of line 24 and insert "amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.".

Page 20, line 13, insert "examine and" after "and to".

Page 27, line 19, strike "military counsel detailed" and insert "detailed military counsel".

Page 81, line 3, strike "36(b)" and insert "36".

Page 91, line 22, strike the closing quotation marks and second period.

Page 91, after line 22 insert the following new paragraph:

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.".

SEC. 3. The amendments referred to in Section 1 are as follows:

(a) Amendment to be offered by Representative Meehan of Massachusetts

Amendment to H.R. 6166 Offered by Mr. Meehan of Massachusetts

In section 950j of title 10, United States Code, as added by section 3(a)(1) of the bill—

(1) strike "(a) FINALITY.—"; and

(2) strike subsection (b).

Strike section 7 (relating to habeas corpus matters).

(b) Amendment to be offered by Representative Tauscher of California

Amendment to H. R. 6166

Offered by Mrs. Tauscher of California

Strike section 6 (relating to implementation of treaty obligations).

(c) Amendment to be offered by Representative Loretta Sanchez of California

Amendment to H.R. 6166

Offered by Ms. Loretta Sanchez of California

Strike sections 950c through 950j of title 10, United States Code, as added by section 3(a)(1) (page 51, line 10, and all that follows through page 61, line 15), and insert the following (and conform the table of sections at the beginning of subchapter VI, as added by section 3(a)(1) (page 46, after line 20, through page 47, before line 1), accordingly):

"§ 950c. Waiver or withdrawal of appeal

"(a) WAIVER OF RIGHT OF REVIEW.—(1) An accused may file with the convening authority a statement expressly waiving the right of the accused to appellate review by the United States Court of Appeals for the Armed Forces under section 950f(a) of this title of the final decision of the military commission under this chapter.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice of the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(b) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(c) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

"§ 950d, Appeal by the United States

"(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Appeals for the Armed Forces under section 950f of this title of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (c) or (d) of section 949d of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of the order or ruling.

"(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the United States Court of Appeals for the Armed Forces. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"§ 950e. Rehearings

"(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

"(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

"(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

"(B) no sentence in excess of or more than the original sentence may be imposed unless—

"(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

"(ii) the sentence prescribed for the offense is mandatory.

"(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

"§ 950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court

"(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

"(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

"(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

"(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

"(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

"(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

"(b) REVIEW BY SUPREME COURT.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the Armed Forces in a determination under subsection (a).

"§950g. Appellate counsel

"(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

"(b) REPRESENTATION OF UNITED STATES.—Appellate counsel may represent the United States in any appeal or review proceeding under this chapter. Appellate Government counsel may represent the United States before the Supreme Court in case arising under this chapter when requested to do so by the Attorney General.

"(c) REPRESENTATION OF ACCUSED.—The accused shall be represented before the United States Court of Appeals for the Armed Forces or the Supreme Court by military appellate counsel, or by civilian counsel if retained by him.

"§950h. Execution of sentence; suspension of sentence

"(a) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

"(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgement as to the legality of the proceedings (and with respect to death, approval under subsection (a)).

"(2) A judgement as to legality of proceedings is final for purposes of paragraph (1) when—

"(A) the time for the accused to file a petition for review by the United States Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by the Court; or

"(B) review is completed in accordance with the judgment of the United States Court of Appeals for the Armed Forces and (A) a petition for a writ of certiorari is not timely filed, (B) such a petition is denied by the Supreme Court, or (C) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(c) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

"§950i. Finality of proceedings, findings, and sentences

"(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

"(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of enactment of this chapter, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.".

Mr. COLE of Oklahoma. Mr. Speaker, I yield back the balance of my time and move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. BOEHNER. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 483) providing for an adjournment or recess of the two Houses, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 483

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, September 29, 2006, Saturday, September 30, 2006, or Sunday, October 1, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Thursday, November 9, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Thursday, November 9, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 13, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the Senate recesses or adjourns on any day from Friday, September 29, 2006, through Wednesday, October 4, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Thursday, November 9, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, November 9, 2006, on a motion offered by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 13, 2006, or Tuesday, November 14, 2006, as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on House Concurrent Resolution 483 will be followed by 5-minute votes on ordering the previous question on H. Res. 1042; and on adoption of H. Res. 1042, if ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 194, not voting 11, as follows:

[Roll No. 487]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey

Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—11

Cardin
Castle
Cleaver
Culberson
Davis (FL)
Jackson-Lee (TX)
Lewis (GA)
Meehan
Millender-McDonald
Ney
Strickland

☐ 1307

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

The SPEAKER pro tempore (Mr. SHIMKUS). The pending business is the vote on ordering the previous question on House Resolution 1042, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 225, nays 191, not voting 16, as follows:

[Roll No. 488]

YEAS—225

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano

Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Cannon
Cardin
Castle
Cleaver
Culberson
Davis (FL)
Ferguson
Green, Gene
Jackson-Lee (TX)
Jones (NC)
Lewis (GA)
Meehan
Millender-McDonald
Ney
Pence
Strickland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1314

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. FERGUSON. Mr. Speaker, on rollcall No. 488 I was unavoidably detained. Had I been present, I would have vote "yea."

PERSONAL EXPLANATION

Mr. CARDIN. Mr. Speaker, earlier today, I was unavoidably detained and missed two rollcall votes.

Had I been present, I would have voted "nay" on rollcall vote 487 and "nay" on rollcall vote 488.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 194, not voting 16, as follows:

[Roll No. 489]

AYES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Castle
Cleaver
Culberson
Davis (FL)
Fattah
Jackson-Lee (TX)
Johnson (CT)
Lewis (GA)
Marshall
Meehan
Millender-McDonald
Ney
Oxley
Rangel
Strickland
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1322

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO SECRETARY OF STATE

Mr. BARRETT of South Carolina, from the Committee on International Relations, submitted a privileged report (Rept. No. 109–689) on the resolution (H. Res. 985) directing the Secretary of State to provide to the House of Representatives certain documents in the possession of the Secretary of State relating to the report submitted to the Committee on International Relations of the House of Representatives on July 28, 2006, pursuant to the Iran and Syria Nonproliferation Act, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Ms. WOOLSEY. Mr. Speaker, on September 21, I inadvertently voted "aye" on rollcall 470, the Appalachian Regional Development Act Amendments of 2006. Please let the RECORD reflect that I enter a "no" vote on this rollcall.

MILITARY COMMISSIONS ACT OF 2006

Mr. HUNTER. Mr. Speaker, pursuant to House Resolution 1042, I call up the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1042, the amendment printed in House Report 109-688 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 6166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Military Commissions Act of 2006”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Construction of Presidential authority to establish military commissions.
Sec. 3. Military commissions.
Sec. 4. Amendments to Uniform Code of Military Justice.
Sec. 5. Treaty obligations not establishing grounds for certain claims.
Sec. 6. Implementation of treaty obligations.
Sec. 7. Habeas corpus matters.
Sec. 8. Revisions to Detainee Treatment Act of 2005 relating to protection of certain United States Government personnel.
Sec. 9. Review of judgments of military commissions.
Sec. 10. Detention covered by review of decisions of Combatant Status Review Tribunals of propriety of detention.

SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

SEC. 3. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

“CHAPTER 47A—MILITARY COMMISSIONS

“Subchapter
“I. General Provisions 948a
“II. Composition of Military Commissions 948h
“III. Pre-Trial Procedure 948q
“IV. Trial Procedure 949a
“V. Sentences 949s
“VI. Post-Trial Procedure and Review of Military Commissions 950a
“VII. Punitive Matters 950p

“SUBCHAPTER I—GENERAL PROVISIONS

“Sec.
“948a. Definitions.
“948b. Military commissions generally.
“948c. Persons subject to military commissions.
“948d. Jurisdiction of military commissions.
“948e. Annual report to congressional committees.

“§ 948a. Definitions

“In this chapter:

“(1) UNLAWFUL ENEMY COMBATANT.—(A) The term ‘unlawful enemy combatant’ means—

“(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

“(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

“(B) CO-BELLIGERENT.—In this paragraph, the term ‘co-belligerent’, with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

“(2) LAWFUL ENEMY COMBATANT.—The term ‘lawful enemy combatant’ means a person who is—

“(A) a member of the regular forces of a State party engaged in hostilities against the United States;

“(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

“(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

“(3) ALIEN.—The term ‘alien’ means a person who is not a citizen of the United States.

“(4) CLASSIFIED INFORMATION.—The term ‘classified information’ means the following:

“(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

“(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

“(5) GENEVA CONVENTIONS.—The term ‘Geneva Conventions’ means the international conventions signed at Geneva on August 12, 1949.

“§ 948b. Military commissions generally

“(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

“(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

“(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

“(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following, provisions of this title shall not apply to trial by military commission under this chapter:

“(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

“(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

“(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

“(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

“(e) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

“(f) STATUS OF COMMISSIONS UNDER COMMON ARTICLE 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary ‘judicial guarantees which are recognized as indispensable by civilized peoples’ for purposes of common Article 3 of the Geneva Conventions.

“(g) GENEVA CONVENTIONS NOT ESTABLISHING SOURCE OF RIGHTS.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

“§ 948c. Persons subject to military commissions

“Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

“§ 948d. Jurisdiction of military commissions

“(a) JURISDICTION.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

“(b) LAWFUL ENEMY COMBATANTS.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable under this chapter.

“(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

“(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

“§948e. Annual report to congressional committees

“(a) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

“(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

“SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

“Sec.
“948h. Who may convene military commissions.
“948i. Who may serve on military commissions.
“948j. Military judge of a military commission.
“948k. Detail of trial counsel and defense counsel.
“948l. Detail or employment of reporters and interpreters.
“948m. Number of members; excuse of members; absent and additional members.

“§948h. Who may convene military commissions

“Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

“§948i. Who may serve on military commissions

“(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter.

“(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members of the commission such members of the armed forces eligible under subsection (a), as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

“(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

“§948j. Military judge of a military commission

“(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

“(b) QUALIFICATIONS.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

“(c) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

“(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members of the commission except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members of the commission.

“(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

“(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

“§948k. Detail of trial counsel and defense counsel

“(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

“(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

“(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the swearing of charges against the accused.

“(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such commissions.

“(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

“(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice) who—

“(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(B) is certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

“(2) a civilian who—

“(A) is a member of the bar of a Federal court or of the highest court of a State; and

“(B) is otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

“(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

“(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

“(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

“(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

“(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

“(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

“§948l. Detail or employment of reporters and interpreters

“(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the commission qualified court reporters, who shall make a verbatim recording of the proceedings of and testimony taken before the commission.

“(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the commission and, as necessary, for trial counsel and defense counsel and for the accused.

“(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the commission, who shall also be responsible for preparing the record of the proceedings.

“§948m. Number of members; excuse of members; absent and additional members

“(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

“(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

“(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

“(1) as a result of challenge;

“(2) by the military judge for physical disability or other good cause; or

“(3) by order of the convening authority for good cause.

“(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

"SUBCHAPTER III—PRE-TRIAL PROCEDURE

"Sec.
"948q. Charges and specifications.
"948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements.
"948s. Service of charges.

"§ 948q. Charges and specifications

"(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

"(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

"(2) that they are true in fact to the best of the signer's knowledge and belief.

"(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges against him as soon as practicable.

"§ 948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements

"(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

"(b) EXCLUSION OF STATEMENTS OBTAINED BY TORTURE.—A statement obtained by use of torture shall not be admissible in a military commission under this chapter, except against a person accused of torture as evidence that the statement was made.

"(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence.

"(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

"(2) the interests of justice would best be served by admission of the statement into evidence; and

"(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

"§ 948s. Service of charges

"The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused understands. Such service shall be made sufficiently in advance of trial to prepare a defense.

"SUBCHAPTER IV—TRIAL PROCEDURE

"Sec.
"949a. Rules.
"949b. Unlawfully influencing action of military commission.
"949c. Duties of trial counsel and defense counsel.
"949d. Sessions.
"949e. Continuances.
"949f. Challenges.
"949g. Oaths.
"949h. Former jeopardy.
"949i. Pleas of the accused.
"949j. Opportunity to obtain witnesses and other evidence.
"949k. Defense of lack of mental responsibility.
"949l. Voting and rulings.
"949m. Number of votes required.
"949n. Military commission to announce action.
"949o. Record of trial.

"§ 949a. Rules

"(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense, in consultation with the Attorney General. Such procedures shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence in trial by general courts-martial. Such procedures and rules of evidence may not be contrary to or inconsistent with this chapter.

"(b) RULES FOR MILITARY COMMISSION.—(1) Notwithstanding any departures from the law and the rules of evidence in trial by general courts-martial authorized by subsection (a), the procedures and rules of evidence in trials by military commission under this chapter shall include the following:

"(A) The accused shall be permitted to present evidence in his defense, to cross-examine the witnesses who testify against him, and to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

"(B) The accused shall be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) The accused shall receive the assistance of counsel as provided for by section 948k.

"(D) The accused shall be permitted to represent himself, as provided for by paragraph (3).

"(2) In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe the following provisions:

"(A) Evidence shall be admissible if the military judge determines that the evidence would have probative value to a reasonable person.

"(B) Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

"(C) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(D) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient basis to find that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(E)(i) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to provide the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949j(c) of this title.

"(ii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the evidence demonstrates that the evidence is unreliable or lacking in probative value.

"(F) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

"(i) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

"(ii) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (1)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"(d) NOTIFICATION TO CONGRESSIONAL COMMITTEES OF CHANGES TO PROCEDURES.—Not later than 60 days before the date on which any proposed modification of the procedures in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of

Representatives a report describing the modification.

"§ 949b. Unlawfully influencing action of military commission

"(a) In General.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or his functions in the conduct of the proceedings.

"(2) No person may attempt to coerce or, by any unauthorized means, influence—

"(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

"(B) the action of any convening, approving, or reviewing authority with respect to his judicial acts; or

"(C) the exercise of professional judgment by trial counsel or defense counsel.

"(3) Paragraphs (1) and (2) do not apply with respect to—

"(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

"(B) statements and instructions given in open proceedings by a military judge or counsel.

"(b) Prohibition on Consideration of Actions on Commission in Evaluation of Fitness.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

"(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

"(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

"§ 949c. Duties of trial counsel and defense counsel

"(a) Trial Counsel.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

"(b) Defense Counsel.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

"(2) The accused shall be represented by military counsel detailed under section 948k of this title.

"(3) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

"(A) is a United States citizen;

"(B) is admitted to the practice of law in a State, district, or possession of the United States or before a Federal court;

"(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

"(D) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

"(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

"(4) Civilian defense counsel shall protect any classified information received during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may not divulge such information to any person not authorized to receive it.

"(5) If the accused is represented by civilian counsel, detailed military counsel shall act as associate counsel.

"(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in that person's sole discretion, may detail additional military counsel to represent the accused.

"(7) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

"§ 949d. Sessions

"(a) Sessions Without Presence of Members.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

"(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

"(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

"(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

"(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

"(2) Except as provided in subsections (c) and (e), any proceedings under paragraph (1) shall—

"(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

"(B) be made part of the record.

"(b) Proceedings in Presence of Accused.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

"(1) be in the presence of the accused, defense counsel, and trial counsel; and

"(2) be made a part of the record.

"(c) Deliberation or Vote of Members.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

"(d) Closure of Proceedings.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

"(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

"(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

"(B) ensure the physical safety of individuals.

"(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

"(e) Exclusion of Accused From Certain Proceedings.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

"(1) to ensure the physical safety of individuals; or

"(2) to prevent disruption of the proceedings by the accused.

"(f) Protection of Classified Information.—

"(1) National Security Privilege.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.

"(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

"(i) the information is properly classified; and

"(ii) disclosure of the information would be detrimental to the national security.

"(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

"(2) Introduction of Classified Information.—

"(A) Alternatives to Disclosure.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission;

"(ii) the substitution of a portion or summary of the information for such classified documents; or

"(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

"(B) Protection of Sources, Methods, or Activities.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that (i) the sources, methods, or activities by which the United States acquired the evidence are classified, and (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

"(C) Assertion of National Security Privilege at Trial.—During the examination of any witness, trial counsel may object to any question, line of inquiry, or motion to admit evidence that would require the disclosure of classified information. Following such an objection, the military judge shall take suitable action to safeguard such classified information. Such action may include the review of trial counsel's claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

"(3) CONSIDERATION OF PRIVILEGE AND RELATED MATERIALS.—A claim of privilege under this subsection, and any materials submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

"(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the use and protection of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

"§ 949e. Continuances

"The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

"§ 949f. Challenges

"(a) CHALLENGES AUTHORIZED.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

"§ 949g. Oaths

"(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that—

"(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

"(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

"§ 949h. Former jeopardy

"(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

"§ 949i. Pleas of the accused

"(a) ENTRY OF PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

"(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

"§ 949j. Opportunity to obtain witnesses and other evidence

"(a) RIGHT OF DEFENSE COUNSEL.—Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(b) PROCESS FOR COMPULSION.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

"(1) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

"(2) shall run to any place where the United States shall have jurisdiction thereof.

"(c) PROTECTION OF CLASSIFIED INFORMATION.—(1) With respect to the discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(A) the deletion of specified items of classified information from documents to be made available to the accused;

"(B) the substitution of a portion or summary of the information for such classified documents; or

"(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired evidence if the military judge finds that the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require trial counsel to provide, to the extent practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence.

"(d) EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel shall disclose to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

"(2) In this subsection, the term 'evidence known to trial counsel', in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

"§ 949k. Defense of lack of mental responsibility

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

"(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

"§ 949l. Voting and rulings

"(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

"(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

"(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

"(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

"(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

"(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

"(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

"(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

"§ 949m. Number of votes required

"(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

"(b) SENTENCES.—(1) No person may be sentenced by a military commission to suffer death, except insofar as—

"(A) the penalty of death is expressly authorized under this chapter or the law of war for an offense of which the accused has been found guilty;

"(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

"(C) the accused is convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

"(D) all the members present at the time the vote is taken concur in the sentence of death.

"(2) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

"(3) All other sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

"(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12.

"(2) In any case described in paragraph (1) in which 12 members are not reasonably available because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 9 members), and the military commission may be assembled, and the trial held, with not fewer than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

"§ 949n. Military commission to announce action

"A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

"§ 949o. Record of trial

"(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

"(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

"(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 949d of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

"SUBCHAPTER V—SENTENCES

"Sec.
"949s. Cruel or unusual punishments prohibited.
"949t. Maximum limits.
"949u. Execution of confinement.

"§ 949s. Cruel or unusual punishments prohibited

"Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

"§ 949t. Maximum limits

"The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

"§ 949u. Execution of confinement

"(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

"(1) in any place of confinement under the control of any of the armed forces; or

"(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

"(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

"SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

"Sec.
"950a. Error of law; lesser included offense.
"950b. Review by the convening authority.
"950c. Appellate referral; waiver or withdrawal of appeal.
"950d. Appeal by the United States.
"950e. Rehearings.
"950f. Review by Court of Military Commission Review.
"950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court.
"950h. Appellate counsel.
"950i. Execution of sentence; procedures for execution of sentence of death.
"950j. Finality or proceedings, findings, and sentences.

"§ 950a. Error of law; lesser included offense

"(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

"(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

"§ 950b. Review by the convening authority

"(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

"(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

"(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section 949o(c) of this title.

"(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

"(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

"(c) ACTION BY CONVENING AUTHORITY.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

"(2)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

"(B) Subject to regulations prescribed by the Secretary of Defense, action on the sentence under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

"(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

“(3) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, may—

“(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

“(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

“(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

“(d) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

“(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

“(i) there is an apparent error or omission in the record; or

“(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

“(B) In no case may a proceeding in revision—

“(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

“(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

“(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

“(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

“§ 950c. Appellate referral; waiver or withdrawal of appeal

“(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided under subsection (b), in each case in which the final decision of a military commission (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

“(b) WAIVER OF RIGHT OF REVIEW.—(1) In each case subject to appellate review under section 950f of this title, except a case in which the sentence as approved under section 950b of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

“(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

“(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

“(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

“(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

“§ 950d. Appeal by the United States

“(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the Court of Military Commission Review of any order or ruling of the military judge that—

“(A) terminates proceedings of the military commission with respect to a charge or specification;

“(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

“(C) relates to a matter under subsection (d), (e), or (f) of section 949d of this title or section 949j(c) of this title.

“(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification:

“(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of such order or ruling.

“(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the Court of Military Commission Review. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

“(d) APPEAL FROM ADVERSE RULING.—The United States may appeal an adverse ruling on an appeal under subsection (c) to the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals.

“§ 950e. Rehearings

“(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

“(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

“(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

“(B) no sentence in excess of or more than the original sentence may be imposed unless—

“(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

“(ii) the sentence prescribed for the offense is mandatory.

“(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

“§ 950f. Review by Court of Military Commission Review

“(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing military commission decisions under this chapter, the court may sit in panels or as a whole in accordance with rules prescribed by the Secretary.

“(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948j(b) of this title or shall be a civilian with comparable qualifications. No person may be serve as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

“(c) CASES TO BE REVIEWED.—The Court of Military Commission Review, in accordance with procedures prescribed under regulations of the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter of law raised by the accused.

“(d) SCOPE OF REVIEW.—In a case reviewed by the Court of Military Commission Review under this section, the Court may act only with respect to matters of law.

“§ 950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

“(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in subparagraph (B), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

“(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

“(2) A petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—

“(A) written notice of the final decision of the Court of Military Commission Review is served on the accused or on defense counsel; or

“(B) the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review under section 950f of this title.

“(b) STANDARD FOR REVIEW.—In a case reviewed by it under this section, the Court of Appeals may act only with respect to matters of law.

“(c) SCOPE OF REVIEW.—The jurisdiction of the Court of Appeals on an appeal under subsection (a) shall be limited to the consideration of—

“(1) whether the final decision was consistent with the standards and procedures specified in this chapter; and

“(2) to the extent applicable, the Constitution and the laws of the United States.

“(d) SUPREME COURT.—The Supreme Court may review by writ of certiorari the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

"§950h. Appellate counsel

"(a) Appointment.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

"(b) Representation of United States.—Appellate counsel appointed under subsection (a)—

"(1) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review; and

"(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

"(c) Representation of Accused.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

"§950i. Execution of sentence; procedures for execution of sentence of death

"(a) In General.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

"(b) Execution of Sentence of Death Only Upon Approval by the President.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

"(c) Execution of Sentence of Death Only Upon Final Judgment of Legality of Proceedings.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

"(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when—

"(A) the time for the accused to file a petition for review by the Court of Appeals for the District of Columbia Circuit has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court; or

"(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

"(i) a petition for a writ of certiorari is not timely filed;

"(ii) such a petition is denied by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(d) Suspension of Sentence.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

"§950j. Finality or proceedings, findings, and sentences

"(a) Finality.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

"(b) Provisions of Chapter Sole Basis for Review of Military Commission Procedures and Actions.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

"SUBCHAPTER VII—PUNITIVE MATTERS

"Sec.

"950p. Statement of substantive offenses.
"950q. Principals.
"950r. Accessory after the fact.
"950s. Conviction of lesser included offense.
"950t. Attempts.
"950u. Solicitation.
"950v. Crimes triable by military commissions.
"950w. Perjury and obstruction of justice; contempt.

"§950p. Statement of substantive offenses

"(a) Purpose.—The provisions of this subchapter codify offenses that have traditionally been triable by military commissions. This chapter does not establish new crimes that did not exist before its enactment, but rather codifies those crimes for trial by military commission.

"(b) Effect.—Because the provisions of this subchapter (including provisions that incorporate definitions in other provisions of law) are declarative of existing law, they do not preclude trial for crimes that occurred before the date of the enactment of this chapter.

"§950q. Principals

"Any person is punishable as a principal under this chapter who—

"(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

"(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

"(3) is a superior commander who, with regard to acts punishable under this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

"§950r. Accessory after the fact

"Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

"§950s. Conviction of lesser included offense

"An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

"§950t. Attempts

"(a) In General.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

"(b) Scope of Offense.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

"(c) Effect of Consummation.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

"§950u. Solicitation

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

"§950v. Crimes triable by military commissions

"(a) Definitions and Construction.—In this section:

"(1) Military Objective.—The term 'military objective' means—

"(A) combatants; and

"(B) those objects during an armed conflict—

"(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

"(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

"(2) Protected Person.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

"(A) civilians not taking an active part in hostilities;

"(B) military personnel placed hors de combat by sickness, wounds, or detention; and

"(C) military medical or religious personnel.

"(3) Protected Property.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

"(4) Construction.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

"(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"(11) TORTURE.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(12) CRUEL OR INHUMAN TREATMENT.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) DEFINITIONS.—In this paragraph:

"(i) The term 'serious physical pain or suffering' means bodily injury that involves—

"(I) a substantial risk of death;

"(II) extreme physical pain;

"(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

"(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

"(I) the term 'serious' shall replace the term 'severe' where it appears; and

"(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

"(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) protracted and obvious disfigurement; or

"(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

"(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950w. Perjury and obstruction of justice; contempt

"(a) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to military commissions under this chapter.

"(b) CONTEMPT.—A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"47A. Military Commissions .... 948a.".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.".

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

(3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—

(A) in subsection (a), by inserting ", except as provided in chapter 47A of this title," after "but which may not"; and

(B) in subsection (b), by inserting before the period at the end ", except insofar as applicable to military commissions established under chapter 47A of this title".

(b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person"; and

(2) by adding at the end the following new subsection:

"(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term "Geneva Conventions" means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516)

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term "Third Geneva Convention" means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

(B) by adding at the end the following new subsection:

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL OR INHUMAN TREATMENT.—The act of a person who commits, or conspires or attempts to commit, an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of a person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title;

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title;

"(D) the term 'serious physical pain or suffering' shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(E) the term 'serious mental pain or suffering' shall be applied for purposes of paragraph (1)(B) in accordance with the meaning given the term 'severe mental pain or suffering' (as defined in section 2340(2) of this title), except that—

"(i) the term 'serious' shall replace the term 'severe' where it appears; and

"(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common article 3 and not the full scope of United States obligations under that Article.".

(2) RETROACTIVE APPLICABILITY.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 583 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.

SEC. 7. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking both the subsection (e) added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742) and the subsection (e) added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and inserting the following new subsection (e):

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection".

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(1) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.";

(3) in subparagraph (C)—

(A) in clause (i)—

(i) by striking "pursuant to the military order" and inserting "by a military commission"; and

(ii) by striking "at Guantanamo Bay, Cuba"; and

(B) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(4) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking "the Department of Defense at Guantanamo Bay, Cuba" and inserting "the United States".

The SPEAKER pro tempore. Debate shall not exceed 2 hours, with 80 minutes equally divided and controlled by the chairman and the ranking minority member of the Committee on Armed Services and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 40 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 6166.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6166, the Military Commissions Act of 2006. I can't think of a better way to honor the fifth anniversary of September 11 than by establishing a system to prosecute the terrorists who on that day murdered thousands of innocent civilians and who continue to seek to kill Americans, both on and off the battlefield.

Our most important consideration in writing this legislation is to protect American troops and American citizens from harm. The war against terror has produced a new type of battlefield and a new type of enemy. How is it different? We are fighting a ruthless enemy who doesn't wear a uniform, an enemy who kills civilians, women and children, and then boasts about it; a barbaric enemy who beheads innocent civilians by sawing their heads off; an uncivilized enemy who does not acknowledge or respect the laws of war.

Justice Thomas put it best in the Hamdan decision. He said, "We are not engaged in a traditional battle with a nation state, but with a worldwide hydro-headed enemy who lurks in the shadows conspiring to reproduce the atrocities of September 11, 2001, and who has boasted of sending suicide bombers into civilian gatherings, has proudly distributed videotapes of the beheadings of civilian workers, and has tortured and dismembered captured American soldiers.

So how is the battlefield new? First, it will be a long war. We don't know if this enemy will be defeated this decade, the next decade or even longer than that. Second, in this new war, where intelligence is more vital than ever, we want to interrogate the enemy; not to degrade them, but to save the lives of American troops, American civilians and our allies. But it is not practical on the battlefield to read the enemy their Miranda warnings.

Finally, this is an ongoing conflict, and sharing sensitive intelligence sources, methods and other classified information with terrorist detainees could be highly dangerous to national security, and we are not prepared to take that risk.

So what have we done to develop a military commission process that will allow for the effective prosecution of enemy combatants during this ongoing conflict? Without this action, the United States has no effective means to try and punish the perpetrators of September 11, the attack on the USS *Cole* and the embassy bombings. We provide basic fairness in our prosecutions, but we also preserve the ability of our warfighters to operate effectively on the battlefield.

I think a fair process has two guiding principles, Mr. Speaker. First, the government must be able to present its case fully and without compromising its intelligence sources or compromising military necessity. Second, the prosecutorial process must be done fairly, swiftly, and conclusively.

Who are we dealing with in military commissions? I have shown the picture of Khalid Sheikh Mohammed, who is alleged to have designed the attack against the United States that was carried out on 9/11. We are dealing with the enemy in war, not defendants in our domestic criminal justice system. Some of them have returned to the battlefield after we let them out of Guantanamo.

Our primary purpose is to keep them off the battlefield. In doing so, we treat them humanely, and, if we choose to try them as war criminals, we will give them due process rights that the world will respect. But we have to remember that they are the enemy in an ongoing war.

In time of war, it is not practical to apply to rules of evidence the same rules of evidence that we do in civilian trials or court martials for our troops. Commanders and witnesses can't be called from the front line to testify in a military commission.

We need to accommodate rules of evidence, chain of custody and authentication to fit what we call the exigencies of the battlefield. It is clear, Mr. Speaker, that we don't have crime scenes that can be reproduced, that can be taped off, that can be attended to by dozens of people looking for forensic evidence. We have in this war against terror a battlefield situation.

□ 1330

If hearsay is reliable, we should use it. And I might add that hearsay is utilized and has been utilized in tribunals like the Rwanda tribunals and the Kosovo tribunals. If sworn affidavits are reliable, we should use them. And, Mr. Speaker, we have not expanded the use of hearsay beyond what is being used in those tribunals, Rwanda and Yugoslavia.

The Supreme Court has tasked us with an adjustment, but in doing so let's not forget our purpose is to defend the Nation against the enemy. We won't lower our standards; we will always treat detainees humanely, but we can't be naive either.

This war started in 1996 with the al Qaeda declaration of jihad against our Nation. The Geneva Conventions were written in 1949, and the UCMJ was adopted in 1951. In that sense, what we are required to do after the Hamdan decision is broader than war crimes trials. It is the start of a new legal analysis for the long war. It is time for us to think about war crime trials and a process that provides due process and protects national security in this new war.

So what do we do with these new military commissions? We uphold basic human rights and state what our compliance with this standard means for the treatment of detainees. We do this in a way that is fair and in a way that the world will acknowledge is fair.

First, we provide accused war criminals at least 26 rights if they are tried by a commission for a war crime. While I will not read all of them, here are some of the essential rights we provide:

The right to counsel, provided by government at trial and throughout appellate proceedings.. An impartial judge. A presumption of innocence. A standard of proof beyond a reasonable doubt. The right to be informed of the charges against him as soon as practicable. The right to service of charges sufficiently in advance of trial to prepare a defense.

And, Mr. Speaker, I am going to insert the balance of those 26 basic and fundamental rights in the RECORD, so I won't read them all at this point.

The right to reasonable continuances;

Right to peremptory challenge against members of the commission and challenges for cause against members of the commission and the military judge;

Witness must testify under oath; judges, counsel and members of military commission must take oath;

Right to enter a plea of not guilty;

The right to obtain witnesses and other evidence;

The right to exculpatory evidence as soon as practicable;

The right to be present at court with the exception of certain classified evidence involving national security, preservation of safety or preventing disruption of proceedings;

The right to a public trial except for national security issues or physical safety issues;

The right to have any findings or sentences announced as soon as determined;

Right against compulsory self-incrimination;

Right against double jeopardy;

The defense of lack of mental responsibility;

Voting by members of the military commission by secret written ballot;

Prohibitions against unlawful command influence toward members of the commission, counsel or military judges;

2/3 vote of members required for conviction; 3/4 vote required for sentences of life or over 10 years; unanimous verdict required for death penalty;

Verbatim authenticated record of trial;

Cruel or unusual punishments prohibited;

Treatment and discipline during confinement the same as afford to prisoners in U.S. domestic courts;

Right to review of full factual record by convening authority; and

Right to at least two appeals including to a Federal Article III appellate court.

We provide all these rights, and we give them an independent judge, and the right to at least two appeals, including the U.S. Court of Appeals for the District of Columbia and access to the Supreme Court. Nobody can say this is not a fair system.

I know some of my colleagues are concerned about the issue of reciprocity. Look at this list of rights. And we are going to put it up here, Mr. Speaker, so that all the Members can see this. And also keep in mind that these are the rights for terrorists. These are the rights for the people who struck us on 9/11 and killed thousands of Americans. If we are talking about true reciprocity, then we are only concerned about how the enemy will treat American terrorists. These are not our rules for POWs; these are how we treat terrorists. We treat the legitimate enemy differently, and expect them to treat our troops the same.

How do we try the enemy for war crimes? In this act, Congress authorizes the establishment of military commissions for alien unlawful enemy combatants, which is the legal term we use to define international terrorists and those who aid and support them, in a new separate chapter of title 10 of the U.S. Code, chapter 47A. While this new chapter is based upon the Uniform Code of Military Justice, it creates, Mr. Speaker, an entirely new structure for these trials.

In this bill we provide standards for the admission of evidence, including hearsay evidence and other statements, that are adapted to military exigencies and provide the military judge the necessary discretion to determine if the evidence is reliable and probative. And he must find that it is reliable and probative before he allows it to be admitted.

I want to talk a little bit about how we handle classified evidence. We had three hearings on this bill in addition to briefings and meetings with experts. I asked every witness the same question: If we have an informant, either a CIA informant or an undercover witness of some sort, are we going to tell Kalid Sheikh Mohammed who the informant is? The legislation does not allow KSM to learn the identity of the informant.

After several twists and turns in the road, after meeting with the Senate and the White House in marathon sessions over the weekend, we have crafted a solution that does not allow the alleged terrorists to learn the identity of the informant, yet provides a fair trial. And, Mr. Speaker, that is critically important to all of us in this Chamber, because that American agent or informant may have information that saves thousands of lives. He may be of enormous value added to the security of this country. We can't divulge his identity, and we can't divulge it to the alleged terrorist, and doing so would allow that information to go back quickly, as it has on two occasions: one coming out of the first bombing of the World Trade Center where we now have established that Osama bin Laden did come into possession of classified evidence that was moved up through those court proceedings, and once in Guantanamo. So it is very, very important that we protect classified evidence and that we protect the identity of our agents.

We address this in section 949d, subsection (f) of section 3. Classified evidence is protected and is privileged from disclosure to the jury and the accused if disclosure would be detrimental to national security. The accused is permitted to be present at all phases of the trial, and no evidence is presented to the jury that is not also provided to the accused. Section 949d(f) makes a clear statement that sources, methods, or activities will be protected and privileged and not shown to the accused.

However, and this is how you move the essence of an undisclosed agent's testimony to the jury without disclosing the identity of the agent, the substantive findings of the sources, methods, or activities will be admissible in an unclassified form. This allows the prosecution to present its best case while protecting classified information. In order to do this, the military judge questions the informant outside the presence of the jury and the defendant. In order to give the jury and the defendant a redacted version of the informant's statement, the judge must find, one, that the sources, methods, or activities by which the U.S. acquired the evidence are classified; and, two, that the evidence is reliable.

Once the judge stamps the informant as reliable, the informant's redacted statement is given to both the jury and the accused. It removes the confrontation issue. And this, again, to my friends who said we want to follow the UCMJ and we want to give these people all the rights that we give our uniformed servicemen, our analysis is that we would not be able to keep from disclosure the identity of our special agents if we followed the UCMJ. That is designed to protect American uniformed servicemen, and it is not something that we should apply in the case of alleged terrorists.

I think that these rules protect classified evidence and yet preserve a fair trial.

One other point I want to make for the record. As I mentioned earlier, we have modified the rules of evidence to adapt to the battlefield. One of the principles used by the judiciary in criminal prosecutions of our citizens is called the fruit of the poisonous tree doctrine. This rule provides that evidence derived from information acquired by police officials or the government through unlawful means is not admissible in a criminal prosecution.

I want to make it clear that it is our intent with the legislation not to have this doctrine apply to evidence in military commissions. While evidence obtained improperly will not be used directly against the accused, we will not limit the use of any evidence derived from such evidence.

The deterrent effect of the exclusionary rule is not something that our soldiers consider when they are fighting a war. The theory of the exclusionary rule is that if the constable blunders, the accused will not suffer. However, we are not going to say that if the soldier blunders, we are not going to punish a terrorist. Some rights are reserved for our citizens; some rights are reserved for civilized people.

Mr. Speaker, this is a complicated piece of legislation. In addition to establishing an entire legal process from start to finish, we address the application of common article 3 of the Geneva Conventions to our current laws.

Section 5 clarifies that the Geneva Conventions are not an enforceable source of rights in any habeas corpus or other civil action or proceeding by an individual in U.S. courts. Mr. Speaker, this protects American troops.

Section 6 of the bill amends 18 U.S.C. section 2441, the War Crimes Act, to criminalize grave breaches of common article 3 of the Geneva Conventions. As amended, the War Crimes Act will fully satisfy our treaty obligations under common article 3. This amendment is necessary because section C(3) of the War Crimes Act defines a war crime as any conduct which constitutes a violation of common article 3. Common article 3 prohibits some actions that are universally condemned, such as murder and torture, but it also prohibits outrages upon personal dignity and what is called humiliating and degrading treatment, phrases which are vague and do not provide adequate guidance to our personnel.

Since violation of common article 3 is a felony under the War Crimes Act, it is necessary to amend it to provide clarity and certainty to the interpretation of this statute. The surest way to achieve that clarity and certainty is to define the list of specific offenses that constitute war crimes punishable as grave violations of common article 3.

And, Mr. Speaker, this is very important. This protects our troops, it gives them certainty, it gives them clarity. You don't want to have our troops so paralyzed by what they see as prosecutions arising out of common article 3 that you will have a situation where a female officer in the U.S. military will not interrogate a Muslim male on the basis that she is afraid that that action may be defined or projected as being a humiliation of that particular prisoner being interrogated and therefore subjecting that female American officer to a war crimes accusation.

So what we have done is we have taken the offenses that are considered to be grave offenses under article 3, and then I have enumerated several of those, and we define those as the offenses which will be applicable upon which prosecutions can be brought, and then we give to the President on what I would call infractions of Geneva article 3 or lesser violations of Geneva article 3, we give him the right to put together regulations that account for and treat actions that are defined under those minor offenses.

Section 6 of the bill also provides that any detainee under the custody or physical control of the United States will not be subject to cruel, inhumane, or degrading punishment provided by the fifth, eighth, and fourteenth amendments to the Constitution as defined by the U.S. Reservations to the U.N. Convention Against Torture. This defines our obligations under common article 3 by reference to the U.S. constitutional standard adopted by the Detainee Treatment Act that we passed in 2005. And, Mr. Speaker, all parties, both Houses, decided that it was appropriate that we define this type of treatment, degrading treatment, especially under the reservations to the convention that is mentioned, the U.N. Convention Against Torture. We decided that that was good enough for putting together the Detainee Treatment Act; it should be good enough for this particular body of law.

Section 7 of the bill addresses the question of judicial review of claims by detainees by amending 28 U.S.C. section 2241 to clarify the intent of the Detainee Treatment Act of 2005 to limit the right of detainees to challenge their detentions. The practical effect of this amendment will be to eliminate the hundreds of detainee lawsuits that are pending in courts throughout the country and to consolidate all detainee treatment cases in the D.C. Circuit Court.

However, I want to stress that under this provision detainees will retain their opportunity to file legitimate charges to their status and to challenge convictions by military commissions. Every detainee under confinement in Guantanamo Bay will have their detention reviewed by the U.S. Court of Appeals for the District of Columbia.

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So what we are doing here is channeling the suits to a particular court which has great expertise in this area, rather than let them be put in rifle-shot fashion or form-shot fashion to other courts throughout the United States.

Mr. SENSENBRENNER and my other colleagues are going to speak on the rest of the bill. But, before I finish, I want to make one point very clear. This legislation does not condone or authorize torture in any way. In fact, we make it a war crime punishable by death for one of our interrogators to torture someone to death.

Let me emphasize that again. In section 6 of this bill, we amend 18 U.S.C. 2441, the War Crimes Act. In this amendment, we explicitly provide that torture inflicted upon a person in custody for the purpose of obtaining information is a war crime for which we may prosecute one of our own citizens. While most of this legislation deals with how we handle the enemy, I want to make it crystal clear that nothing in what we are doing condones or allows torture in any way.

Mr. Speaker, unfortunately, I heard at least one Member on the Democrat side say that this gives the President the right to define what torture is. That is not accurate. Torture is forbidden, and there are specific criminal penalties for torture.

In summary, I think this legislation is the best way to prosecute enemy terrorists and to protect U.S. Government personnel and service members who are fighting them.

Let me make one final statement with respect to the right to Miranda warnings and all of the evidentiary rulings that accompany an application utilizing the UCMJ, the Uniform Code of Military Justice, in battlefield situations if we had done that, which we did not.

In the hearings we had, we had at least one experienced officer in the Judge Advocate Corps state that it was his opinion, having tried hundreds of cases, that if you applied the UCMJ, as a number of Members on the Democrat side said they would like to do, to constitute the body of law under which we are prosecuting terrorists, in this officer's opinion once a corporal had captured a terrorist on the battlefield, maybe seconds after that terrorist had shot at him, and threw that terrorist over the hood of a Humvee, if you used the UCMJ, he would at that point have to give him the Miranda rights and then call up a lawyer and assign that lawyer to that alleged terrorist, and then all of the statements and all of the evidentiary rulings that could flow from that activity would then trigger.

Mr. Speaker, we can't have a battlefield where platoon leaders and company commanders are bringing up fire teams and with those fire teams they are bringing up teams of lawyers. That is why we needed a new type of structure for this new type of battlefield.

Mr. Speaker, I think we have responded to the mandate of the Supreme Court that Congress involve itself in producing this new structure to prosecute terrorists. I think we have done a good job. We have worked hard with the Senate and White House. We have made dozens and dozens and dozens of agreed provisions in here that have been carefully looked over by the Senate, the White House, and the House of Representatives. I think we have a package that will allow us to leave this body in the next several days having put into place a system under which we can try individuals who are now waiting at Guantanamo, people who are alleged to have designed the attack against the United States on 9/11 and which we can now begin the prosecution of those individuals.

I want to thank everybody who has participated in this long and arduous procedure. We have had lots of hearings in the Senate and in the House. My good colleague, Mr. SKELTON, was involved himself in these hearings and on the original markup that we did on the bill.

We have differences of opinions. I think this is a time when we should come together and pass what is an excellent body of law that will be a very important part of fighting this new war against this new type of enemy.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we need to be tough on the terrorists, but we also need to be tough with certainty. I oppose this legislation because it lacks the certainty that we require.

As a former prosecuting attorney from yesteryear, Mr. Speaker, I remember the specter that hangs over every prosecutor's head after successfully prosecuting a criminal, and that specter is that the Supreme Court will reverse that hard-won conviction.

I am terribly concerned that this is not tough enough because it does not bring about the certainty of a conviction being upheld and standing the scrutiny of our Supreme Court.

This is a constitutional issue. The debate today will undoubtedly go down in the annals of our country as being one that stands out as a study in constitutional law and duty thereunder. Our duty as Members of Congress is to uphold the Constitution. That is what I intend to do in my speech and in my vote.

But also it is our duty to pass legislation that is constitutional. I have serious questions as to whether this is constitutional or not.

I received a letter from the Chief Counsel of the tribunals that exist, Colonel Dwight Sullivan, who said, "If the new military commission system is constitutionally permissible, allow it to proceed with the judiciary's imprimatur. If, as I believe, it is constitutionally deficient, then allow the judiciary to quickly identify its faults so they can be corrected."

I offered an amendment to the Rules Committee that would provide for expedited review by the court system, and it was turned down.

What is so bad is that a case goes cold, witnesses disappear, witnesses die. It would be an absolute injustice for a despicable terrorist, once convicted, to have that conviction overturned, and you can't try it again. Some of these people are absolutely the worst of the worst. That is why we need certainty in the law, and that is what we do not have here.

There are numerous constitutional challenges regarding this legislation. I will mention them:

The provisions that strip the Federal courts of jurisdiction over habeas corpus.

Second, article I of the Constitution prohibits ex post facto laws. That is what this creates.

Third, it is questionable as to whether under article III of the Constitution the Supreme Court would uphold a system that purports to make the President the final arbiter of the Geneva Convention.

Fourth, the provisions regarding coerced testimony may be challenged under three amendments to our Constitution.

Fifth, the right to confront witnesses and evidence. It also, among other things, has legislation containing the broadest of hearsay rules.

Sixth, the violation of the exceptions clause under article III.

Seventh, the challenges on equal protection and other constitutional grounds.

We want certainty, Mr. Speaker. We want these people, once tried, to be convicted and that conviction upheld. If we pass a law full well knowing that there are provisions in here that would allow them a get-out-of-jail-free card or to have a death sentence reversed, we are doing wrong. We are doing wrong according to our duty, and we are doing wrong in representing the people of our country.

We need certainty as well as toughness. Without certainty, we will not be tough on these terrorists.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SAXTON), the chairman of the Subcommittee on Terrorism.

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 6166.

Ladies and gentleman, this is not an ordinary bill. This is an urgently needed measure to fill a gaping hole in our legal system, both in our ability to bring criminals of 9/11 to justice, the bombings of the USS *Cole* and the American embassies in Kenya and Tanzania to justice, and to protect our American troops and agents from frivolous prosecutions and lawsuits. It is no exaggeration to say that this is the most important measure to come before this body in this Congress.

Without this bill, the mastermind of 9/11, Khalid Sheik Mohammed, who deliberated and cold-bloodedly plotted the death of thousands of Americans, would go unpunished for his crimes upon humanity.

Yes, we are a nation of laws. The Supreme Court has called upon the Congress to act, and that is what we will do.

We have produced an extraordinarily fair criminal process here to adjudicate the fate of these terrorists. Those who would find the court procedures laid out in this bill wanting will never be satisfied until we are reading Miranda rights on the battlefield. We have carefully narrowed and crafted the provisions of this bill to enable the United States to prosecute the perpetrators of the 1998 bombings of the American embassies in Kenya and Tanzania, the 2000 attack on the USS *Cole*, and other crimes that have been committed.

Yes, these were suicide attacks and the men who delivered the explosives were killed, along with innocent victims, but the planner, logisticians, and financiers of those operations remain at large.

Importantly, this bill allows, as all Americans believe it should, the criminal prosecutions of those who purposefully and materially supported these criminal activities. And, of course, the measure covers those responsible for 9/11 as well.

Mr. Speaker, I can think of no reason that this measure should not pass unanimously. It outlaws torture.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair notes a disturbance in the gallery in violation of the Rules of the House and directs the Sergeant at Arms to restore order.

The gentleman may proceed.

Mr. SAXTON. Mr. Speaker, I can think of no reason that this measure should not pass unanimously. It outlaws torture, mandates decent treatment for unlawful enemy combatants who are in our custody, protects Americans from frivolous lawsuits and prosecutions, and, most critically, provides a fair, balanced and civilized process by which the international war criminals may be held accountable for their action.

The world has waited long enough to bring these men to justice. Vote "yes" on this measure.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, each and every Member of this House is equally concerned with bringing terrorists to justice and punishing them for attacking the United States because they have committed horrible crimes.

But I have a lot of questions to ask. I want to be sure that I do the right thing. Why are we rushing into this? I know we have to comply with the law, but we should not be in a hurry. I think we need to do what is right.

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You know. I have some questions. When the Geneva Conventions convened back in 1949, there were at least 200 countries who agreed in what came out of this convention. Are we prepared for other nations' leaders, such as Iran, Syria, and others, to selectively interpret the Conventions' article 3 in a way that we are comfortable with?

I am pretty sure that when they met in 1949, there were agreements and disagreements, but we came out with something that everybody accepted. Now there are going to be some changes into that. Have we in any way contacted those leaders of those countries to see what they think about the changes that are being formulated today?

I think that we are beginning to open up a can of worms. So we are going to have to be very careful of what we do. The Navy Judge Advocate General, the top lawyer for the Navy, reminded us recently that Geneva exists to protect American soldiers. Our protections are only as strong as the protections of the Geneva Conventions.

Mr. Speaker, each and every member of this House is equally concerned with bringing terrorists to justice and punishing them for attacking the United States.

Everything about this bill today begs questions.

Do we know what we are doing in putting our feet on an unsure path, one which will certainly change the face of our international responsibilities and our international obligations?

Why are we rushing this? We should not be in such a hurry to overhaul our international obligations.

Nearly 200 nations around the world are signatories to the Geneva Conventions. Are we prepared for other nations' leaders—such as Iran, Syria and others—to selectively interpret the Convention's Article 3 in a way that we are comfortable with?

What can of worms are we opening today?

The Navy Judge Advocate General, the top lawyer for the Navy, reminded us recently that Geneva exists to protect American soldiers. Our protections are only as strong as the protections Geneva offers.

Why are we taking away the Supreme Court's authority—in a historic grab of power—to consult international law in interpreting conduct associated with the War Crimes Act?

Are we taking away power from our other Federal courts?

Do we remember one of the more salient points raised by the 9–11 Commission that the United States was negligent in staying involved in matters around the world?

The 9–11 Commission encouraged the U.S. to get more involved with other nations, to find security in a global environment. Are we doing that today?

My grandson Oscar is almost 4 years old. He may be a soldier someday. While his grandfather is in Congress, I will raise my voice to keep our soldiers safe.

When Congress gives away power to the President, it is a permanent move. The question each of us must ask is: how wise will this policy seem 10 years from now? And when the Congress gives power to the President, we must understand that the President today will not be in office years down the road.

To my friends on the other side of the aisle: do you know the test to apply for this question? It is this: Think of the person you disagree with completely, imagine they are the President, and ask yourself: Do I really want that person to have this authority?

COMPARISON OF ALTERNATIVES RELATED TO MILITARY COMMISSIONS

Compromise bill (H.R. 6166)	McCain-Warner (S. 3901)
GENEVA CONVENTIONS, TREATY OBLIGATIONS AND INTERNATIONAL LAW	
Authorizes the President to interpret of meaning and application of the Geneva Conventions.	Defines grave breaches to Common Article 3 of the Geneva Conventions to include cruel, unusual, inhumane treatment or punishment with reference to the 5th, 8th and 14th Amendments.
Revises War Crimes Act to provide limited immunity for government officials from prosecution for past acts that degraded and humiliated detainees.	Does not retroactively apply the revisions to the War Crimes Act.
Asserts that the revised War Crimes Act fully satisfies the U.S. obligation under the Geneva Convention to provide penal sanctions for grave breaches of Common Article 3.	Does not create a three-tier system of enforcement, with Presidential discretion to define and enforce any offenses below grave breaches of Common Article 3.
Adds a ban on U.S. courts using any international law in interpreting conduct prohibited in the War Crimes Act.	
Makes the War Crimes Act changes retroactive to the amendments to the War Crimes Act in 1997.	
For lesser offenses below a grave breach, gives the President explicit authority to interpret the meaning and application of the Geneva Conventions Common Article 3.	
Requires that such interpretations be published, rather than described in secret to a restricted number of lawmakers.	
Affirms that Congress and the judiciary can play their customary roles in reviewing the interpretations.	
Prohibits cruel, inhuman, or degrading treatment or punishment and relies on the President to ensure compliance.	
DEFINITION OF ENEMY COMBATANT	
Expands the definition of an "unlawful enemy combatant" to include an individual who has "purposefully and materially" supported hostilities against the U.S. or its co-belligerents or a person who is or was determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal.	Defines "unlawful enemy combatant" as an individual engaged in hostilities against the United States who is not a lawful enemy combatant.
DETAINEE HABEAS CORPUS CLAIMS	
Identical to S. 3901	Extinguishes pending Habeas Corpus claims.
CLASSIFIED INFORMATION AND ACCESS OF THE ACCUSED TO EVIDENCE	
Generally the same as S. 3901 with some additional clarifications to ensure the accused will not see classified information.	The accused may not be denied access to evidence against him that is presented to the panel or jury.
	The accused will not see classified information.
	Essentially follows the existing military rules of evidence requiring declassification, redaction and use of substitutes.
	The prosecution may decide to delete charges, withdraw the case, or defer prosecution.
EVIDENCE OBTAINED THROUGH COERCION/SELF-INCRIMINATION	
Allows statements, *obtained before passage of the DTA*, through cruel, inhuman and degrading treatment and lesser forms if coercion of the military judge finds it reliable and probative and in the interest of justice.	Prohibits use of statements obtained by cruel, inhuman, and degrading treatment not amounting to torture.
Allows statements, *obtained after passage of the DTA*, through coercion (but not through cruel, unusual, or inhumane treatment or punishment) if the judge finds it reliable and probative and in the interest of justice.	Statements obtained by lesser forms of coercion may be allowed if the military judge finds it reliable and probative and in the interest of justice.
HEARSAY EVIDENCE	
Hearsay is more easily admissible.	Hearsay is admissible if the military judge finds the evidence more probative than other evidence the proponent can reasonably obtain.
Hearsay normally inadmissible can be used unless the party it is used against demonstrates it is unreliable or lacks probative value (burden of proof is on the accused).	
Emphasizes the importance of preventing disclosure of classified hearsay (no substantive addition).	
APPEALS	
Establishes a Court of Military Commission Review, with appeals to the D.C. Circuit, and by certiorari to the Supreme Court.	Appeals would be to the Court of Appeals for the Armed Forces, and by certiorari to the Supreme Court.

Mr. HUNTER. Mr. Speaker, I would like to yield 3 minutes now to the gentleman whose subcommittee oversees the policies for our 2.5 million folks in uniform, Mr. McHUGH of New York.

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding.

Let me just make a few comments based off that statement. This is a great country when we can have, as we had moments ago, an individual come into the people's House and express, perhaps out of order but very passionately, their concerns about how we are being unfair.

Let me be very clear. As someone who has for 14 years visited our troops in virtually every combat theater in which they have been located, if our troops were to be taken prisoner, they would be well served by the enemies of this Nation, such as Sudan, such as North Korea, and, as was mentioned, Iran and others, to be treated under the provisions of this act.

We are extending to these terrorists, and make no mistake about it that they are terrorists, unlawful combatants, the rights and protections that all of us as American citizens enjoy under the fifth, the eighth, and the fourteenth amendment.

I have heard my good colleagues; and they are good Americans, express concerns about somehow changing our obligations under the Geneva Conventions under common article 3. Make no mistake about this as well. The language that we are incorporating into our basic domestic criminal law uses the language of the commentaries on common article 3 and the Geneva Conventions. We simply harmonize that common article 3 with our United States laws, requiring that only grave breaches of that common article, as provided in the Geneva Conventions' commentaries, are subject to criminal prosecution.

International law has traditionally provided, time and time again, that it is the signatory to an international convention that is responsible for making it clear what the violations of law may be, and that is what we are doing here today.

JOHN MCCAIN, LINDSEY GRAHAM, Members of the other body who have had experience in these matters, either as being prisoners of war or as having the opportunity to go through as a Judge Advocate General in prosecuting, understand our responsibility is to not throw away the conventions that we have committed ourselves to as Americans and to not abandon the leadership we have shown for more than 200 years in the question of human rights. This bill meets that standard.

It is not sufficient to say that convictions may be overturned if the answer is not to convict at all. We have to recognize that it is our responsibility to the American people and to the brave men and women that I have visited as a member of the Intelligence Committee who we ask to interrogate these people that we will do the right thing by them, respect international conventions and respect the basic tenets upon which this Nation was built, that of human rights. This bill does it, and I would hope all my colleagues would support it.

Mr. Speaker, I rise today in strong support of H.R. 6166. This bill is vitally important for securing America and ensuring that accused terrorists are tried for war crimes in an open and transparent court that will apply justice swiftly and fairly.

There is more to this bill than military commissions, however. H.R. 6166 addresses an issue that Supreme Court created in the Hamdan case. The Court in Hamdan decided that Common Article 3 of the Geneva Conventions—a article that many assumed only applied to regular armies—applies to terrorist organizations, like al Qaeda. As a result of this decision, our brave personnel in the military and other national security agencies are faced with an unpredictable legal landscape because the meaning of certain elements of Common Article 3 are vague—the standard? An outrage against personal dignity.

The question, would a female interrogator of a male Muslim detainee be guilty of violating Common Article 3 because the mere scenario constitutes an outrage upon personal dignity? That kind of situation is untenable. It's unfair to our personnel out in the field trying to protect lives here at home. It is Congress' responsibility to draw the lines of what conduct will be judged criminal.

As a result, we need to amend the War Crimes Act to make clear that only grave breaches of Common Article 3 constitute a war crime under U.S. law. Let me be clear, under international law a party to the treaty is responsible for incorporating only grave breaches of Common Article 3 in its penal code. My point is simple: Today the Congress is complying with our treaty obligations under Geneva Conventions and today the Congress is following the guidance of the Supreme Correct in Hamdan (even though many believe that the Court's decision was ill construed).

Now, some have suggested that H.R. 6166 condones torture or that this bill implicitly permits "enhanced torture techniques". These suggestions are absolutely false and they fly in the face of the very words that appear on the pages of this bill.

First—it is illegal under U.S. law to torture. This was true before H.R. 6166 and it will remain true. Moreover, H.R. 6166 makes torture a war crime that can result in the death penalty. This means that under the War Crimes Act, any U.S. personnel that engages in torture will be subject to prosecution for committing a war crime. Additionally, in the context of military commissions, a statement obtained through torture is not admissible.

Second—this bill makes clear that the way we treat our detainees is guided by treatment standards set by the Congress—last year—in the Detainee Treatment Act, also know as the McCain amendment. This standard is based upon the familiar standards of the U.S. Constitution. Thus, "cruel, inhuman, and degrading treatment or punishment" under this section means the cruel, unusual, inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution, as defined by the U.S. reservations to the UN Convention Against Torture.

Don't we all agree that the Constitution, which provides, the fundamental, underlying protections for the citizens of the United States, provides more than sufficient protections for unlawful enemy combatants? Why should an accused terrorist enjoy protections that exceed what the Constitution provides every to every one of us as United States citizens?

Let me close by saying that this is an important bill for the American people—we will bring the masterminds of 9/11 to justice, and this is an important bill for the brave men and women fighting this battle—they can do their job in theater without the fear of frivolous prosecution here at home.

Mr. SKELTON. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from California (Ms. HARMAN), ranking member of the Intelligence Committee.

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding and commend him for his very impressive service as ranking member of the Armed Services Committee.

Mr. Speaker, I take a back seat to no one in my effort to understand the threats against us, find those who would cause us harm, and prevent them from harming us. I also believe strongly that Congress must act under article I, section 8 of the Constitution to regulate "captures on land and on water."

Since this administration started new programs to detain and interrogate terror suspects after 9/11, I have offered to help craft a new legal framework around those policies. I have called on the Vice President, his chief of staff, the National Security Adviser, and the Attorney General to help Congress craft such a framework to eliminate the fog of law. And I have argued that this new framework would empower, not limit, those who must carry out those policies because they would know that they were acting legally.

Today's bill is far from the best we can do. The rule for debate is closed, which means that none of us can improve the bill. And as debate has made clear, this bill was written by the White House in consultation with a few Republican Members. There was no bipartisan consultation and possibly none with any of the Republican members of the Intelligence Committee.

Others will address issues with immunity, coerced confession, habeas corpus, and court review. I want to address the issue which relates to the Intelligence Committee and which I believe is the primary reason for rushing the legislation through. There is a carve-out for the CIA. The bill would permit the CIA to continue a separate program for interrogation that does not comply with the Army Field Manual. If such a program is needed, then

Congress must impose strict limits and ensure that we have the tools to do strict oversight.

An amendment which Mr. SKELTON and I hoped to offer today would have required notification in advance to the intelligence committees of any alternative set of interrogation procedures; a legal opinion from the Attorney General that they comply with Federal and international law; assurances that they are applied only to those we believe possess reliable, high-value, actionable intelligence; that the Army Field Manual techniques would not work; and that the use of the techniques would not adversely affect our troops who may be captured. Our amendment was not made in order, and I remain very skeptical that Congress can assure that any CIA carve-out will be limited and carefully monitored.

Mr. Speaker, we can do better. The bill negotiated by Senators MCCAIN, GRAHAM, and WARNER was better. Let us wait for the lame duck session and do this right. Vote "no."

Mr. HUNTER. Mr. Speaker, at this time I would like to yield 2 minutes to the gentleman who sits on both the Armed Services Committee and the Intelligence Committee and has put enormous focus on this particular bill, the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Speaker, I think it is important to start with some important truths to remind ourselves of: one, we are in a struggle against a vicious, determined enemy who is determined to kill as many of us in as spectacular and as brutal a fashion as possible. Secondly, this struggle stretches all around the world and will go on for a long time. And, third, the enemy lives in the shadows and does not reveal when or where or how they are going to strike. Information is the key weapon we have to prevent them from killing us and to prevent them from attacking others in the future.

This debate, as you have heard, has been mostly about what rights those few who we are able to capture, what rights, legal rights, they have under our system. But I think it is important to also remind ourselves about the critical nature of information and in stopping future attacks. In the Cold War we worried about missiles and tanks, and we could use satellites to count on. Here we are worried about three guys in a cave or half a dozen in a compound or four in a flat in London. If we don't have credible, specific information to stop those individuals and what they plan, then we will not be able to do so.

I think this is a good bill, but I also believe that it is right up to the edge of tying our own hands or, to change my metaphor, of putting blinders on ourselves, to make it very, very difficult to stop future attacks. I think it is important to do this bill now so that there is the certainty that our folks in the field, in uniform and out of uniform, desperately need to have. But we need to be careful that those of us in this Congress do not take the extra step to make their job impossible and then point the fingers at them in the future.

I think Members should support this bill, and I also believe Members should be careful in the future.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a member of the House Intelligence Committee and the House Armed Services Committee, I understand the critical need to have the best possible intelligence both to prevent terrorist attacks against our Nation and to protect our troops in the battlefield. But those who have tied passage of military commissions legislation to the collection of actionable intelligence are simply misleading the American people.

I am deeply disappointed that military commissions legislation crafted by the White House and the Republican congressional leadership does not create a system that will pass constitutional muster. Like my colleagues, I demand that our Nation prosecute those who commit terrorist acts against us, but if Congress and the White House create a system of military tribunals that will be struck down by the Supreme Court as unconstitutional, we will further delay justice for the victims of terrorism and for their families.

The Bush administration has determined that we can legally hold all enemy combatants until the end of hostilities in the global war on terrorism, and as the National Intelligence Estimate released yesterday indicated, we won't be able to declare victory in the fight against terror and extremism anytime in the foreseeable future. So I ask, why are we in such a hurry to pass legislation that may do more harm than good? Why are we putting politics above victims of terrorist acts? Why are we endangering our troops?

Protecting our Nation also includes protecting the men and women who are serving in uniform in battlefields around the world. I believe, along with other military and legal experts, that the Republican military commissions bill will be interpreted by the international community as redefining our obligations under the Geneva Conventions. Our Nation must act from a position of strength, and we must think first of protecting our citizens before weighing how the world will view our actions. However, it is very unrealistic to simply ignore the impact that the changes included in H.R. 6166 could have on members of our military.

For that reason, Mr. Speaker, in wrapping up, I cannot support H.R. 6166 as it is written. We can do much better for our troops, the victims of terrorism, and the American people.

Mr. HUNTER. Mr. Speaker, I would like to yield at this time 2 minutes to a gentleman who is himself a veteran and a former JAG officer and the chairman of the Veterans' Affairs Committee and a gentleman who has paid a lot of attention to this important subject, the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise to enter into a colloquy with the distinguished chairman of the House Armed Services Committee, Mr. HUNTER.

Mr. HUNTER, as stated in section 948k of the legislation before us, military defense counsel shall be detailed to the accused as soon as practicable after the swearing of charges against the accused.

Section 949a of the legislation permits the accused to represent himself. That section also defines how the accused will conduct himself and when the military judge, in his discretion, may partially or totally revoke this right.

☐ 1415

Of concern to me and some military lawyers is that, should this right be revoked, a delay of trial could occur while waiting for the detailed defense counsel of the accused or an appropriate authorized civilian counsel to get up to speed and to begin to perform the defense.

It is my understanding that the intent of the legislation allows the detailed military counsel to remain as an associate counsel should the accused exercise his right of self-representation. This ensures that even if the accused's right is revoked by the judge, the trial will continue in a timely and efficient manner.

Mr. HUNTER. Mr. BUYER, that is correct. It is the intent of the legislation that the detailed military counsel shall act as an associate counsel during the course of self-representation. As you stated, should this right be revoked, the military counsel will then proceed to represent the accused throughout the rest of the trial.

Mr. BUYER. Chairman HUNTER, I want to thank you for entering into this colloquy with me and for your work on this provision and the legislation as a whole. I would also like to thank the President. He said he would work with the House and the Senate. He has done that. Chairman, you have done that. I want to thank Senator LINDSEY GRAHAM for having done that.

Let me just share to all of my colleagues that I do believe this is a good product. Chairman HUNTER; and I want to let everybody know and understand that.

This Code of Military Commissions, it has a good balance. You have struck that.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I want to thank him for his valuable contribution.

Mr. ANDREWS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. ISRAEL), my very thoughtful friend.

Mr. ISRAEL. Mr. Speaker, I rise in opposition to this bill. The distinguished chairman of the committee, who I have a very strong respect for, opened this debate by saying that in the global war on terror we cannot read terrorists their Miranda rights. No one has said that. No one has proposed it. No one has suggested it. That is not what is being debated here. That is not what we should debate here. It is absurd.

When it comes to terrorists planning mass murder on the American people, I want to find them. I want to capture them. I want to kill them. I want to try them. If they are found guilty, I want to kill them. I believe in capital punishment for terrorists perpetrating genocide.

But because I think that we should fight and kill terrorists, I want there to be fewer of them to fight and kill. This bill says to potential terrorists, the U.S. is surrendering the moral high ground. It is unilaterally relaxing the Geneva Conventions, that we are willing to keep people locked up indefinitely without a trial.

And since I believe in executing people found guilty of perpetrating or planning a genocide on the American people, I want to make sure we are executing the right terrorists. Government is imperfect. We make mistakes. How do I know? Katrina. We lose records. How do I know? The long line of veterans at my district office who cannot get their back pay because we lost their records.

When it comes to capital punishment for terrorists, I want to make sure that we are giving them the proper trial, that we are getting the facts. If I am willing to execute them, I want to make sure it is based on fact.

And because I believe we should fight and kill terrorists, I also know that Americans in that fight are going to be caught; and I want them treated by the same standards that we would treat our enemy's prisoners. I do not want any one of our military people to be subject to the whims and the arbitrariness of a current interpretation by a foreign enemy.

Mr. Speaker, I want to close by suggesting and telling my colleagues that I recently asked a service member, who received a Bronze Star for valor in Fallujah, what he thought about this. He said, Congressman, I do not think our enemies really care about the Geneva Conventions, but I am fighting for my country because I care about morality, because I care about strong values, because this is a good country that leads the way, and I want to continue leading the way.

If I am asking young men and women to die for what we stand for, I want to stand for something. If I am asking people to fight to kill terrorists, I want to be in the pursuit of our values, not the terrorist's values.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, everyone who has spoken in this debate on both sides I think shares a deeply held conviction that they want terrorists who would threaten this country prosecuted, convicted and punished.

Because I believe the commencement of those prosecutions is imperative for the future of the country, I will support this bill. I will do so, however, with two severe reservations which I would hope would be dealt with by the other body and in conference.

The first has to do with the issue of habeas corpus, which is a complicated word, but in this context, here is what it means: As I read this bill there is a risk that a suspected terrorist could be held for an indefinite period of time without recourse to any decisionmaker outside of the executive branch.

The constitutionally of this is ambiguous. But the wisdom of it I think is clear. It is not very wise. I think revisiting this provision as the bill goes forward would assure the constitutionality of the bill and its compliance with the Geneva Conventions.

Secondly, I am concerned about the fact that there has been an insufficient procedure for us to consider this bill. There have been many good ideas dealing with habeas corpus, dealing with issues of retroactive immunity that I think deserve a full and fair airing and hearing on this floor. This is an unfortunate procedure in which we find ourselves.

My concern is it will be our sole opportunity, given the way things go around here, to voice our opinions on this. I do think that the underlying provisions of this bill are consistent with the spirit and letter of our obligations under the Geneva Conventions.

I have concluded that compliance with these conventions is essential so we can go forward in prosecuting and trying those who threaten our country. I believe this process needs great improvement. I think this bill needs one very specific improvement. But to move it forward, I will vote "yes."

Mr. SKELTON. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I wanted nothing more than to come to this floor today and vote for a military commissions bill that comports with our American values, that the rest of the world would see as fair and humane, that honors our international commitments and protects our own troops who fall into enemy hands and, as the ranking member has pointed out, the Supreme Court would uphold.

I regret that the chairman and the ranking member are not shoulder to shoulder on this issue, as should be the case. Too often have we considered these weighty matters of defending our country, defeating terrorism, protecting Americans in a partisan fashion. I think that is regrettable. I think the American people think it is regrettable.

Make no mistake. Every single Member of this House wants our President to have the intelligence necessary to prevent future terrorist acts on our Nation and our allies. Every single one of us wants those responsible for 9/11 and other terrorist acts to be tried fairly and punished accordingly. And we want those convictions to be upheld by the courts, and we want to stop future attacks.

But, regrettably, the bill before us today, in my opinion, falls far short of the high standards that this Congress and the American people expect and demand and indeed that the world expects of America. This legislation at bottom is really more about who we are as a people than it is about those who seek to harm us.

That is true if it were domestic. It is true internationally. No one wants to defend murderers and rapists, those who would harm our people, whether they live here or they live abroad. However, defending America requires us to marshal the full range of our power, diplomatic and military, economic, and, yes, moral. And when our moral standing is eroded, our international credibility is diminished as well.

We must not lightly dismiss the somber warning of our former Secretary of State, the leader of our Armed Forces, Chairman of the Joint Chiefs of Staff, serving on the administrations of President Bush I, and serving as his Secretary of State.

He said this, and I quote Colin Powell: "The world is beginning to doubt the moral basis of our fight against terrorism. I fear this legislation before us will further diminish that credibility."

While this bill properly lists as punishable offenses certain grave breaches of article 3 of the Geneva Conventions, it leaves almost unfettered discretion to the administration to define anything less than such grave breaches.

Why should we be concerned about providing this administration with such discretion, one might ask? Because our President and our Attorney General have routinely flouted congressional authority with signing statements and legal interpretations, which give to them unfettered authority.

As the Washington Post has stated, and again I quote: "The Bush administration's history is one of interpreting limitations on interrogation tactics, including Mr. McCain's previous legislation, banning cruel, inhuman and degrading treatment, as permitting methods most people regard as torture."

Furthermore, Mr. Speaker, this bill eliminates the fundamental legal right of habeas corpus. What is habeas corpus about? Why should we care for terrorists who attack our country? Because we might make a mistake. That is why we build in protections, to protect against mistakes because we are human.

The bill would greatly minimize judicial oversight by establishing a new appeals process and centralizing consideration of cases in the District of Columbia Court of Appeals, thus stripping other appellate courts from hearing cases currently pending before them.

Mr. Speaker, I am absolutely committed to winning the war on terrorism and bringing to justice any and all terrorists who would threaten us, harm us or cause harm to our country. However, I also believe we have an obligation to the Constitution and to our oath to do so in a manner that is consistent with our values, that makes us different than other nations in the world, that secures just convictions and that enhances our international credibility, thereby strengthening our national security.

I end as I started. I regret that I cannot support this legislation, and I are regret that it is not being offered in a bipartisan fashion. It would have been better for us, for the people, and for our country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). The Chair reminds all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. HUNTER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to set the gentleman straight who just spoke. Every single person held in Guantanamo has the right and will have the right under this legislation to contest whether or not they are, in fact, combatants and the status of their being swept up on the battlefield inadvertently or being, in fact, true enemy combatants. They will have that right.

That is, in my estimation, an important type of habeas corpus. That is preserved in this bill.

Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. Boustany).

Mr. BOUSTANY. Mr. Speaker, I rise in strong support of H.R. 6166. I want to compliment both Chairman Hunter and Chairman Sensenbrenner for bringing forth a very good bill and their prodigious work on this issue. I also want to commend Chairman Steve Buyer for his fine leadership as well on this issue.

Mr. Speaker, it is time for the terrorists responsible for planning the most horrendous attack on U.S. soil and who continue to plan terrorist acts to be brought to justice. We have an obligation to the American people to deliver justice upon these criminals, as well as an obligation to the international community to uphold our treaty obligations.

I, too, had some concerns about this at the outset, but I think this bill addresses the concerns. I am pleased that this bill contains provisions that will maintain our commitment to common article 3 of the Geneva Conventions, while also providing the necessary protection to U.S. personnel. This bill sets forth a fair, effective process consistent with our values, our laws and our obligations.

Mr. Speaker, in closing, I urge swift passage of the Military Commission Act of 2006, so that we can continue to prosecute these terrorists intent on causing violence to innocent victims.

□ 1430

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. Crowley).

Mr. CROWLEY. Mr. Speaker, I believe it is my belief my colleagues on the other side of the aisle care more about giving the President what he wants rather than what is in the best interests of the American people, the people that we are sent here to represent.

I know that these terrorists are vicious murderers. I have experienced it firsthand. I always thought I was safe in my warm, little comfortable bed in Woodside, Queens, New York. I know it is no longer the case, but it is my values as an American and those values that I hold dear that keeps that hatred in check.

We must lead by example on these issues, not be evasive quasi-participant in the rule of law.

Our soldiers are abroad fighting a battle that I believe our President has not allowed them to win because of his continued mismanagement.

The National Intelligence Estimate says that the war in Iraq has actually invigorated the growth of terrorism and worsened its threat around the globe.

Today, we could have had an opportunity to fix one of those mistakes, but we are ignoring that opportunity and ignoring the respect for due process and denying habeas corpus to detainees.

I cannot and will not support this legislation.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Inslee).

Mr. INSLEE. Mr. Speaker, we ought to hold this truth to be self-evident, that no President should be given the ability to hold people in detention indefinitely without review by the judicial branch.

We should never yield to al Qaeda, not one inch, not one right, not one American principle; but, today, in this bill, we yield a fundamental American principle, the principle that no executive, no President, should have the untrammeled ability to be free of checks and balances that have kept our country so free in the last 230 years. That principle of writ of habeas corpus has been fundamental, and it is destroyed in this bill.

When we learn that George Bush's policy has kept a man in detention for years who was totally innocent without trial, it was not just he who suffered. It was we who had a wound as well.

We do not care about the terrorists' displeasure here, but we do care about the principled integrity of our country, about the light of liberty that so attracts the world. It is that light that will help us win the war on terrorism, not just the light of our bombs. This is the principal weapon in our arsenal. It is the light of liberty, may it ever shine.

Reject this bill. Go back to the drawing board.

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. Holt).

Mr. HOLT. Mr. Speaker, I rise in opposition to this measure which will not preserve principles of justice upon which this Nation was founded. How true we are to our ideals affects the clarity and decisiveness with which our soldiers can act, the safety of our troops, the motivation of our potential enemies, and the behavior of our actual enemies.

This bill provides protections that are vague, slippery and imprecise. It is subject to interpretation by the President, by the Secretary of Defense, by our commanders in the theaters of operation, by our troops in the field, by our friends and enemies around the world.

We need a bill that does at least two things. It should provide a clear set of guidelines consistent with American principles such as in our revised Army Field Manual; guidelines that apply to all U.S. Government personnel, on how to treat prisoners; guidelines that preserve our principles.

Second, it should include verification mechanisms to monitor how prisoners and detainees are treated. One of those mechanisms is already in use by police departments and prosecutors across the country: the videotaping of interrogations.

Videotaping has proven to be extremely effective at preventing not just abuse of detainees but also false allegations of abuse by detainees against their interrogators. The practice aids in interrogation, and it protects the enforcers, the prosecutors, the defendants and, hence, protects all of us. By not including such a provision in the bill, the drafters missed a real opportunity to ensure that we prevent serious problems in the future.

Last night in the Rules Committee, I offered an amendment that would have replaced a few critical provisions of H.R. 6166 with text that Senators WARNER, MCCAIN, and GRAHAM put forward two weeks ago emphatically supporting the principle that everyone, even detainees in Guantanamo, should be allowed to examine and respond to all evidence presented against them at trial. Of course, The Rules Committee denied Members the opportunity to vote on this and other amendments on the floor today.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I want to focus like a laser beam on the right of habeas corpus and the untoward effect of this legislation on habeas corpus. This is an ancient doctrine that has been with us since at least the days of Charles I. It has presented difficulties to many American Presidents from Jefferson to Lincoln to Grant to Roosevelt.

We have the power to do much in restricting habeas corpus; but we should do so very, very carefully because it is the protection from tyranny that our forebears sought in the Revolution.

Congress here is entering upon dangerous constitutional shoal waters, and it is, in my belief, unconstitutionally limiting access to habeas corpus. The courts have repeatedly ruled in a restricted fashion whenever Congress or the Presidency has restricted access to habeas corpus and each of us, not just the Supreme Court, but we in the Congress and those in the executive branch, we all take an oath to uphold the Constitution of the United States, and this act, by restricting habeas corpus, will not serve America well.

And by so restricting habeas corpus, this bill does not just apply to enemy aliens. It applies to all Americans because, while the provision on page 93 has the word "alien" in it, the provision on page 61 does not have the word "alien" in it.

Let us say that my wife, who is here in the gallery with us tonight, a sixth generation Oregonian, is walking by the friendly, local military base and is picked up as an unlawful enemy combatant. What is her recourse? She says, I am a U.S. citizen. That is a jurisdictional fact under this statute, and she will not have recourse to the courts? She can take it to Donald Rumsfeld, but she cannot take it across the street to an article 3 court.

This bill applies to every American, regardless of citizenship status.

Mr. SKELTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I want to thank the distinguished gentleman from Missouri, and let my colleagues know that I have read the bill and what I read here is pretty chilling. Matter of fact, I want to quote something from the bill that has not been discussed and ask that all of my friends read this bill so that we can see if this really reflects what we want to do and the implications this could have for Members of Congress because I have stood on this floor time and time again to protect this institution, and I want Members of Congress to think about this provision.

You know, we have heard the President make comments that people who oppose this bill are really hurting the United States. We have all heard him say this.

Section 26, wrongfully aiding the enemy. Any person subject to this chapter, by the way anybody is who in breach of an allegiance or duty to the United States knowingly and intentionally aids an enemy of the United States or any of the co-belligerents of the enemy shall be punished as a military commission under this chapter may direct.

I want to know, are Members of Congress who challenge this administration as to their taking us into illegal wars, is that somehow contrary to allegiance to the United States? I mean, we need to think about this. What are we doing to this institution here? Are we turning us all into mice here, running into a corner because we are afraid to challenge the President?

I mean, my friends who are Republicans, stand up for the Republic, to the Republic for which it stands. Stand up for the Republic. Read this provision in this bill.

There is another provision in the bill that I think deserves a careful look. Suppose a President sometime in the future declares that some country has weapons of mass destruction, and based on those claims, the Congress moves quickly to give the President the authority to wage war, and then war is waged and hundreds of thousands of civilians are killed as collateral damage, and then we find out later on they did not have weapons of mass destruction, and then you have all these dead people, but they were collateral damage. Under this bill, which I have read, collateral damage is precluded from applicability with respect to the enforcement of the rule of law, or if there is a lawful attack, collateral damage is precluded from being cited.

Now, suppose that happened in this country. That would be so awful that something like that happened, but essentially we are giving a get-out-of-jail free card to the very officials who could lead this country down a path to war and kill innocent people based on lies.

I do not see this as a Republican or a Democrat argument. I see this as a question of whether we stand up for what this country was founded upon. What are we about? What do we believe in? That is what we have to answer here, and this bill is everything we do not believe in.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair notes a disturbance in the gallery in violation of the rules of the House and directs the Sergeant at Arms to restore order.

Mr. SKELTON. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it has taken over 5 years since September 11 for the administration to finally come to Congress and seek legislation establishing military tribunals to try terrorist suspects.

For over 4 years now, many of my Democratic colleagues and I have urged this Congress to act in this area. Four-and-a-half years ago I introduced legislation, other of my colleagues did the same, to establish military tribunals, and we introduced that legislation for two reasons: first, because we should detain people who mean to harm our country and mean to injure our citizens; and, second, because the administration's unilateral act in establishing these commissions was on the most dubious of constitutional grounds and we did not want to be where we are today, 5 years hence, with a system that was struck down by the Supreme Court, where people have not been brought to justice.

But here we are. It has taken the majority and the administration 5 years to get here, but here we are.

Terrorists who seek to harm this country must be captured. They must be tried, detained and punished to protect our country, and there is a way to detain them, to gather valuable intelligence from them, to try and convict them without sacrificing our ideals as a Nation.

We are at war with a vicious enemy who seeks to destroy our way of life. It is a military fight; but in a broader sense, it is also a war of ideas.

America has always been not only a Nation it has been an idea and when we sacrifice that idea, it is a setback in this war of ideas.

So we have to ask ourselves where does this position us? Where does this bill position us in the war of ideas? Are we advancing or are we retreating when we are perceived as abandoning the rule of law? When we are perceived as defining what it means to be cruel or inhuman or degrading?

□ 1445

When we wonder out loud in the legislative process whether a Nation so conceived as ours can long endure without cruel and inhuman treatment? When we show to the world that we are questioning the very idea of America, whether this Nation can long endure with a respect for the rule of law, with respect for the concept that people who are detained by America will not be mistreated, that people detained by America will have a right to confront evidence against them will have the sacred right of habeas corpus?

When we put forward legislation that says that an American can be plucked off the street, given a label unilaterally by any administration, by this President or the next, as an unlawful enemy combatant, and all their rights evaporate once they are given that label, that calls into question the very idea of America; and that, I believe, is a setback in the war of ideas.

We can do better than this bill. And, in fact, on Friday, we had better than this bill, when Senator WARNER and Senator MCCAIN came forward with what I thought was a sound compromise. We had a sound compromise on Friday, but during the weekend that unraveled. During the weekend, I think we took a step back in the war on ideas.

It was not an irrevocable step back. The majority and the administration has waited 5 years to bring us legislation on this subject. Let us take another 5 days, if it takes it, to get it right.

We shouldn't be retreating back to our districts just because of our election and leaving the work undone or done poorly. And I regret to say that this bill is done poorly, and it must be changed.

Mr. HUNTER. I want to take 30 seconds, Mr. Speaker, just to remind my friend who just spoke that this bill is largely the product of not only this body but Senator WARNER, Senator MCCAIN, and Senator GRAHAM. Shortly, they are going to be introducing the precise same bill in the other body.

And, Mr. Speaker, in this bill, military commissions, if you will check on page 7, to answer the gentleman who just spoke who thought his wife might in some wild circumstance be prosecuted under this bill, this bill gives jurisdiction and military commissions, on line 24, page 7, to alien unlawful enemy combatants. It does not take away the habeas rights of U.S. citizens.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, at the request of the Democratic leader, I submit for the RECORD a letter from various religious organizations dated September 27.

SEPTEMBER 27, 2006.

DEAR REPRESENTATIVE: We are writing to strongly encourage you to reject the "compromise" Military Commissions Act of 2006 and to vote no on final passage of the bill. More than anything else, the bill compromises America's commitment to fairness and the rule of law.

For the last five years the United States has repeatedly operated in a manner that betrays our nation's commitment to law. The U.S. has held prisoners in secret prisons without any due process or even access to the Red Cross and has placed other prisoners in Guantanamo Bay in a transparent effort to avoid judicial oversight and the application of U.S. treaty obligations. The federal government has operated under legal theories which dozens of former senior officers have warned endanger U.S. personnel in the field and has produced legal interpretations of the meaning of "torture" and "cruel, inhuman and degrading" treatment which had to be abandoned when revealed to the public. Interrogation practices were approved by the Department of Defense which former Bush Administration appointee and General Counsel of the Navy Alberto Mora described as "clearly abusive, and . . . clearly contrary to everything we were ever taught about American values." According to media reports the CIA has used a variety of interrogation techniques which the United States has previously prosecuted as war crimes and routinely denounces as torture when they are used by other governments.

Instead of finally coming to grips with this situation and creating a framework for detaining, interrogating and prosecuting alleged terrorists which comports with the best traditions of American justice, the proposed legislation will mostly perpetuate the current problems. Worse, it would seek to eliminate any accountability for violations of the law in the past and prevent future judicial oversight. While we appreciate the efforts various members of Congress have made to address these problems, the "compromise" falls far short of an acceptable outcome.

The serious problems with this legislation are many and this letter will not attempt to catalogue them all. Indeed, because the legislation has only just been made available, many of the serious flaws in this long, complex bill are only now coming to light. For instance, the bill contains a new, very expansive definition of enemy combatant. This definition violates traditional understandings of the laws of war and runs directly counter to Pres. Bush's pledge to develop a common understanding of such issues with U.S. allies. Because the proposed definition of combatant is so broad, the language may also have potential consequences for U.S. civilians. For instance, it may mean that adversaries of the United States will use the definition to define civilian employees and contractors providing support to U.S. combat forces, such as providing food, to be "combatants" and therefore legitimate subjects for attack. Yet, there has been no opportunity to consider and debate the implications of this definition, or other parts of the bill such as the definitions of rape and sexual abuse.

We strongly oppose the provisions in the bill that strip individuals who are detained by the United States of the ability to challenge the factual and legal basis of their detention. Habeas corpus is necessary to avoid wrongful deprivations of liberty and to ensure that executive detentions are not grounded in torture or other abuse.

We are deeply concerned that many provisions in the bill will cast serious doubt on the fairness of the military commission proceedings and undermine the credibility of the convictions as a result. For instance, we are deeply concerned about the provisions that permit the use of evidence obtained through coercion. Provisions in the bill which purport to permit a defendant to see all of the evidence against him also appear to contain serious flaws.

We believe that any good faith interpretation of the definitions of "cruel, inhuman and degrading" treatment in the bill would prohibit abusive interrogation techniques such as waterboarding, hypothermia, prolonged sleep deprivation, stress positions, assaults, threats and other similar techniques because they clearly cause serious mental and physical suffering. However, given the history of the last few years we also believe that the Congress must take additional steps to remove any chance that the provisions of the bill could be exploited to justify using these and similar techniques in the future.

Again, this letter is not an attempt to catalogue all of the flaws in the legislation. There is no reason why this legislation needs to be rushed to passage. In particular, there is no substantive reason why this legislation should be packaged together with legislation unrelated to military commissions or interrogation in an effort to rush the bill through the Congress. Trials of the alleged "high value" detainees are reportedly years away from beginning. We urge the Congress to take more time to consider the implications of this legislation for the safety of American personnel, for U.S. efforts to build strong alliances in the effort to defeat terrorists and for the traditional U.S. commitment to the rule of law. Unless these serious problems are corrected, we urge you to vote no.

Sincerely.

Physicians for Human Rights: Center for National Security Studies: Amnesty International U.S.A.; Human Rights Watch; Human Rights First; American Civil Liberties Union; Open Society Policy Center; Center for American Progress Action Fund; The Episcopal Church; Jewish Council for Public Affairs; Presbyterian Church (USA), Washington Office; Maine Council of Churches; Pennsylvania Council of Churches; Wisconsin Council of Churches; Brennan Center for Justice at NYU Law School; Robert F. Kennedy Memorial Center for Human Rights; Center for Constitutional Rights; The Bill of Rights Defense Committee; Unitarian Universalist Service Committee; Leadership Conference of Women Religious; Center for Human Rights and Global Justice, NYU School of Law; The Shalom Center; Washington Region Religious Campaign Against Torture; The Center for Justice and Accountability; Center of Concern; Justice, Peace & Integrity of Creation Missionary Oblates; Rabbis for Human Rights—North America; Humanist Chaplaincy at Harvard University; No2Torture.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentleman for yielding and for his leadership and his commitment to our young men and women in uniform throughout the world.

At a time when even the National Intelligence Estimate has concluded that the occupation in Iraq has spawned a new generation of terrorists and made us, quite frankly, less safe, this bill now will undermine the security of our brave troops and hand a victory to those who believe the rule of force should prevail over the rule of law.

I have to say once again, as the daughter of a 25-year military Lieutenant Colonel who served this country in many, many capacities through two wars, that this scares me. It scares me to death.

What century are we living in when we trust intelligence acquired through torture? Clearly, the President fails to realize that these techniques will destroy the credibility of any verdicts that use information derived from torture.

Insisting on fairness and just credibility is all we are asking for, credibility in the process. This isn't about protecting those who would harm us, as the Republicans would have you believe, it is about protecting our own troops and our Nation and not further alienating our country in the eyes of the world community.

When we turn away from the legal and the moral values that have guided our Nation, we give up the principles that differentiate us from the terrorists.

I quoted from a prayer given by Reverend Baxter at the National Cathedral during the memorial service for the victims and families of 9/11 5 years ago, and Reverend Baxter said, and I keep thinking about this prayer, he said, "Let us not become the evil who we deplore."

So I just want to urge a "no" vote on this bill; and I want to thank Mr. SKELTON for his leadership, for his support for the troops, for his steadfast work on behalf of our national security, and for making sure that this body continues to try to uphold the rule of law.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia . I thank my good friend, an inspirational leader on the Armed Services Committee.

I oppose this bill. It would send a message to the world that the United States can disregard international treaties and law and, instead, do as it pleases. For generations, we have been the beacon to guide the actions of other nations. If we descend from the high moral ground, we are, in effect, losing ground to the terrorists.

Secretary of State Colin Powell was so accurate when he said, part of this war on terrorism is an ideological and political struggle. Our moral posture is our best weapon to prevail in that struggle.

Mr. Speaker, this is not a good bill. Since the inception of the Geneva Conventions 60 years ago, no other country in the world has tried to undermine and negate its provisons its spirit as this bill would.

For enemy combatants, the bill eliminates the right of habeas corpus. This is a right enshrined in our Constitution that may be abandoned only, and I quote, "when in cases of rebellion or invasion the public safety may require it." The elimination of habeas is not just illegal, it is flat out wrong.

The purpose of habeas corpus is simple. It is to avoid injustice, to avoid the detention by government of any individual that is erroneous, unwarranted, or in violation of law. This purpose and the values from which it stems do not distinguish among individuals or circumstances. They seek to avoid any injustice to any detained individuals.

All Americans want to hold terrorists accountable, but if we try to redefine the nature of torture, whisk people into secret detention facilities and use secret evidence to convict them in special courts, our actions do, in fact, embolden our enemies more than any extremist rhetoric could ever do.

This bill needs to be defeated.

Mr. HUNTER. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I want to make sure the debate has clarity. To the gentleman, when you say this bill applies to everyone or all American citizens, that is completely false. I want the gentleman to know that.

I would like you to know that when you refer to page 61, at the top it says, provisions of this chapter. So an earlier speaker brought us this issue about, well, it doesn't say the word alien. In order to be tried under the Code of Military Commissions, you have to be an alien. So when you go to page 7, you look at line 17, section 948c, it says the persons who are subject to a military commission is any alien unlawful enemy combatant.

So this does not apply to American citizens.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I thank the ranking member.

Mr. BUYER. I have been to Guantanamo, as I am sure you have been, and I was stunned at the fact that the vast majority of people detained at Guantanamo were not in fact caught on the battleground. Many of these people were put there by bounty hunters. They were in the wrong place at the wrong time.

After 5 years, they have very little information to provide us. Those 14 that we are now putting at Guantanamo should not redefine the vast majority of the prisoners at Guantanamo who do in fact deserve a fair trial.

Mr. SKELTON. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I would like to respond to the two chairmen's remarks that I was incorrect in my analysis of the law or of the proposed bill.

I stand by that analysis, and not only is that analysis correct, but this reference to the detention act as a cure for that is totally specious, because this detention act we passed as a rider to an appropriations bill. So any remedy provided by the detention act goes away in the year of appropriation.

If you read that language, that word alien does appear on page 93, but the determination of that jurisdictional fact will be done by a military tribunal, and that is not where American civilians should have their rights determined.

Mr. SKELTON. Mr. Speaker, may I inquire as to the amount of time remaining?

The SPEAKER pro tempore. The gentleman from Missouri has 1 minute remaining, and the gentleman from California has 3½ minutes remaining.

Mr. SKELTON. May I inquire, Mr. Speaker, does the gentleman choose to close?

Mr. HUNTER. We just have one other speaker, then I am going to reserve the balance.

Mr. SKELTON. Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER) for a response.

Mr. BUYER. I just want to share with the gentleman, I have to go back, you have to look at the four corners of the document. Please don't dive into rhetoric.

When you go to the four corners of the document, it is very clear who is subject to the Code of Military Commissions. So, in title 18, you will have the Federal Code that applies to U.S. citizens; you will have the UCMJ creating a third chapter that will apply to unlawful enemy combatants, the Code of Military Commissions. It will not apply to United States citizens.

It is very, very clear. If you think it applies to somebody else, sir, I cannot get into your mind, but I just want you to know that the world will be able to see what we have created here does not apply to American citizens.

Mr. HUNTER. Mr. Speaker, at this time, I would like to yield 1 minute to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Speaker, each Member in this House comes to Congress with his own agenda, his district's needs, and his committee requests, but the one thing that should surmount all those individual desires, needs, and energies is the commitment to keep our Nation safe.

Fourteen terrorists are now being held at Guantanamo Bay awaiting trial. Thousands of the family members of Americans killed on September 11 are awaiting justice, and our constituents are waiting for Congress to act. The bill we have before us helps make that possible. It sends a message to the extremists that if they plot to kill or harm our citizens, America will find them, get the information they have, and bring them to justice. And it sends a message to those who fight to protect our freedom that we will protect them, too.

I do not know of anything that this Congress can do that is more important than passing this bill today, a bill carefully crafted, protecting classified intelligence information, providing clear guidelines for our intelligence officers who are responsible for interrogating those terrorists, and keeping our promises to the American people to do everything we can to keep them safe.

Mr. Speaker, I am proud to support this bill, and I thank those responsible for bringing it to the floor.

Mr. SKELTON. Mr. Speaker, I yield 15 seconds to the gentleman from Oregon (Mr. WU).

Mr. WU. I stand by my analysis of the proposed bill. The two chairmen stand by theirs. This is the best reason why this bill should not be rushed through. The staff cannot be held responsible for drafting errors, and we should not be rushing this kind of legislation through without the careful consideration that it deserves.

Mr. SKELTON. Mr. Speaker, this is a day in constitutional history that will stand out like Mars at perihelion. We want tough, but we also want certainty in any conviction that comes from this tribunal; and I am fearful, Mr. Speaker, that this legislation is an invitation for reversal by the Supreme Court.

We want to be tough on those despicable people, but we also want a conviction to withstand the scrutiny of our Supreme Court and our judicial process.

Mr. Speaker, I yield back.

Mr. HUNTER. Mr. Speaker, at this time I reserve the balance of my time, which I believe is 2 minutes, and move to the Judiciary Committee.

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The SPEAKER pro tempore. The gentleman from California (Mr. HUNTER) reserves the balance of his time, which is 2 minutes; and the gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6166, the Military Commissions Act of 2006.

This legislation is critical to the national security interests of the United States. The bill creates a fair and orderly process to detain and prosecute al Qaeda members and other dangerous terrorists captured during the war on terror. It also sets clear ground rules pertaining to how we will treat these prisoners in our custody. The way we treat terrorist enemy combatants sends a strong signal to the rest of the world about our commitment to the rule of law.

This legislation says to the world that the U.S. rejects torture, rejects cruel and inhumane treatment and rejects other tactics commonly used by our terrorist enemies. It says that we will not subject enemy combatants in our custody, many of whom planned and supported the largest mass murder ever on American soil, to the cruel and brutal treatment they regularly utilize against our soldiers and our civilians.

At the same time, this bill also makes it clear to the terrorists and their lawyers that America will not allow them to subvert our judicial process or disrupt the war on terror with unnecessary or frivolous lawsuits. The bill strikes the right balance. It establishes a mechanism that is full and fair, but also orderly and efficient.

In the aftermath of the 9/11 attacks, the administration began detaining foreign terrorists as "enemy combatants" at Guantanamo Bay and instituted procedures to review their status and to prosecute them for war crimes by military commissions authorized by the President. During this time, detainees filed suit in Federal Court to challenge the legality of their detention and of the commissions.

The Supreme Court then held in the Rasul case that the Federal habeas corpus statute protected Gitmo detainees. To address Rasul, Congress passed the Detainee Treatment Act of 2005, which barred habeas and other lawsuits by detainees in U.S. custody, but provided for limited judicial review of DOD detention decisions by the D.C. Circuit.

In June, the Supreme Court held in Hamdan that the DTA did not bar nearly 200 habeas corpus petitions and the other lawsuits by detainees pending on the date of enactment, despite clear statutory language and Supreme Court precedents to the contrary.

This bill clarifies congressional intent to prohibit any habeas corpus petitions or other lawsuits pending on or filed after enactment brought by any alien in U.S. custody detained as an enemy combatant or awaiting such a determination.

The Supreme Court has never, never held that the Constitution's protections, including habeas corpus, extend to non-citizens held outside the United States. In fact, the Supreme Court rejected such an argument in 1950 in the case of Johnson v. Eisentrager. Moreover, in the 1990 Verdugo case, the Court reiterated that aliens detained in the United States but with no substantial connection to our country cannot avail themselves of the Constitution's protections. As a result, any argument that this bill breaks new ground or improperly denies detainees certain constitutional rights is both groundless and misguided.

Despite the fact that detainees have very few rights under our Constitution, this bill reflects Congress's statutory determination that they are entitled to an orderly process and a full and fair review of the government's core decisions authorizing their detention by the D.C. Circuit, a respected article 3 court.

As we consider this legislation, it is important to remember first and foremost that this bill is about prosecuting the most dangerous terrorists America has ever confronted. Individuals like Khalid Sheik Mohammed, the mastermind of the 9/11 attacks, or Ahbd al-Nashiri, who planned the attack on the USS *Cole*. None of their victims was treated with the kind of respect for human life and the rule of law embodied in this legislation which will apply to them.

I urge my colleagues to support this vital legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important discussion today, and we have an opportunity to consider whether we are willing to respect the ideals of law and human dignity in actuality rather than just in rhetoric. This legislation goes to the core of who we are as a nation.

So I begin the Judiciary Committee's discussion of this matter on two points simply. The first is the point on habeas corpus. Because, you see, we have determined that detainees will not have the ability to challenge the conditions of their detention in court unless and until the administration decides to try them before a military commission. Those who are not tried will have no recourse to any independent court at any time.

So because people have been encouraging each other to read the bill, I want to turn to page 93, line 12, where the habeas corpus matters are included. Here is what it says: "No court shall hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant."

There is where 62 law professors from dozens of universities tell us that what we are doing is changing the hallowed writ of habeas corpus so that it will not apply by law. We are by law changing a constitutional provision.

The other important part of our discussion on the Judiciary Committee, and, by the way, I hope that the ranking member of the Armed Services Committee can serve on the Judiciary Committee, because he has made some excellent legal arguments today, the other point that I would bring to your attention is that the President will now, under these provisions in the bill, be allowed to interpret the Geneva Conventions, especially common article 3, the way that he wants and to exclude it from other review by the courts. By eliminating the judicial review of executive acts as significant as detention and domestic surveillance, this cannot be squared with the principles of transparency and the rule of law on which our constitutional democracy rests.

Congress would gravely disserve our global reputation as a law-abiding country by enacting bills that seek to combat terrorism by stripping judicial review. I refer my colleagues to page 83, section 6, relating to treaty obligations. Here it is. This is the bill:

"(3) Interpretation by the President. As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

"The President shall issue interpretations that will be published in the Federal Register."

So what we have done now is give to the President, and I think it is about time somewhere in the proceedings that this be made public knowledge, give the President exclusive power to interpret the common article 3 of the Geneva Conventions and that it would be unreviewable.

It is upon these two points that I would urge that the Members of the House of Representatives on this day go on record as refusing to accede to these onerous provisions of a bill that would change the course of America's relationship, historic relationship, with international treaties.

WRITTEN TESTIMONY OF JONATHAN HAFETZ BEFORE THE U.S. SENATE COMMITTEE ON THE JUDICIARY, SEPTEMBER 25, 2006

DEAR SENATOR SPECTER, SENATOR LEAHY, AND MEMBERS OF THE COMMITTEE: Thank you for the opportunity to submit this statement in connection with today's hearing. ("Examining Proposals to Limit Guantánamo Detainees Access to Habeas Corpus Review"). My comments focus on the historical foundations of habeas corpus that are relevant to the Committee's consideration of the proposed legislation, S. 3930. As the United States Supreme Court has repeatedly made clear, the Constitution, at a minimum, protects the writ of habeas corpus as it existed in 1789. Eliminating habeas corpus for prisoners held at Guantánamo Bay would be inconsistent with centuries of tradition and would fall below the review required by the Constitution.

I am currently Counsel at the Brennan Center for Justice at New York University School of Law. The Brennan Center is a nonpartisan institution dedicated to safeguarding access to justice and the rule of law through scholarship, public education, and legal action. One of the Brennan Center's primary goals is to ensure accountability, transparency, and checks and balances in the formulation and implementation of national security policy.

During the past decade, I have focused extensively on the history of habeas corpus. My scholarly articles and amicus curiae briefs on habeas have been cited by the Supreme Court and federal courts of appeals. I hold a J.D. from Yale Law School and a Masters Degree in History from Oxford University.

My comments are organized as follows. First, I describe the historical roots of habeas corpus as a check against unlawful executive detention and how those protections are guaranteed under the Constitution and laws of the United States. Second, I explain the writ's broad territorial scope and guarantee of a searching examination of the factual and legal basis for a prisoner's detention. Third, I show that habeas corpus secures another fundamental requirement of the common law and due process—the right to be free of detention based on evidence gained by torture. Finally, I explain why appellate review under the Detainee Treatment Act of 2005 of a Combatant Status Review Tribunal determination does not provide an adequate and effective substitute for constitutionally mandated habeas. To the contrary, such review would foreclose any meaningful inquiry into the factual and legal basis for a prisoner's detention and sanction evidence secured by torture and other coercion.

I. HABEAS CORPUS PROVIDES A CHECK AGAINST UNLAWFUL EXECUTIVE DETENTION

For centuries, the writ of habeas corpus has provided the most fundamental safeguard against unlawful executive detention in the Anglo-American legal system. William Blackstone praised habeas as the "bulwark" of individual liberty, while Alexander Hamilton called it among the "greate[st] securities to liberty and republicanism." The writ has since been described as "the most important human right in the Constitution.

Today habeas is typically used by convicted prisoners to collaterally attack their criminal sentences. At its historical core, however, the writ provides a check against executive detention without trial, and it is in this context that its protections have always been strongest. Above all, habeas guarantees that no individual will be imprisoned without the most basic requirement of due process—a meaningful opportunity to demonstrate his innocence before a neutral decisionmaker.

Habeas corpus was part of colonial law from the establishment of the American colonies, and the common law writ operated in all thirteen British colonies that rebelled in 1776. The Framers enshrined habeas corpus in the Suspension Clause of the Constitution, which states that Congress "shall not" suspend the writ of habeas corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it." The First Congress codified this constitutional command in the Judiciary Act of 1789, making the writ available to any individual held by the United States who challenges the lawfulness of his detention. For the Framers of the Constitution, restricting Congress's power to suspend habeas corpus was never controversial: the only debate concerned what conditions, if any, could ever justify suspension of the Great Writ, and the Framers concluded that Congress could exercise its suspension power only under the most exceptional circumstances. The constitutional guarantee of habeas corpus stands apart and perpetually independent from the other guarantees of the Bill of Rights enacted two years later in 1791.

Under the influence, if not the command of the Suspension Clause, Congress has always felt itself obligated to provide for the writ in the most ample manner. Since the Nation's founding, the writ has been suspended on only four occasions: during the middle of the Civil War in the United States; during an armed rebellion in several southern States after the Civil War; during an armed rebellion in the Philippines in the early 1990s; and in Hawaii immediately after the attack on Pearl Harbor. Each suspension was not only a response to an ongoing, present emergency, but was limited in duration to the active rebellion or invasion that necessitated it.

II. HABEAS CORPUS EXTENDS TO ANY TERRITORY WITHIN THE GOVERNMENT'S EXCLUSIVE JURISDICTION AND CONTROL AND GUARANTEES A SEARCHING INQUIRY INTO THE FACTUAL AND LEGAL BASIS FOR A PRISONER'S DETENTION

As the Supreme Court has recognized, the writ of habeas corpus has an "'extraordinary territorial ambit.'" Habeas has always reached any territory over which the government exercised sufficient power and control to compel obedience to the writ's command. As Lord Mansfield wrote in 1759, "even if a territory was 'no part of the realm [of England],' there was 'no doubt' as to the court's power to issue writs of habeas corpus if the territory was 'under the subjection of the Crown.'" At common law, therefore, habeas was available not only in territories beyond the borders of England, such as the mainland American colonies and West Indies, but also in territory over which England exercised exclusive control and jurisdiction but lacked sovereignty.

The right to habeas corpus has always extended to aliens as well as citizens. The writ has been available in time of peace as well as in time of war. Even alleged enemy aliens have had access to habeas to demonstrate their innocence, including by submitting evidence to a court. Indeed, in one case Chief Justice Marshall, on circuit, required an enemy alien to be produced in court and ordered his release. As the Supreme Court observed in Rasul v. Bush, detainees at Guantánamo have the right to habeas review because they are imprisoned in territory over which the United States has complete jurisdiction and control and because, unlike the World War II-era prisoners in Johnson v. Eisentrager, they have never been convicted of any crime and maintain their innocence.

Common law courts did not simply accept the government's factual response to a prisoner's habeas petition; instead, they routinely probed that response and examined additional evidence submitted by both sides to ensure the factual and legal sufficiency of a person's confinement. The writ's guarantee of a searching judicial inquiry crystallized in response to the Crown's efforts to detain individuals indefinitely without due process. In 1592, English judges protested that when they ordered the release of individuals unlawfully imprisoned by the Crown, executive officials transported them to "secret [prisons]" to place them beyond judicial review. As a result, the judges issued a resolution affirming their power to release prisoners if a response to the writ was not made.

The Crown, nevertheless, continued to avoid a judicial examination into a prisoner's detention by providing a general response (or return) that did not specify the cause of commitment. This issue came to a head in the seminal Darnel's Case. There, the Attorney General asserted that it was the king's prerogative to detain suspected enemies of State by his "special command," without a judicial inquiry into the factual and legal basis for their detention. He emphasized the Crown's overriding interest in national security and insisted that judges defer to the king's judgment.

When the court upheld the Crown by finding its response sufficient, it sparked a constitutional crisis that led to the establishment of habeas corpus as the pre-eminent safeguard of common law due process and personal liberty. This was entrenched through the enactment of the Petition of Right or 1628, the Habeas Corpus Act of 1641, and the Habeas Corpus Act of 1679. By the late 1600s habeas corpus had become—and would remain—"the great and efficacious writ, in all manner of illegal confinement" and the most "effective remedy for executive detention."

At common law, courts consistently engaged in searching review on habeas corpus to probe the factual and legal basis for a prisoners commitment, including by conducting hearings and taking evidence. In the United States, courts have exercised the same searching review of executive detention. Indeed, in one its first habeas cases, the Supreme Court affirmed the writ's historic function at common law: to determine whether there was an adequate factual and legal basis for the commitment," fully examining and considering the evidence and finding it insufficient to justify the prisoners' detention on allegations of treason.

Habeas also has always guaranteed review of the lawfulness of a newfangled tribunal established to try individuals before that trial takes place. This review has been exercised in time of war and in time of peace, and over all categories of alleged offenders. To deny that review would jeopardize a longstanding protection of habeas.

By contrast, habeas review has always been more limited in post-conviction cases—which today make up the bread and butter of a federal court's habeas docket. But that is precisely because the prisoner had already been convicted at a trial that provided fundamental due process, including the opportunity to see the government's evidence and to confront and cross-examine its witnesses, a right that Justice Scalia has said is "founded on natural justice." Absent that process, a federal judge with jurisdiction over a habeas corpus petition has the power to examine the factual and legal basis for the prisoner's detention in the first instance, including the power to take evidence and conduct a hearing, where appropriate. At issue in the Guantanamo habeas cases is executive detention without any judicial process—precisely the situation that lies at the Great Writ's core and that mandates a searching examination of the government's allegations.

III. HABEAS CORPUS SERVES AS AN ESSENTIAL CHECK ON THE USE OF EVIDENCE GAINED BY TORTURE.

Habeas corpus also vindicates another core guarantee of the common law—the categorical prohibition on the use of evidence obtained by torture. During the sixteenth century, crown officials occasionally issued warrants authorizing the torture of prisoners. Pain was inflicted by a variety of ingenious devices, including thumbscrew, pincers, and the infamous rack. The use of torture declined after an investigation showed that a suspected traitor had been "tortured upon the rack" based upon false allegations. Shortly thereafter the king asked the common law judges whether another alleged traitor "might not be racked" to make him identify accomplices, and "whether there were any law against it." The judges' answer was unanimous: the prisoner could not be tortured because "no such punishment is known or allowed by our law."

The Framers of the Constitution also abhorred torture, which they viewed as a mechanism of royal despotism. As the Supreme Court has repeatedly held, reliance on evidence obtained by torture is forbidden not merely because it is inherently unreliable but also because such "interrogation techniques [are] offensive to a civilized system of justice." Without the availability of habeas corpus to provide a searching inquiry into the basis for a prisoner's detention, and to determine whether, in fact, evidence justifying that detention has been obtained by torture or other coercive methods, this fundamental common law protection would be jeopardized.

IV. THE PROPOSED LEGISLATION WOULD VIOLATE THE SUSPENSION CLAUSE

The proposed legislation would markedly depart from historical precedent and the Constitution's command that the writ be made available. This legislation, moreover, would sweep under the jurisdictional bar only non-citizens, raising serious questions under the Constitution's guarantee of equal protection as well.

The Committee may ask whether review by the District of Columbia Circuit established under the Detainee Treatment Act of 2005 ("DTA") obviates any problem under the Constitution. It does not. Such review falls far short of the minimum review guaranteed under the Suspension Clause because it would deny prisoners any meaningful inquiry into the factual and legal basis for their detention and would sanction the use of evidence secured by torture and other coercion. Since others have explained the flaws of this review scheme in greater detail, I describe them below only briefly.

The Guantánamo detainees are all held pursuant to a finding by the Combatant Status Review Tribunal ("CSRT") that they are "enemy combatants." The CSRT was established by the President only nine days after the Supreme Court's ruling in Rasul that Guantánamo detainees have the right to challenge their executive detention in federal district court by habeas corpus. The order creating the CSRT pre-judged the detainees, declaring that they had already been found to be enemy combatants based on multiple levels of internal review. Rather than affording the detainees a meaningful opportunity to prove their innocence, the CSRT denied them fundamental rights, including the right to counsel; the right to see the evidence against them; and the right to a neutral decisionmaker. Moreover, as the government itself acknowledges, the CSRT permits the use of evidence gained by torture. In short, as District Judge Joyce Hens Green found, the CSRT denies the core protections of elementary due process that habeas provides: a searching factual inquiry to determine whether a prisoner's detention is unlawful, including whether it is based on evidence secured by torture.

Review of CSRT determinations under the DTA would not provide detainees with any opportunity to challenge the factual and legal basis for their detention. The DTA, on its face, limits review to whether the CSRT followed its own procedures. No detainee, as the government argues, can ever present evidence to a federal court even if that evidence shows he is innocent or that he was tortured. In short, DTA review of a CSRT finding would deny prisoners precisely the meaningful factual inquiry provided by habeas corpus and secured under the Suspension Clause.

V. CONCLUSION

Habeas corpus has aptly been described as "the water of life to revive from the death of imprisonment." For centuries, the Great Writ has prevented the Executive from imprisoning individuals based upon mere suspicion and without a meaningful examination of its allegations. Habeas corpus demands that individuals have a fair opportunity to demonstrate their innocence before a neutral decisionmaker. Eliminating habeas at Guantanamo would flout this long tradition and would gut the core protections guaranteed under the Suspension Clause.

Thank you for the opportunity to provide this statement. My colleagues and I are happy to provide the Committee with any further information.

JONATHAN HAFETZ.
New York, NY, September 25, 2006

Mr. Speaker. I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, let me just point out what the people on the other side, if they have their way, are going to have as a result.

I just want to quote one of the coordinating counsels for the detainees, a gentleman named Michael Ratner, who boasted about what they are planning on doing in public. "The litigation is brutal for the United States. It is huge. We have over 100 lawyers now from big and small firms working to represent the detainees. Every time an attorney goes down there, it makes it much harder for the U.S. military to do what they are doing. You can't run an interrogation with attorneys. What they are going to do now is that we are getting court orders to get more lawyers down there."

Now, to put some order in this and to defeat what Mr. Ratner said, the legislation has got to pass.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there has been some discussion by some on the other side to suggest that somehow this bill that we bring before us is unconstitutional, that it grants powers to the President that are somehow unconstitutional.

Let me just read from the concurring opinion of Justice Breyer in the Hamdan case when he basically said that their decision rested upon a single ground, that Congress had not issued the executive a blank check, that the President had to go back to us to get authority for this. Then they go ahead and say nothing prevents the President from returning to Congress to seek the authority he believes necessary.

The President believes this authority is necessary. We have worked with him in both the House and the Senate, two different committees on the House side, to try and give him the authority he believes necessary, in the words of Justice Breyer.

We need to be clear on some things concerning the language of section 7 of this bill. This action is necessary because, in Rasul, the United States Supreme Court interpreted the Federal habeas corpus statutory scheme as allowing those detained in Guantanamo Federal petitions for relief in the Federal courts. The decision was, to say at the least, a major departure from historical precedent. However, this is important. Since the decision was based solely on an interpretation of a statute, 28 U.S.C. 2241, it was easily correctable by congressional action.

That is exactly what we did with the Senate with the enactment last year of the Detainee Treatment Act. This statute replaced statutory habeas review with a process of administrative review in which it ultimately would be subject to review by the United States Circuit Court of Appeals for the District of Columbia Circuit.

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So we are not changing the scheme, the statutory scheme of habeas corpus. This Congress already did it a year ago. What we are dealing with is the Hamdan case, another case of statutory interpretation in which the court failed to apply the Detainee Treatment Act to cases which were then pending as of the date of the enactment. Thus, we are here once again to clarify what we have already determined to be the law. In short, section 7 of our bill informs the court that this time we really mean it.

For us to do anything other than to affirm the Detainee Treatment Act would indeed be a dramatic departure from what has been deeply rooted in our Nation's legal tradition. Contrary to what has been said on the other side, the United States Supreme Court recognized the 1950 case of Johnson v. Eisenstrager that there is, and this is the Supreme Court speaking, "no instance where a court in this or any other country where the writ is known issued it on behalf of an alien enemy."

So we are not changing the law, we are not being inconsistent with the court, we are not being unconstitutional. What we are doing is precisely in the mainstream of what the Court has said.

Furthermore, this raises an additional question which must be clarified. The debate today relates to the interpretation of a statute and has absolutely nothing to do with what is referred to as the other writ. The other side keeps talking about this has been in our existence for hundreds of years. They speak of it as being part of the Constitution. Folks, that is the great writ, capital G, capital W. This is the statutory writ. Two different things. Two different things. We have to understand that. In both the Rasul and Hamdan, the question relating to the Detainee Treatment Act was one of statutory interpretation. The Supreme Court did not refer to the great writ; they referred to the statutes. The statutory habeas framework found in title 28 is a creature of Congress. In fact, in Ex Parte McCardle, the United States Supreme Court upheld congressional limitations on the scope of judicial review concerning the habeas statute.

What Congress creates, it can also limit. Even professor Erwin Chemerinsky, with whom I seldom agree, points out in his treatise on Federal Jurisdiction that, following the Civil War, congressional statutes rather than the constitutional provision are the source of rights relating to habeas corpus.

At the same time, as has been pointed out but needs to be pointed out again, this bill goes to great lengths to ensure detainees will receive full and fair consideration of their claims. The bill allows the respected article 3 court, the U.S. Court of Appeals for the D.C. Circuit, to review two key government decisions: one, a combatant status review tribunal's determination that a detainee is an enemy combatant; and, two, any final decisions by the military commissions authorized by this bill. This is ample protection when compared with the requirement of a review of status by a competent tribunal under article 5 of the Geneva Conventions.

In fact, this legislation before us would expand the eligibility of judicial review over that provided in current law. It would expand it, not contract it, not remain the same. It would actually expand it. I urge my colleagues to vote for this bill.

Mr. CONYERS. Mr. Speaker, before yielding to the gentlewoman from California, I would just like to respond to the comments that I have heard.

Never before has a President of the United States had the exclusive power to interpret the Geneva Conventions and publish what he has interpreted in the RECORD. And never before has a President had the power to eliminate judicial review of executive acts as significant as detention and domestic surveillance. And that can't be squared with the principles of transparency and the rule of law.

I would refer all of my colleagues to 62 professors of law, not lawyers, professors of law, who have explained why section 83 and section 6 are very problematic and are going to lead us right back into the court, because for 5 long years after the 9/11 tragedy, not a single detainee has been brought to justice because this administration insists on unilaterally pursuing secret, unconstitutional strategies that cannot pass judicial muster.

I yield 2 minutes to the gentlewoman from California (Ms. ZOE LOFGREN), member of the Judiciary Committee.

Ms. ZOE LOFGREN of California. Mr. Speaker, it was clear from the beginning that the executive branch lacked the authority to create courts without the Congress passing laws to provide for them, so it is important and proper that Congress create courts so that terrorist suspects can be swiftly tried, found guilty, and be punished. Unfortunately, this bill will not accomplish that.

Others have spoken well about the deficiencies in the definition of who may be incarcerated without charge forever, but I want to particularly object to the provisions suspending habeas corpus.

America is a proud free Nation because we are a Nation of laws, not men. Key to the rule of law is the brilliant system of checks and balances created by the Founding Fathers. This bill dumps the checks and balances by asserting that the courts cannot review the actions of the executive branch.

While poorly crafted rules are included in the bill, rules without remedies are not real rules. Not only is it unwise, it is mostly unconstitutional. And instead of allowing for swift prosecution and punishment, enactment of this bill into law will lead to years of further legal wrangling.

We all took an oath to defend and uphold the Constitution of the United States, and here is what article I, section 9 says: "the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."

Congress may not suspend the great writ of habeas corpus and limit the checks and balances whenever it wants to. Congress may do so only in cases of rebellion and invasion, neither of which is present today. Nine distinguished retired justices have written to bring this to our attention.

I include their letter for the RECORD.

TO MEMBERS OF CONGRESS: The undersigned retired federal judges write to express our deep concern about the lawfulness of Section 6 of the proposed Military Commissions Act of 2006 ("MCA"). The MCA threatens to strip the federal courts of jurisdiction to test the lawfulness of Executive detention at the Guantánamo Bay Naval Station and elsewhere outside the United States. Section 6 applies "to all cases, without exception, pending on or after the date of the enactment of [the MCA] which relate to any aspect of the detention, treatment, or trial of an alien detained outside of the United States . . . since September 11, 2001."

We applaud Congress for taking action establishing procedures to try individuals for war crimes and, in particular, Senator WARNER, Senator GRAHAM, and others for ensuring that those procedures prohibit the use of secret evidence and evidence gained by coercion. Revoking habeas corpus, however, creates the perverse incentive of allowing individuals to be detained indefinitely on that very basis by stripping the federal courts of their historic inquiry into the lawfulness of a prisoner's confinement.

More than two years ago, the United States Supreme Court ruled in Rasul v. Bush, 542 U.S. 466 (2004), that detainees at Guantánamo have the right to challenge their detention in federal court by habeas corpus. Last December, Congress passed the Detainee Treatment Act, eliminating jurisdiction over future habeas petitions filed by prisoners at Guantánamo, but expressly preserving existing jurisdiction over pending cases. In June, the Supreme Court affirmed in Hamdan v. Rumsfeld, 126 S. Ct. 2749 (2006), that the federal courts have the power to hear those pending cases. These cases should be heard by the federal courts for the reasons that follow.

The habeas petitions ask whether there is a sufficient factual and legal basis for a prisoner's detention. This inquiry is at once simple and momentous. Simple because it is an easy matter for judges to make this determination—federal judges have been doing this every day, in every courtroom in the country, since this Nation's founding. Momentous because it safeguards the most hallowed judicial role in our constitutional democracy—ensuring that no man is imprisoned unlawfully. Without habeas, federal courts will lose the power to conduct this inquiry.

We are told this legislation is important to the ineffable demands of national security, and that permitting the courts to play their traditional role will somehow undermine the military's effort in fighting terrorism. But this concern is simply misplaced. For decades, federal courts have successfully managed both civil and criminal cases involving classified and top secret information. Invariably, those cases were resolved fairly and expeditiously, without compromising the interests of this country. The habeas statute and rules provide federal judges ample tools for controlling and safeguarding the flow of information in court, and we are confident that Guantánamo detainee cases can be handled under existing procedures.

Furthermore, depriving the courts of habeas jurisdiction will jeopardize the Judiciary's ability to ensure that Executive detentions are not grounded on torture or other abuse. Senator John McCain and others have rightly insisted that the proposed military commissions established to try terror suspects of war crimes must not be permitted to rely on evidence secured by unlawful coercion. But stripping district courts of habeas jurisdiction would undermine this goal by permitting the Executive to detain without trial based on the same coerced evidence.

Finally, eliminating habeas jurisdiction would raise serious concerns under the Suspension Clause of the Constitution. The writ has been suspended only four times in our Nation's history, and never under circumstances like the present. Congress cannot suspend the writ at will, even during wartime, but only in "Cases of Rebellion or Invasion [when] the public safety may require it." U.S. Const. art. I, §9, cl. 2. Congress would thus be skating on thin constitutional ice in depriving the federal courts of their power to hear the cases of Guantánamo detainees. At a minimum, Section 6 would guarantee that these cass would be mired in protracted litigation for years to come. If one goal of the provision is to bring these cases to a speedy conclusion, we can assure you from our considerable experience that eliminating habeas would be counterproductive.

For two hundred years, the federal judiciary has maintained Chief Justice Marshall's solemn admonition that ours is a government of laws, and not of men. The proposed legislation imperils this proud history by abandoning the Great Writ to the siren call of military necessity. We urge you to remove the provision stripping habeas jurisdiction from the proposed Military Commissions Act of 2006 and to reject any legislation that deprives the federal courts of habeas jurisdiction over pending Guantánamo detainee cases.

Respectfully,

Judge John J. Gibbons, U.S. Court of Appeals for the Third Circuit (1969–1987), Chief Judge of the U.S. Court of Appeals for the Third Circuit (1987–1990).

Judge Shirley M. Hufstedler, U.S. Court of Appeals for the Ninth Circuit (1968–1979).

Judge Nathaniel R. Jones, U.S. Court of Appeals for the Sixth Circuit (1979–2002).

Judge Timothy K. Lewis, U.S. District Court, Western District of Pennsylvania (1991–1992), U.S. Court of Appeals for the Third Circuit (1992–1999).

Judge William A. Norris, U.S. Court of Appeals for the Ninth Circuit (1980–1997).

Judge George C. Pratt, U.S. District Court, Eastern District of New York (1976–1982), U.S. Court of Appeals for the Second Circuit (1982–1995).

Judge H. Lee Sarokin, U.S. District Court for the District of New Jersey (1979–1994), U.S. Court of Appeals for the Third Circuit (1994–1996).

William S. Sessions, U.S. District Court, Western District of Texas (1974–1980), Chief Judge of the U.S. District Court, Western District of Texas (1980–1987).

Judge Patricia M. Wald, U.S. Court of Appeals for District of Columbia Circuit (1979–1999), Chief Judge of the U.S. Court of Appeals for District of Columbia Circuit (1986–1991).

We should be pulling together as a country to track down these terrorists and bring them to justice instead of facing this unconstitutional and divisive measure that was brought before us as part of a political agenda with an eye on the midterm elections, instead of a bill that would unify us as part of an American agenda with an eye to the continued greatness and security of our country.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am afraid that my friends on the other side of the aisle aren't listening. There are two types of habeas corpus: one is the constitutional great writ. We are not talking about that here. We can't suspend that. That is in the Constitution, and we can't suspend that by law.

The other is statutory habeas corpus, which has been redefined time and time again by the Congress. That is what we are talking about here, and we have the constitutional power to redefine it.

I yield 4 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the chairman for 6 powerful years leading the Judiciary Committee.

The Supreme Court created a mess and hurt the Global War on Terror with its unnecessary and unconstitutional opinion in the Hamdan case. The Supreme Court had no authority to hear the Hamdan case. The Detainee Treatment Act gave the Court of Appeals for the District of Columbia Circuit exclusive jurisdiction over the validity of any final decision of an enemy combatant status review tribunal. The Supreme Court in Hamdan v. Rumsfeld ignored the provision of the DTA and a longstanding line of its own precedents which stood for the principle that Congress can limit jurisdiction in pending as well as future cases.

The DTA provided that: no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay.

The plain language of this statute clearly applies to cases pending at the date of enactment. The Supreme Court should have reached this conclusion, relying on their own precedent, but they failed to do so. In response, this legislation, H.R. 6166, has been carefully drafted so that the Court can fully understand that it applies to both pending and later filed cases. It was not necessary for Congress to be so specific, but in order that the Court will not make the same mistake twice, Congress has carefully chosen the language "pending on or filed after the date of enactment" in section 5 of this legislation.

In his dissent in Hamdan v. Rumsfeld, Justice Scalia reminded the majority that they failed to cite a single case where such a jurisdiction limitation provision was denied immediate effect in pending cases. I agree with his opinion that the cases granting such immediate effect are legion.

The Court's opinion has had yet another fatal flaw. In order to apply the Geneva Conventions, the Court decided on its own that the Global War on Terror was not of international character. I cannot imagine that even the majority on the Court believed their own opinion. The Global War on Terror can in no way be characterized as a mere civil war. It is a war between Western Civilization and militant Islamic fascists from all around the world. It does not take place only in legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair notes a disturbance in the gallery in violation of the rules of the House and directs the Sergeant at Arms to restore order.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. It is a war between Western Civilization and militant Islamic fascists from all around the Muslim world. It does not take place only in one nation. Global is international.

The Court decided the conclusion they desired and then shoehorned their decision to fit a preferred result, substituting their judgment for the constitutional judgment of Congress and of our Commander in Chief. And that was during a time of war. By doing this, the Supreme Court's majority in Hamdan further undermined our Constitution which relies on the separation of powers.

The unconstitutional intervention by the Supreme Court in Hamdan could have been handled by Congress and the President in another way. Under article III, section 2, Congress could have reasserted our clearly defined authority to limit the jurisdiction of the Supreme Court and to grant jurisdiction to any inferior court of our choosing, as expressed in the very plain language of the Detainee Treatment Act.

If we had not been a Nation at war, a Nation urgently concerned about protecting our citizens from attack, Congress may well have advised the Court of their unconstitutional intervention and the Court's obstruction of the ability of the Commander in Chief to protect America from our enemies and ignored the Court's decision. The necessities of war won out over the separation of powers, and for the first time the Supreme Court has engaged in setting parameters in war fighting beyond our national borders.

Because of our national security, Congress and the President jumped through a series of hoops set by the Court, rather than carry on a protracted power struggle over the Constitution with the Court. But, Mr. Speaker, Congress concedes no power to the Court not defined in the Constitution or specified by statute.

Mr. CONYERS. Mr. Speaker, I now yield 2½ minutes to the gentleman from Virginia, a member of the Judiciary Committee, Mr. SCOTT.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, while I support the efforts to establish a system of military commissions as required by the Supreme Court's decision in the Hamdan case, I am disappointed that a bill of this magnitude is being considered under a closed rule and without assurances that traditional notions of due process, judicial independence, and full compliance with the Geneva Conventions will be in the bill.

One of the most egregious problems of this bill is the creation of a presumption in favor of admitting coerced evidence, along with the continued insistence that a person can be fairly convicted using secret evidence. Another problem with the bill is it strips jurisdictions of civil courts from hearing cases involving plaintiffs who seek redress for violations of the torture provisions of the Geneva Conventions. This bill actually retroactively applies new standards. Now, whether this review of the habeas corpus as statutory or constitutional, it is a good idea; and it is the only way anybody can get a hearing on whether or not they have been tortured by the United States.

Moreover, the only automatic right of appeal would be to an entirely new appellate court of military commission review, with all of the judges appointed by and in the chain of command of the Secretary of Defense. In addition, the Secretary of Defense would be granted wide latitude to depart without judicial scrutiny from the rules and detainee protections the legislation purports to create. It would allow him to do so whenever he deems it practicable or consistent with military or intelligence activities. In an extraordinary move, the bill would retroactively limit the scope of U.S. obligations under common article 3 more than half a century after the United States ratified the Geneva Conventions, and it immunizes all previous violations of the War Crimes Act and other laws against torture and inhumane treatment of detainees in our custody.

This retroactive provision grants immunity to government officials and civilians, such as CIA operatives, interrogators, or those who may have authorized, ordered, or even participated in illegal acts of torture or abuse.

□ 1530

Mr. Speaker, this is a complex bill, and it is before us on a take-it-or-leave-it basis, with no amendments. We should take the time to consider all of these new provisions deliberately to ensure that the legislation does not undermine the United States' commitment to the rule of law, the success of its fight against terrorism, and, most of all, the safety of our United States' servicemen and women.

I urge my colleagues to defeat the passage of H.R. 6166.

Mr. CONYERS. Mr. Speaker, I am proud to yield to the gentleman from California (Mr. SCHIFF), who has worked diligently on this issue, 2 minutes.

Mr. SCHIFF. Mr. Speaker, I want to try to resolve an issue which has been debated here this afternoon about what the effect of this legislation is on American citizens.

Plainly, the legislation defines "unlawful enemy combatant" as any person who materially supports someone or is believed to support someone engaged in hostilities against the United States. That includes American citizens. And yet the majority says, but, under the legislation, only aliens can be brought up before the military tribunal. That is also correct. So how do you resolve this apparent difference?

The reality is there is no difference. Because what the bill contemplates is a two-part system of justice: one for those who are brought before tribunals, and one for those who may never be brought before tribunals but who are, nonetheless, detained as unlawful enemy combatants. Because this bill contemplates that people will be detained, whether it is in a secret CIA prison or elsewhere, and perhaps never brought before a tribunal; and there is nothing in this legislation that prohibits the detention of an American indefinitely, never brought before a tribunal.

Now the majority says, we don't do away with the habeas rights of Americans, writ large or writ small. If that is the case, why don't we say that in this legislation, that an American detained as an unlawful enemy combatant has the right of habeas corpus? The reason we don't say it in this bill is because the administration has consistently taken the position that those detained, including Americans, as unlawful enemy combatants do not have the right of habeas corpus to seek redress in courts and have fought that already in court.

So where does that leave us in the war of ideas? We have an enemy that has nothing to offer in the war of ideas. We have everything to offer. But when we undermine the idea of what it is to be an American, the idea of this country, by saying that we will water down the rule of law, that we will have a separate system of justice or no system of justice, for those who are declared unlawful combatants will have no right to court redress, that is a setback in the war of ideas.

Mr. CONYERS. Mr. Speaker, I am pleased to yield to the gentleman from New York (Mr. NADLER), a distinguished member of the Committee on the Judiciary, 2 minutes.

Mr. NADLER. Mr. Speaker, this is how a Nation loses its moral compass, its identity, its values and, ultimately, its freedom to fear.

It is ironic that the people who use the word "freedom" with reckless abandon, in everything from fries to a global vision, should come before the American people advocating the suspension of habeas corpus, secret star chamber tribunals, unlimited detention without review, and, yes, torture.

Yes, we must be vigilant to protect our safety. But we must not allow the honor and values of our Nation to be permanently stained by this detestable legislation. It is beneath us. It is not what we stand for.

There are many infamies in this bill, as others have pointed out. I will concentrate on just one.

This bill would allow the President, or any future President, to grab someone off a street corner in the United States, or anywhere else in the world, and hold them forever without any court review, without having to charge them, without ever having to justify their imprisonment to anyone.

This bill is flatly unconstitutional, for it repeals the great writ, habeas corpus; not, Mr. SENSENBRENNER, a statutory writ, the statutory great writ.

Turn to page 93, "No court, justice, or judge shall have jurisdiction to hear or consider an application for writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination."

"Awaiting such determination"? That says it all. Nowhere in this new law is there any time limit for making this determination. In fact, it could be never.

We are told that these procedures are only for those the President has called "the worst of the worst." How do we know they are the worst of the worst? Because the President says so. And the President and Federal bureaucrats, as we all know, never make mistakes.

Some people held as unlawful enemy combatants may be put before a military tribunal, but they need not be. They can be held forever without a hearing, without a military tribunal.

So let's review. The government can snatch anyone who is not a U.S. citizens anywhere in the world, including on the streets of this city, whether or not they are actually doing anything, and detain them in jail forever, out of reach of our Constitution, our laws or our courts.

We rebelled against King George, III, for far less infringements on liberty than this 200 years ago, but we seem to have forgotten. This bill makes the President a dictator for when someone can order people jailed forever without being subject to any judicial review. That is dictatorial power. The President wants to exist in a law-free zone. He does not want to be bound by the law of war or our treaty obligations. He does not want to answer to the Constitution, to the Congress or to the courts.

Mr. Speaker, rarely in the life of a Nation is the question so stark: Are we going to rush this complete repudiation of what we stand for through the Congress? I hope we are better than that.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Maryland (Mr. VAN HOLLEN), an excellent member of the Committee on the Judiciary, 2 minutes.

Mr. VAN HOLLEN. Mr. Speaker, we now know what the administration wanted to hide from the American people: that the consensus view of all 16 intelligence agencies is that the Iraq war has made the overall terrorism problem worse, not better; that it has fueled the jihadist movement and made us less safe, and not more safe.

The Bush administration was wrong about weapons of mass destruction. They were wrong about alleged collaboration between al Qaeda and Saddam Hussein, and they are wrong about this bill.

This bill will weaken, not strengthen, our national security. They are wrong because this bill will place our troops in Iraq and elsewhere around the world in greater danger of torture, both today and in future conflicts. They are wrong because this bill will further erode our already tarnished credibility and moral standing around the world.

Let us always remember that our strength flows not only from the force of our military but from the power of our example. And they are wrong because we have learned the hard way that information extracted through torture and extreme coercion can be unreliable.

Remember when Secretary Powell at the United Nations told the world that Saddam Hussein had mobile bioweapons labs? That information came from a person that we turned over to Egypt who was tortured, and the CIA has since acknowledged that information was false, and yet that was important information that was used as part of our argument to go to war in Iraq.

This is a defining moment for our Congress and our country. It will define who we are as a people and what we stand for, and yet it gives the President too much of a blank check to unilaterally decide that answer for all of us. It gives the President the authority to unilaterally define what constitutes specific acts of torture. It gives the President the authority to unilaterally decide who can be detained as an enemy combatant, including American citizens, and, therefore, send them into a legal limbo.

Mr. Speaker, when we take very important decisions in the name of the American people, we better get it right. This bill gets it wrong.

Mr. CONYERS. Mr. Speaker, I include for the RECORD a letter dated September 27 from the American Civil Liberties Union and 41 other organizations.

SEPTEMBER 27, 2006.

DEAR REPRESENTATIVE: We are writing to strongly encourage you to reject the "compromise" Military Commissions Act of 2006 and to vote no on final passage of the bill. More than anything else, the bill compromises America's commitment to fairness and the rule of law.

For the last five years the United States has repeatedly operated in a manner that betrays our Nation's commitment to law. The U.S. has held prisoners in secret prisons without any due process or even access to the Red Cross and has placed other prisoners in Guantanamo Bay in a transparent effort to avoid judicial oversight and the application of U.S. treaty obligations. The Federal government has operated under legal theories which dozens of former senior officers have warned endanger U.S. personnel in the field and has produced legal interpretations of the meaning of "torture" and "cruel, inhuman and degrading" treatment which had to be abandoned when revealed to the public. Interrogation practices were approved by the Department of Defense which former Bush Administration appointee and General Counsel of the Navy Alberto Mora described as "clearly abusive, and . . . clearly contrary to everything we were ever taught about American values." According to media reports the CIA has used a variety of interrogation techniques which the United States has previously prosecuted as war crimes and routinely denounces as torture when they are used by other governments.

Instead of finally coming to grips with this situation and creating a framework for detaining, interrogating and prosecuting alleged terrorists which comports with the best traditions of American justice, the proposed legislation will mostly perpetuate the current problems. Worse, it would seek to eliminate any accountability for violations of the law in the past and prevent future judicial oversight. While we appreciate the efforts various members of Congress have made to address these problems, the "compromise" falls far short of an acceptable outcome.

The serious problems with this legislation are many and this letter will not attempt to catalogue them all. Indeed, because the legislation has only just been made available, many of the serious flaws in this long, complex bill are only now coming to light. For instance, the bill contains a new, very expansive definition of enemy combatant. This definition violates traditional understandings of the laws of war and runs directly counter to President Bush's pledge to develop a common understanding of such issues with U.S. allies. Because the proposed definition of combatant is so broad, the language may also have potential consequences for U.S. civilians. For instance, it may mean that adversaries of the United States will use the definition to define civilian employees and contractors providing support to U.S. combat forces, such as providing food, to be "combatants" and therefore legitimate subjects for attack. Yet, there has been no opportunity to consider and debate the implications of this definition, or other parts of the bill such as the definitions of rape and sexual abuse.

We strongly oppose the provisions in the bill that strip individuals who are detained by the United States of the ability to challenge the factual and legal basis of their detention. Habeas corpus is necessary to avoid wrongful deprivations of liberty and to ensure that executive detentions are not grounded in torture or other abuse.

We are deeply concerned that many provisions in the bill will cast serious doubt on the fairness of the military commission proceedings and undermine the credibility of the convictions as a result. For instance, we are deeply concerned about the provisions that permit the use of evidence obtained through coercion. Provisions in the bill which purport to permit a defendant to see all of the evidence against him also appear to contain serious flaws.

We believe that any good faith interpretation of the definitions of "cruel, inhuman and degrading" treatment in the bill would prohibit abusive interrogation techniques such as waterboarding, hypothermia, prolonged sleep deprivation, stress positions, assaults, threats and other similar techniques because they clearly cause serious mental and physical suffering. However, given the history of the last few years we also believe that the Congress must take additional steps to remove any chance that the provisions of the bill could be exploited to justify using these and similar techniques in the future.

Again, this letter is not an attempt to catalogue all of the flaws in the legislation. There is no reason why this legislation needs to be rushed to passage. In particular, there is no substantive reason why this legislation should be packaged together with legislation unrelated to military commissions or interrogation in an effort to rush the bill through the Congress. Trials of the alleged "high value" detainees are reportedly years away from beginning. We urge the Congress to take more time to consider the implications of this legislation for the safety of American personnel, for U.S. efforts to build strong alliances in the effort to defeat terrorists and for the traditional U.S. commitment to the rule of law. Unless these serious problems are corrected, we urge you to vote no.

Sincerely,

Physicians for Human Rights.
Center for National Security Studies.
Amnesty International USA.

Human Rights Watch.
Human Rights First.
American Civil Liberties Union.
Open Society Policy Center.
Center for American Progress Action Fund.
The Episcopal Church.
Jewish Council for Public Affairs.
National Religious Campaign Against Torture.
Presbyterian Church (USA), Washington Office.
Friends Committee on Nat'l Legislation.
Maine Council of Churches.
Pennsylvania Council of Churches.
Wisconsin Council of Churches.
Brennan Center for Justice at NYU Law School.
Center for Constitutional Rights.
Robert F. Kennedy Memorial Center for Human Rights.
The Bill of Rights Defense Committee.
Unitarian Universalist Service Committee.
Leadership Conference of Women Religious.
Center for Human Rights and Global Justice, NYU School of Law.
The Shalom Center.
Washington Region Religious Campaign Against Torture.
The Center for Justice and Accountability.
Center of Concern.
Justice, Peace & Integrity of Creation Missionary Oblates.
Rabbis for Human Rights—North America.
Humanist Chaplaincy at Harvard University.
No2Torture.
Maryland Christians for Justice and Peace.
American Library Association.
Churches Center for Theology and Public Policy.
Disciples Justice Action Network (Disciples of Christ).
Equal Partners in Faith.
Christians for Justice Action (United Church of Christ).
Reclaiming the Prophetic Voice.
Baptist Peace Fellowship of North America.
Pax Christi USA: National Catholic Peace Movement.
Fellowship of Reconciliation.
Maryknoll Office for Global Concerns.

Mr. Speaker, I turn now to the gentleman from Massachusetts (Mr. FRANK), a former member of the committee, 1 minute.

Mr. FRANK of Massachusetts. Mr. Speaker, I understand the lack of compassion for terrorists. I share much of it. But this is not about terrorists. This is about people accused of terrorism. And there may be human realms where infallibility is a valid concept, not in the arresting of people and certainly not when this is done in the fog of war.

Have we not had enough examples of error, of people like the recent case, to our embarrassment, of a man sent to Syria to be tortured by the United States wrongly; of Captain Yee; of Mr. Mayfield in Oregon?

Have we not had enough examples of error to understand that you need to give people accused of this terrible crime a way to prove that the accusations were not true? That is what is at risk here.

I believe that the law enforcement people of America and the Armed Forces of America are the good guys. But they are not the perfect guys. They are not people who don't make mistakes, particularly acting as they do under stress.

It is a terrible thing to contemplate that this bill will allow people to be locked up indefinitely with no chance to prove that they were locked up in error. We should not do it.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

The last reason for the many that have been brought forward as to why this legislation is dangerous and unwise is that it endangers our troops because it has the effect of lowering the standards set forth in the Geneva Conventions. By allowing the President to unilaterally interpret the Geneva Conventions and then exempting his interpretations from any scrutiny, we are creating a massive loophole to this time-honored treaty and endangering our own troops.

As the head of Army intelligence, Lieutenant General Kimmons warned us, no good intelligence is going to come from abusive practices. I think history tells us that. And if you don't believe him, just ask Maher Arar, an innocent Canadian national, who was sent by our Nation, I am sorry to report, to Syria where he was tortured.

This legislation decimates separation of powers by retroactively cutting off habeas corpus. Let us not approve this legislation in the House of Representatives this evening.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 3 minutes, and I would like to make a couple of points.

First of all, this legislation has to be read in conjunction with the Detainee Treatment Act which was signed into law last year. That law provides for a procedure to review whether or not someone is properly detained as an enemy combatant. So the business of indefinite detention is a red herring.

Secondly, this legislation itself creates a number of new rights for detainees and people who are tried before military commissions. Let me enumerate them. There are 26 new rights:

A right to counsel provided by the government at trial and throughout appellate proceedings; an impartial judge; the presumption of innocence; standard of proof is beyond a reasonable doubt.

The right to be informed of the charges against the defendant as soon as practicable.

The right to service of charges sufficiently in advance of trial to prepare a defense.

The right to reasonable continuances.

The right to peremptorily challenge members of the commission. That is something nobody has in the United States against a Federal judge.

Witnesses must testify under oath and counsel, and members of the military commission must take an oath.

The right to enter a plea of not guilty.

The right to obtain witnesses and other evidence.

The right to exculpatory evidence as soon as practicable.

The right to be present in court, with the exception of certain classified evidence involving national security, preservation of safety or preventing disruption of proceedings.

The right to a public trial, except for national security or physical safety issues.

The right to have any finding or sentences announced as soon as determined.

The right against compulsory self-incrimination.

The right against double jeopardy.

The defense of lack of mental responsibility.

Voting by members of the military commission by secret written ballot.

Prohibition against unlawful command influence towards members of the commission, counsel, and military judgments.

Two-thirds vote of members is required for conviction, three-quarters is required for sentence to life or over 10 years, and unanimous verdict is required for the death penalty.

Verbatim authenticated record of trial.

Cruel and unusual punishment is prohibited.

Treatment and discipline during confinement the same as afforded to prisoners in U.S. domestic courts.

The right to review the full factual record by the convening authority, and the right to at least two appeals, including two in article 3 in Federal appellate court. That is one more appeal than the Constitution gives United States citizens.

□ 1545

So what's the beef? There are 26 more rights that are created in this legislation. Vote down the legislation, you vote down all of these new rights.

Mr. Speaker, at this time I yield the balance of my time to the gentleman from California (Mr. HUNTER) and ask unanimous consent that he be permitted to yield portions of that time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from California has 3½ minutes remaining.

Mr. HUNTER. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I want to thank all my colleagues on both sides of this debate.

This great Nation, this shining city on a hill, was attacked on 9/11. We undertook aggressive action against the terrorists who attacked us. We killed a lot of them. We found them in places where they never thought we would find them, in caves at 10,000-foot elevation mountain ranges, in deserts, in cities, and we captured some of them. And some of those who designed the attack against the United States and New York and Pennsylvania and Washington have been captured. And they are now in Guantanamo or going to Guantanamo. And the Supreme Court of the United States has charged this body with building a system with which to prosecute these terrorists, and we are responding with that system.

Now, I would say to those who say that this is not fair, that we haven't given them enough rights, I think we have given them plenty. We have enumerated those. The chairman of the Judiciary Committee went over many basic rights. But the world is going to see these trials. And as I watch these defendants, these people, including those who designed the attack on 9/11, being presumed innocent; being given lawyers by the United States; being set against a standard of proof beyond a reasonable doubt; being protected against self-incrimination; being given the right to exculpatory evidence; being given the right to two appeals, not one appeal, as the minority had in the initial markup coming out of the Armed Services Committee, the American people will have an opportunity to see whether or not they think that the alleged terrorists have been given enough rights. So let's do what the Supreme Court asked us to do.

We have put together an excellent product. It is agreed on. It will be introduced shortly in the U.S. Senate. For those who say they want to see the product of Mr. WARNER and Mr. MCCAIN and Mr. GRAHAM, they have had a great deal of input into this, and they will be introducing this piece of legislation in the other body. So let's get on with this. It is our duty to pass this bill, to construct this system, construct this court, and bring justice before the eyes of the widows and orphans of 9/11, our fellow citizens, and the world. Let's do it.

Mr. Speaker, I yield the balance of my time to the majority leader, Mr. BOEHNER.

Mr. BOEHNER. Mr. Speaker, let me thank my colleague for yielding.

We all know that in the years since 9/11 we have been focused on one vital goal, and that is stopping terrorist attacks before they happen.

I want to commend Chairman HUNTER and Chairman SENSENBRENNER for their work on this piece of legislation. I think we all know that to stop terrorist attacks before they happen, we need to be able to interrogate terrorist suspects, find out what they know, and put them on trial.

After 9/11, President Bush vowed to devote his Presidency to protecting the American people, and he vowed to use every tool at his disposal under the law to fight the terrorists and attack them before they attack us.

If we are serious about stopping terrorist attacks before they happen, the ability to extract information from terrorist suspects and put them on trial is essential.

President Bush put together a system to accomplish these goals after 9/11. We have captured some of the world's most dangerous terrorists. But now our efforts are on hold because of a Supreme Court decision in June and that without congressional authorization, the Federal Government lacks the authority to use military tribunals for these suspected terrorists.

In the wake of this Court decision, Congress has a choice. We can do nothing and allow the terrorists in U.S. custody to go free or to go into a trial meant for American civilians; or we can authorize tribunals for terrorists, find out what they know, and bring them to justice.

This bill will allow us to continue to gather important intelligence information from foreign terrorists caught in battle or caught while plotting attacks on America. As President Bush has said, the information we have learned from captured terrorists "has helped us to take potential mass murderers off the streets before they were able to kill us."

We know these interrogations have provided invaluable intelligence information that has thwarted terrorist attacks and has saved American lives. This bill allows Congress to draw the parameters for detaining and bringing to justice terrorists like Khalid Sheikh Mohammed, the driving force behind the terrorist attacks of September 11. The bill will provide clear guidance for Americans who are interrogating the terrorist suspects on behalf of our country. It will preserve this crucial program while meeting our commitments and obligations under the Geneva Conventions. It will also help us meet a 9/11 Commission recommendation that America develop a common coalition approach toward the detention and humane treatment of captured terrorists.

We recognize military tribunals play a critical role in helping us fight the global war on terror, and we will give these tools to our President as he fights to help keep all of us safe.

But the real question today is, what will my colleagues, my Democrat colleagues, do when it comes to this vote today?

Virtually every time the President asks Congress for the tools he needs to stop terrorist attacks, a majority of my Democrat friends have said "no." Democrats by and large voted "no" on establishing the Department of Homeland Security in July of 2002.

A majority of Democrats voted "no" on additional funds to respond to the attacks of September 11 and bolster homeland security efforts in May of 2002. The majority of the Democrats voted "yes" to deny funding for law enforcement to carry out provisions of the PATRIOT Act in July of 2004. And a majority of Democrats voted "no" on the REAL ID Act, which makes it difficult for terrorists to travel freely throughout the United States, in February of 2005. And Democrats voted "no" on reauthorizing the PATRIOT Act, and gloated about killing it, in December of 2005.

And more recently, many Democrats voted against a resolution condemning the illegal leaks of classified intelligence information that could impair our fight against terrorism. Democrats voted "no" in the Judiciary Committee against allowing the terrorist surveillance program to go forward. And the Democrats in the Judiciary Committee voted "no" on this bill as well.

So the question is, will my Democrat friends work with Republicans to preserve this crucial program or oppose giving the President the tools that he needs to protect the American people? Will my Democrat friends work with Republicans to give the President the tools he needs to continue to stop terrorist attacks before they happen, or will they vote to force him to fight the terrorists with one arm tied behind his back?

Now, I do not, and will never, question the integrity or the patriotism of my colleagues on the other side of the aisle. This is about giving our President the tools he needs to wage war against terrorists who are trying to kill us. And I hope that we will stand together this week and vote to give our President the tools that we need to fight and win in our war against terrorists all over the world.

Mr. BLUMENAUER. Mr. Speaker, I am disappointed and perplexed that the administration and the Republican leadership refuse to provide meaningful legislation dealing with suspected terrorists and instead attempt to repeat the mistakes of the past. H.R. 6166, the Military Commissions Act, does nothing for our security and attempts to add legitimacy to the current improper actions of the Bush administration.

By not adhering to the strictest standards when putting suspected terrorists on trial, we run the risk of punishing innocent people who could simply have been in the wrong place at the wrong time. It is now widely known that potentially hundreds of inmates in Guantanamo Bay may in fact have had nothing to do with terrorism, If we accept this legislation to be the new law of the land, we will be skirting our moral responsibility to be vigorous in our pursuit of terrorists while remaining just in our cause,

This administration has repeatedly shown that it will make the wrong judgments and has repeatedly crossed the line while never acknowledging its own mistakes. Rather than stepping back to address the flaws that resulted in the Supreme Court's "Hamdan vs, Rumsfeld" decision, the administration and the Republican Majority continue to charge forward with more of the same. Congress can and must do better.

Mr. SHAYS. Mr. Speaker, although I have some reservations, I support this legislation and appreciate it being brought up for consideration.

On June 29, 2006, the Supreme Court ruled 5–3 in the case of Hamdan v. Rumsfeld that the Bush administration lacked the authority to take the "extraordinary measure" of scheduling special military trials for inmates, in which defendants have fewer legal protections than in civilian U.S. courts. Supreme Court Justice John Paul Stevens recommended Congress authorize a trial system closely based on our military's court-martial process. I am pleased that is what we are doing today.

It is a testament to our system of government that the highest court has given us guidance in properly administering justice to these terrorism suspects. We should bring detainees to trial with protections similar to military courts. This will guarantee the trials are honest, fair and impartial and that justice is done.

I recognize there are certain areas in which the tribunal system we are authorizing must deviate from a traditional court-martial and in my judgment this bill handles those differences in a fair and just manner.

On September 19, 2006, along with several of my Republican colleagues, I wrote to Majority Leader BOEHNER urging him to bring a bill to the floor that ensures the United States remains fully committed to the Geneva Convention. In our judgment, the bill considered by the Senate Armed Services Committee was a good bill, and I am grateful the bill before the House was modified to closely reflect the provisions in the Senate.

The legislation could have be more explicit in stating the so-called enhanced or harsh techniques that have been implemented in the past by the CIA may not be used under any U.S. law or order. The bill provides the President with some latitude to define what techniques may be used in accordance with the prohibition against cruel, inhuman and degrading treatment.

When I read the language in this bill—and specifically the definitions of cruel, inhumane and degrading treatment—I believe any reasonable person would conclude that all of those techniques would still be criminal offenses under the War Crimes Act because they clearly cause "serious mental and physical suffering.".

I am also concerned about the bill's definition of rape, and of sexual assault or abuse under a section delineating what crimes may be prosecuted before military tribunals if committed by an enemy combatant or if committed by an American against a detainee. The narrow definition in this bill leaves out other acts, as well as the notion that sex without consent is also rape, as defined by numerous state laws and federal law.

For these reasons, I am voting for the Democrat Motion to Recommit the bill to require a reauthorization of this legislation and also to request expedited judicial review.

Mr. LEVIN. Mr. Speaker, I regret that once again the Republican Leadership has chosen to stampede far-reaching legislation through the House without adequate debate or any opportunity for Members to offer amendments. It has been 5 years since the 9/11 attacks, and it is only now that Congress is taking up legislation to try and punish terrorist suspects. The 96-page bill before the House was negotiated in secret last weekend and only introduced less than 48 hours ago. After waiting 5 years, can't we take even 5 days to consider a bill of this magnitude?

This Nation's security requires that terrorists must be caught, convicted and punished, and we need a process to do this. It is not clear to me how the proponents of this bill can claim that they are being tough on terrorists when it is almost certain that this legislation will not withstand constitutional scrutiny by the Supreme Court. The bill before the House bars detainees from filing habeas corpus suits challenging their detention. Under the bill, a person can be labeled an unlawful enemy combatant and detained indefinitely with no judicial view. This will not pass constitutional muster. Habeas corpus isn't about giving special rights to terrorists, as some have claimed; rather, it is about giving people who are accused of serious crimes an opportunity to disprove the charges against them.

I am also concerned that this legislation gives the President the authority to reinterpret the meaning and application of Common Article 3 of the Geneva Conventions. Especially given the well documented abuses of prisoners held at Abu Ghraib and Guantanamo Bay, we need to be clear that the United States will rigorously comply with its international obligations under the Geneva Conventions. This is important both to reinforce our Nation's moral standing in the world and to protect the men and women of our Armed Forces. If a U.S. soldier is held prisoner by another nation, we expect that they will enjoy the full protections of the Geneva Conventions, not some watered-down interpretation.

It is the job of Congress to pass legislation to try and punish terrorists. That legislation must protect our men and women in uniform from erosion of the Geneva Conventions, and the legislation must be tough, fair and able to withstand constitutional challenge. The bill before the House meets none of these standards, and I urge my colleagues to reject it. Rather than rush through such a fundamentally flawed bill, the House should remain in session and do the job right.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to H.R. 6166, the Military Commissions Act of 2006. I oppose the bill because it creates an unfair trial system for military detainees, and does almost nothing to curb the President's power to authorize interrogation tactics that are widely recognized as torture.

Mr. Speaker, this so-called compromise bill, is actually nearly identical to what the administration has sought all along. The bill continues to allow secret evidence in trials, prohibits detainees from challenging the merits of their detention in courts, and effectively allows the President to authorize the CIA to continue inhumane detention and interrogation.

The Supreme Court ruled in the Hamdan v. Rumsfeld case that the President's system to try terrorist suspects is unlawful. All of us here and Americans everywhere want to see al Qaeda fighters tried and convicted for their crimes. The measure the House is considering, however, does not go far enough to ensure that military trials will be conducted in a fair and open fashion. For instance, the bill still allows certain classified evidence to be kept secret from defendants, giving them access only to evidence with large redacted portions. And it still permits certain cases under which a military judge could allow a trial in absentia. Perhaps most egregiously, the measure actually blocks the ability of innocent detainees to challenge the validity of their detention in an independent judicial tribunal because the bill denies the right of detainees to bring a habeas corpus action.

Mr. Speaker, habeas corpus is not "special treatment for terrorists," as proponents of the measure claim. Rather, it is a legal procedure that has the power to exonerate innocent detainees—not terrorists—who have been imprisoned and not brought to trial. Indeed, the writ of habeas corpus is the bedrock of the rule of law and traces its heritage back to the signing of the Magna Carta in 1215 A.D.

Denying habeas corpus review for detainees in U.S. custody is simply another unwarranted attempt by the Executive branch to arrogate powers vested by the Constitution in the Federal judiciary. If the bill before us becomes law, the administration could pick and choose not only who could be tried, but could hold them in prison indefinitely with no possibility of judicial review.

Although the bill does not technically redefine the Geneva Conventions, the measure does nothing to curb the power of an executive branch, like the current one, with a track record of abusing the human rights of secret military detainees. The bill states that the President has the " authority to interpret the meaning and application of the Geneva Conventions," and could do so through executive orders. There is no question that President Bush fully intends to authorize the CIA to continue what it euphemistically refers to as "alternative interrogation techniques."

We know now that most of these interrogations using "alternative techniques" have occurred in secret "black site" prisons in Eastern Europe and other foreign lands in clear and direct violation of Common Article 3, which prohibits signatories from inflicting "cruel treatment and torture" and "humiliating and degrading treatment" upon individuals who are not actively engaging in combat, including soldiers who have surrendered or been arrested and become prisoners of war.

The bill may technically skirt the issue of America's conduct under the Geneva Conventions. But if American personnel blithely toss aside our international treaty obligations to uphold standards in the detention and interrogation of wartime prisoners, America will alienate our long-time allies who are crucial partners in the fight against terrorism. If America whisks people from the streets into secret detention facilities, and then uses secret evidence to convict them in special courts, it will do more to embolden our enemies than any extremist jihad web site ever could.

Mr. Speaker, this is far too serious an issue to be used as a script for the mud-slinging commercials of campaign season. The very fact that the House is considering such legislation shows that Congress has not been exercising adequate authority over an arrogant and overbearing executive branch. There is a great need for a system to try suspected terrorists, both for the sake of the families of the victims of the September 11 attacks and for the sake of our American men and women fighting overseas. But the bill before the House—despite being labeled as a "compromise"—fails to provide truly open trials and does not even allow innocent detainees to challenge their imprisonment. It is just another opportunity to rubber-stamp the President's ill-advised plan, and should be defeated.

Mr. Speaker, in the final analysis, the debate today is not about the terrorists or America's enemies; it is about the character of our country. It is not about them; it is about us. It is not about the terrorists; it is about who we are. We are the United States of America. We fight hard but we fight fair. We fight to defend our families, our friends, the powerless and unprotected. We fight to preserve our way of life and the ideas we believe in. And here is what we believe:

We believe in equal justice under law.

We believe in the dignity of the human being.

We believe in fair play and square dealing.

We believe in opportunity for all, responsibility from all, and community of all.

We believe in personal liberty and the public interest.

We believe in freedom of conscience and worship.

Mr. Speaker, the Global War on Terror is not just a battle of arms, though arms we need. It is also a battle of ideas over how we should live. If we jettison the principles bequeathed us by our forebears to gain a temporary and fleeting advantage over our enemies, then we will succeed in doing something no adversary ever could do and that is to defeat ourselves.

Mr. Speaker, we do not need to surrender our cherished beliefs, values, and liberties to prevail against our enemies. We need only conduct our affairs by the principles of honor and freedom that have made this nation the strongest, most powerful, and most admired nation in the history of the world.

I urge my colleagues to reject this ill-conceived and unwise legislation.

Mr. PAUL. Mr. Speaker, I rise in strongest opposition to this ill-conceived legislation. Once again, the House of Representatives is abrogating its Constitutional obligations and relinquishing its authority to the executive branch of government.

Mr. Speaker, this legislation will fundamentally change our country. It will establish a system whereby the President of the United States can determine unilaterally that an individual is an "unlawful enemy combatant" and subject to detention without access to court appeal. What is most troubling is that nothing in the bill would prevent a United States citizen from being named an "enemy combatant" by the President and thus possibly subject to indefinite detention. Congress is making an enormous mistake in allowing such power to be concentrated in one person.

Additionally, the bill gives the President the exclusive authority to interpret parts of the Geneva Convention relating to treatment of detainees, to determine what does and does not constitute a violation of that Convention. The President's decision on this matter would not be reviewable by either the legislative or judicial branch of government. This provision has implications not only for the current administration, but especially for any administration, Republican or Democrat, that may come to power in the future.

This legislation eliminates habeas corpus for alien unlawful enemy combatants detained under this act. Those thus named by the President will have no access to the courts to dispute the determination and detention. We have already seen numerous examples of individuals detained by mistake, who were not involved in terrorism or anti-American activities. This legislation will deny such individuals the right to challenge their detention in the court. Certainly we need to prosecute those who have committed crimes against the United States, but we also need to be sure that those we detain are legitimately suspect.

I am also concerned that sections in this bill dealing with protection of U.S. personnel from prosecution for war crimes and detainee abuse offenses are retroactively applied to as far back as 1997.

Mr. Speaker, this bill will leave the men and women of our military and intelligence services much more vulnerable overseas, which is one reason many career military and intelligence personnel oppose it. We have agreed to recognize the Geneva Convention because it is a very good guarantee that our enemy will do likewise when U.S. soldiers are captured. It is in our own interest to adhere to these provisions. Unilaterally changing the terms of how we treat those captured in battle will signal to our enemies that they may do the same. Additionally, scores of Americans working overseas as aid workers or missionaries who may provide humanitarian assistance may well be vulnerable to being named "unlawful combatants" by foreign governments should those countries adopt the criteria we are adopting here. Should aid workers assist groups out of favor or struggling against repressive regimes overseas, those regimes could well deem our own citizens "unlawful combatants." It is a dangerous precedent we are setting.

Mr. Speaker, we must seek out, detain, try, and punish if found guilty anyone who seeks to attack the United States. We in Congress have an obligation to pass legislation that ensures that process will go forward. What Congress has done in this bill, though, is to tell the President "you take charge of this, we reject our Constitutional duties." I urge my colleagues to reject this ill-conceived piece of legislation.

Mr. CARDIN. Mr. Speaker, Congress has an obligation under the Constitution to enact legislation that creates fair trials for accused terrorists that will be upheld by the courts. We also have an obligation to protect our troops that fall into enemy hands, and to uphold American values and the rule of law. Finally, even during wartime, the President must work with Congress and the courts to uphold our Constitution. In June, the Supreme Court in Hamdan v. Rumsfeld struck down the President's military commissions, since they violated the Uniform Code of Military Justice and the Geneva Conventions. The Court noted that Congress, not the president, has the authority under Article I, Section 8 of the Constitution to "define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."

I strongly support our government's efforts to isolate, track down, and ultimately kill or capture suspected terrorists who are planning terrorist attacks against the United States. We must bring these terrorists to justice swiftly. We must also strengthen our efforts to protect the homeland by providing additional resources to law enforcement and emergency services personnel who are charged with disrupting and responding to a terrorist attack in the United States. As a former member of the Homeland Security Committee, I have fought hard to implement the recommendations of the 9/11 Commission and to distribute our homeland security funds on the basis of actual threats and vulnerabilities.

I am therefore extremely disappointed, Mr. Speaker, that the House leadership failed to reach out to members on both sides of the aisle in crafting this legislation. We should heed the warning given by our former Chairman of the Joint Chiefs of Staff and former Secretary of State Colin Powell, who states that "the world is beginning to doubt the moral basis of our fight against terrorism."

The 9/11 Commission recommended that "the United States should engage its friends to develop a common coalition approach toward the detention and humane treatment of captured terrorists. New principles might draw upon Article 3 of the Geneva Conventions . . . Allegations that the United States abused prisoners in its custody make it harder to build the diplomatic, political, and military alliances the [U.S.] government will need." This legislation today undermines the protections of the Geneva Convention, and by weakening our moral authority makes it harder for us to work with allies to win the war on terrorism and protect Americans.

I share the concerns of the many current and former military officers that testified to Congress that any weakening of these protections will place American soldiers at risk if they are captured overseas. I am pleased that last December Congress adopted Senator MCCAIN's legislation and outlawed the use of torture, and cruel, inhuman or degrading treatment by U.S. personnel, which would endanger the treatment of our American soldiers overseas. I am disappointed, therefore, that this legislation allows the use of statements obtained by some this prohibited behavior to be admissible in court.

Finally, this legislation eliminates the fundamental legal right of habeas corpus, which would permit our government to hold detainees indefinitely without charge, trial, or the right to an independent hearing to weigh the evidence against the accused terrorist.

We must join with our allies to win the war on terrorism and bring terrorists to justice. Our Constitution contains the very values we hold dear and that makes us proud to be Americans, and which motivate our soldiers to lay down their lives in defense of this country. I have sworn to uphold and defend our Constitution and to protect our democracy. This legislation takes a step backward, is inconsistent with the rule of law, and will make it harder to work with our allies to build an effective coalition to defeat terrorism. I therefore will vote against this legislation.

Five years after the 9/11 attacks, it is inexcusable that not a single one of the terrorists who planned the 9/11 attacks has been brought to trial. I am hopeful that the Senate will improve this legislation as Congress continues to discharge its constitutional duty to create military commissions that are consistent with the rule of law and that will result in convictions of terrorists that will be upheld by our courts.

Mr. LANTOS. Mr. Speaker, we are embarking on a debate of extraordinary importance to the Nation and to our success on the war on terrorism. It is centered on a fundamental issue of concern to anyone who cares about human rights—and there are still many of us, thankfully.

So this should be a debate about ideas, and there should be full and complete deliberation.

Unfortunately, because of an arrogant White House and a Republican Leadership in this House that has simply bowed to the Executive's will—as it has so many times before—we have once again made the consideration of a critical legislative initiative a charade, a debate being conducted with undue haste and without any serious consideration.

Mr. Speaker, since September 11, 2001, one of the most vexing problems that has faced our country in the struggle against the forces of nihilism and extremism is our approach to those who come into our custody because we believe they are a danger to the United States. We have seen unclear policy and muddy thinking leading to cruel treatment of those in U.S. custody, with some conduct even amounting, in the view of the former General Counsel to Department of the Navy under this Administration, to be torture. Finally, last June the Supreme Court ruled that the Administration's unilateral set of rules for trying terrorist suspects was unlawful.

Let us make no mistake about it—our treatment of detainees and our failure to come up with a joint approach with our allies has damaged our ability to prosecute successfully the war on terrorism. It has endangered our troops by setting standards for others that I believe we will deeply regret. It has impeded our ability to work with many of our allies who have a different view from this Administration on the obligations of the Geneva Convention, one that has since been adopted by our own Supreme Court. It has undermined our legitimacy worldwide and been a recruiting tool for our enemies.

The legislation before us should be an effort to address these problems, and in some ways it has. It establishes a better framework for trying detainees than the one established by the Administration. And by keeping it a crime to engage in serious physical abuse against detainees, it prohibits the worst of the abuses that we have seen, including those that are also banned by the Army's new Field Manual on interrogation, including forcing the detainee to be naked, perform sexual acts, or pose in a sexual manner; placing hoods or sacks over the head of a detainee or using duct tape over the eyes; applying beatings, electric shock, burns, or other forms of physical pain; waterboarding; using working dogs during an interrogation; inducing hypothermia or heat injury; conducting mock executions; depriving the detainee of necessary food, water, sleep or medical care.

Unfortunately, Mr. Speaker, the legislation remains deeply flawed in more ways than I have time to describe here. It prohibits any detainee from ever raising the Geneva Conventions in any case before any court or military commission, a provision that I fear will be used against our own troops if they are ever captured by the enemy. It takes actions against existing lawsuits and establishes a whole new system for military appeals that is constitutionally suspect, will lead to even more court cases, and could leave us five years from now with exactly the same number of convictions we have under the existing military tribunal system: zero. We should be trying to expedite trials of terrorist suspects, not providing the basis for more delays. And, acting directly against the recommendations of the bilateral 9–11 Commission, this legislation does not represent a joint approach with our allies.

Mr. Speaker, nearly 60 years ago, I fled from a continent in ruins from a war conducted without rules, marked by atrocities on a scale that the world had never seen. Much of that continent was under a dictatorship in Moscow that was bent on oppressing its citizens and those under its dominance everywhere. So the issues presented by this bill are more than a policy debate to me.

I am profoundly disappointed by what we are doing today. It does not represent progress in protecting our troops and civilians who are caught up in armed conflict. It represents a retreat.

The Geneva Conventions were meant to protect people like me and our country's troops from the worst abuses of war. This country has always stood for the upholding and supporting those protections and expanding them whenever we could, in our national interest.

We should not be rushing legislation through now, just before an election, when we know it won't be needed for many months. We should not be considering a bill that is substantially different from the one that has been already put through our Committees. And we should not be debating legislation without any chance of presenting our individual ideas for improving it.

But here we are. Under these circumstances, I oppose this legislation and fully expect to be back debating these issues when the Supreme Court overturns this ill-advised legislation.

Mr. NADLER. Mr. Speaker, this is how a nation that has become fearful loses its moral compass, its identity, its values, and, ultimately, its freedom.

It is ironic that the people who use the word freedom with reckless abandon, in everything from fries to a global vision, should come before the American people today advocating for the suspension of habeas corpus, secret Star Chamber tribunals, unlimited detention without review and, yes, torture.

I know, we've been told it's not really torture, but I am sickened by the quibbling, legalistic hair splitting on something so basic to our nation's fundamental values.

Have you forgotten? We are America.

Let me say that again: we are the United States of America.

We have stood as a beacon to the world. People have aspired to our way of life, our values, our example, our leadership.

We are told that our enemies do not respect the rules of war or the rights of their captives, but do you really believe that "somewhat better than al Qaeda" is how we should measure our conduct? I don't.

And now, with scant deliberation, in an election eve stampede, we are urged to throwaway our values, our honor, our constitution, and our standing in the world as if it were yesterday's newspaper.

Yes, we must be vigilant to keep our nation safe, but we must not stand by while the honor and values of our nation are permanently stained by this detestable legislation. It is beneath us. It is not what we stand for.

Benjamin Franklin once said "they that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." He was right.

Perhaps if this administration had the minimal competence necessary to make us safe, we might have a debate about the wisdom of Franklin's and the Founders' commitment to liberty. But this administration has demonstrated beyond any doubt that it is not our values that place us at risk, but its own incompetence, and the willingness of a rubber-stamp Republican Congress to follow the President over any cliff.

What are we being asked to do here, and why are we being asked to rush to judgement?

There are many infamies in this bill, as others have pointed out. I will concentrate on just one.

This bill would allow the President, or any future President, to grab someone off a street corner in the United States, or anywhere else in the world, and hold them forever, without any court review, without having to charge them, without ever having to justify their imprisonment to anyone.

This bill is flatly unconstitutional, for it repeals the Great Writ—Habeas Corpus. Not a statutory writ, but the Constitutional Great Writ.

Read the bill. I know we're not supposed to do that in the Republican Congress, but, just this once, for the sake of our nation, please read the bill.

Turn to page 93.

> No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

"Awaiting such determination?" That says it all. Nowhere in this new law is there any time limit for making this determination. In fact, it could be never.

We are told that these procedures are only for those who the President has called "the worst of the worst."

How do we know they are the worst of the worst? Because the President says so, and the President, and federal bureaucrats, as we know, are never wrong.

Some people held as "unlawful enemy combatants" may be put before a military tribunal, but they need not be. They can be held forever without any hearing.

A person designated as an "unlawful enemy combatant" can challenge his detention only if he is brought before a military commission, or a Combat Status Review Tribunal, and only after the military commission and all the appellate procedures are finished. Then he can appeal to the D.C. Circuit, but only to review the legal procedures. The court can never look at the facts. That's on page 56.

So, let's review:

The government can snatch anyone who is not a U.S. citizen, anywhere in the world, including on the streets of this city, whether or not they are in a combat situation, whether or not they are actually doing anything, and detain them forever, out of reach of our constitution, our laws, and our courts.

It also says that a court can never review the conditions of detention, which is an elegant way of saying no court can hear a claim that the detainee was tortured. Ever.

Who is subject to these rules? Well the President wants you to think this is only about Khalid Sheikh Mohammed. Bad guy. Dangerous guy. Deserves to be locked up. We all agree on that one.

But it could also mean a lawful permanent resident. Someone like my grandmother while she was waiting to become a loyal American citizen, which she did, and which is why I am fortunate enough to have been born in this great country. It would apply to the relatives of anyone in this room who is not a Native American.

We rebelled against King George III for far lesser infringements of our liberties than this. This bill makes the President a dictator—for the power to order people jailed forever without being subject to any judicial review is the very definition of dictatorial power.

The President wants to live in a law-free zone. He does not want to be bound by the law of war or by our treaty obligations. He does not want to be answer to our Constitution, to the Congress or to the Courts.

If someone is in this country and he commits a crime, we have laws to stop him and lock him up. If those laws, including the Classified Information Procedures Act, don't work, we can improve them. That's how we put Zacarias Moussaoui in jail. Anyone remember the 11th hijacker? We caught him, tried him in a regular court, and now he's in jail.

Perhaps if this administration hadn't been asleep at the switch, we might have caught him before September 11th, and saved our nation from that terrible crime.

We could also hold people as prisoners of war if we catch them on the battlefield. That's worked pretty well in all our wars.

We can set up new rules that actually sort out the bad guys from the people we just grabbed, or who were sold to us by a rival group, as happened in Afghanistan. We already know that some of the people in Guantanamo have been there for years for nothing. Some of them have been released and some of them are still there. How does that make us safer?

And then there's torture. When is torture not torture? Apparently whenever the President and his team of legal scholars says it isn't.

This bill would write that dangerous practice into law.

It would also allow statements extracted under torture to be used as evidence. See page 17 of the bill.

Is it really hard, as the President and some members of Congress say, to understand the difference between legal interrogation and illegal torture? The people who wrote the Army Field Manual, and the people who train our troops, have never thought so. It only became a question when this President decided he was above the law.

Now the President wants to have us grant him immunity, in advance, for whatever he might have ordered. That's a neat trick, and it's in this bill.

Mr. Speaker, rarely in the life of a nation is the question so stark. Are we going to rush this complete repudiation of all we stand for through the Congress to give the Republicans an election issue? I hope we are not as cynical as some here seem to think we are.

There is nothing we are doing today that we can't do properly with some care and deliberation. There is no danger that someone is going to be released from custody. This administration has certainly fiddled for the last few years without accomplishing anything.

Perhaps, just perhaps, this time we can do it right. Let's try. That's the oath we took when we became members of this House. That's the responsibility we have today.

Mr. GEORGE MILLER of California. Mr. Speaker, all Members of Congress support the effort to thwart international terrorism and make Americans safe. But there are right ways and wrong ways to carry out that critical effort. The military commissions bill before us today is the wrong way, and I urge my colleagues to vote against it.

The Geneva Convention protects Americans everywhere. Congress should not alter our international obligations in an election-year rush ordered by Karl Rove's partisan strategy shop.

We cannot use international law to justify America's actions when it suits our purposes and ignore it when it does not.

America has given its word to the rest of the world that we win abide by the Geneva Conventions.

Redefining our interpretation of the Geneva Convention is a slippery slope. Consider the words of the Navy's own Judge Advocate General, who testified to Congress on the possible implications of altering America's commitment to the Geneva conventions:

"I would be very concerned about other nations looking in on the United States and making a determination that, if it's good enough for the United States, it's good enough for us, and perhaps doing a lot of damage and harm internationally if one of our servicemen or servicewomen were taken and held as a detainee."

Beyond military personnel, the Geneva Conventions also protect those not in uniform—special forces personnel, diplomatic personnel, CIA agents, contractors, journalists, missionaries, relief workers and all other civilians. Changing our commitment to this treaty could endanger them, as well.

In addition to my concerns about our commitment to the Geneva Conventions, there is a real possibility that this bill will not stand up to judicial scrutiny. The Supreme Court in "Rasul v. Bush" decided that detainees have habeas corpus rights. And well established case law lays out that legislation depriving federal courts of jurisdiction does not effect currently pending cases. And nine former federal judges recently wrote:

"Congress would thus be skating on thin constitutional ice in depriving the federal courts of their power to hear the cases of Guantanamo detainees. . . . If one goal of the provision is to bring these cases to a speedy conclusion, we can assure you from our considerable experience that eliminating habeas would be counterproductive."

Sacrificing our principles makes us neither safe nor free. In fact, there is some evidence that sacrificing our principles in this bill may make us less safe.

Just yesterday, the President declassified portions of a National Intelligence Estimate—or NTE—which, news accounts say, details that U.S. foreign policy in Iraq and elsewhere has increased the spread of terrorism, making America less safe.

One of the key reasons outlined in the NTE for this conclusion was that, entrenched grievances of injustice help create an anti-U.S. sentiment among Muslims that terrorist groups exploit to recruit new members and grow the jihadist movement—the images of and stories about detainee abuse at Abu Ghraib; the unexplained death of prisoners at the Bagram Collection Point in Afghanistan; the denial of habeas corpus rights to detainees at Guantanamo bay; the use of extraordinary rendition to kidnap suspected enemies of the state anywhere in the world; and secret CIA prisons.

These incidents have all helped spread anti-U.S. sentient around the world. This has alienated us from friends and allies and added to the list of grievances terrorist groups like al Qaeda use to recruit new jihadists.

The President should have the best possible intelligence to prevent future terrorist attacks on the United States and our allies. And those responsible for 9/11 and other terrorist acts should be brought to justice, tried, and punished accordingly, and their convictions should be upheld by our courts.

Sadly, this legislation does not accomplish any of those things. For that reason, I encourage my colleague to vote against its passage.

Mr. CROWLEY. Mr. Speaker, I have lost faith in this Republican controlled Congress. The Congress is no longer about doing what is right for out country.

My colleagues on the other side of the aisle care more about giving the President what he wants then what is in the best interests of the people we are here to represent.

And in case my friends don't read, the country does not have a very high opinion of this Congress and the rest of our government.

This Congress granted an excessive amount of executive power to the President to wage his war on terror with no oversight.

That excessive power brought us to our present day problems and this President is unwilling to fix these problems or even admit they exist.

We must reclaim our Constitutional authority and bring America back to the moral high ground.

Regardless of how we feel about detainees, we must treat them humanely and in accordance with our rule of law and the Geneva Conventions.

The example set by the United States is the example given to our own soldiers in the field.

These terrorists are vicious murderers, I know firsthand because they killed my cousin on 9/11, but my values as an American are what keeps those hatreds in check.

I find it amazing that the man who campaigned on bringing values back to the Oval office has lead the perception of our nation to an all time low.

Torture and harsh interrogation techniques are not my values and are not those of the American people.

We must lead by example on these issues, not be an evasive quasi participant.

Our soldiers are abroad fighting a battle our President has not allowed them to win because of his continued mismanagement of all aspects of the war.

The National Intelligence Estimate done by our 16 intelligence agencies flat out says that the war in Iraq has actually invigorated the growth of terrorism and worsened the threat around the globe.

We diverted all our attention from Afghanistan where the terrorists actually are and invaded Iraq on false statements and scare tactics.

This Administration with the help of the Republican controlled Congress has continued to stay on the wrong course.

Today, we could have had an opportunity to fix ones of those mistakes, but we are ignoring the respect for due process and denying Habeas Corpus to detainees.

This bill disregards the Hamdan decision, which stated that it should be a requirement of a "regularly recognized constituted court affording all the judicial guarantees which are recognized as indispensable by civilized people."

As civilized people we must respect our laws, without the rule of law we would have chaos.

The Bush Administration still refuses to explain why we even need a different judicial system for accused terrorists.

We must take the back the moral high ground in Congress just like many of our military leaders on the ground threw out the Department of Defenses recommendations on interrogation and instead decided to strictly follow the Geneva Conventions.

We should be following the advice of our military who truly understand what the Geneva Conventions mean, not the civilian leadership who stay out of harms way.

The President wants this Congress to bend the rules of our laws and the Geneva Conventions, a document that has protected our soldiers abroad since its inception.

I ask my colleagues, are you prepared to bend those laws that have governed us so successfully so the President can have the power to allow the harsh interrogations tactics and detention of detainees who mayor may not be terrorists.

We need to regain our stature as a world leader.

I hate these terrorists and I believe they should be punished, punished for the murder of my cousin on 9/11.

But they should be punished under the rule of law.

I pray this Congress will lead by example and not follow the example of the terrorists.

Mr. STARK. Mr. Speaker, I rise to defend American values.

The Military Commissions Act—H.R. 6166—continues Republicans' despotic assault on the Constitution. It denies detainees held abroad the fundamental right of habeas corpus, which has for centuries protected against unjust government imprisonment. It limits protections against detainee mistreatment, sanctioning "alternative procedures" of interrogation that amount to cruel and unusual punishment. It denies people the opportunity to confront the evidence used against them—even if that evidence is obtained through coercive and inhumane practices. It strips our courts of the jurisdiction to review cases—including those already pending—concerning detainee abuse.

Some call this legislation a "compromise." I call it a capitulation. No sooner had the ink dried on this deal than the Bush administration declared that the CIA's program of secret detention and interrogation could and would continue. That should come as no surprise. Though this bill does not explicitly redefine our obligations under the Geneva Conventions, it permits the President to "interpret the meaning and application" of our historic commitment to the international community—and theirs to us.

Make no mistake, our disregard for international law imperils the safety and security of our men and women in uniform. Our denial of due process to detainees invites foreign states and organizations to indefinitely imprison and interrogate our soldiers. Our insistence on defining detainees as "enemy combatants" undeserving of legal protections encourages our adversaries to deny these very same protections to American prisoners. Provided, of course, we haven't already done so ourselves: This legislation allows the Government to declare not only foreigners, but also U.S. citizens, "enemy combatants" and arrest and hold them indefinitely.

This legislation further confirms that Republicans in Congress are no more interested in fundamental human rights than is President Bush and his administration. I urge my colleagues to vote "no."

Mr. CLEAVER. Mr. Speaker, I was unable to personally cast votes today because I was attending a memorial service for SFC Michael Fuga. Sergeant Fuga was killed September 9, 2006 in Kandahar, Afghanistan. Sgt. Fuga was assigned to the Missouri National Guard's 35th Special Troops Battalion based in St. Joseph, MO. He and his family made Independence, in the district I am proud to serve, their home. Sgt. Fuga was 47 and had spent 28 years of his life in the Army. At the time of his death, he was training Afghan armed forces to help bring peace and stability to a nation that has known neither for decades.

SGM James Schulte, who was in charge of Sergeant Fuga's deployment said, "He was a true patriot and a great family man. I am truly honored to have known and served with him." We should all be so lucky to have something like that be said of us when we are gone.

Sergeant Fuga volunteered to extend his time in Afghanistan because, his family says, he was committed to defeating those who attacked our Nation 5 years ago this week. Each day we are blessed to live under the freedoms which Sergeant Fuga and his colleagues in the Armed Forces so bravely serve to protect and ensure.

Sergeant Fuga leaves behind his wife and 12-year-old daughter.

I do not take the decision to miss votes lightly, but hope I can provide Sergeant Fuga's family some comfort on what will be a difficult night.

Today, the House of Representatives debated and voted on H.R. 6166—Military Commissions Act.

Republicans tried to paint those who were not in favor of the bill as being soft on bringing terrorists to justice and meting out just punishment. They implied that those who were not in favor of the measure were trivializing the heinous crimes perpetrated against American citizens and service members.

They refused to allow an open debate by suppressing thoughtful and germane amendments designed to strengthen the intent of the legislation. Once again they rushed through a piece of bad legislation written to appease an administration stubbornly determined on doling out justice as it sees fit. I am disheartened by the lack of importance this administration places on human rights, on due process, and on upholding the Constitution of these United States.

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to H.R. 6166 and am deeply disappointed that Congress has missed an opportunity to act in a bipartisan manner to prosecute those who would do harm to Americans, while ensuring that such efforts would withstand legal scrutiny.

In June, the Supreme Court ruled in Hamdan v. Rumsfeld that President Bush exceeded his authority by establishing military commissions to try detainees in the global war on terrorism without explicit congressional approval. That decision presented Congress with an important opportunity to develop a proposal to try some of the world's most dangerous people and to provide swift justice to those who engaged in horrendous acts against our Nation. Unfortunately, instead of proceeding in a bipartisan manner to craft legislation that enjoys the full confidence of this body, Congress is faced with a proposal negotiated exclusively by Republicans and whose actual effectiveness in prosecuting terrorists remains in question.

After the Hamdan decision, the House Armed Services Committee held numerous hearings on how Congress should respond, and I commend the chairman for his efforts to ensure that committee members learned the complexities of this topic.

One constant theme we heard from the witnesses testifying was that Congress should ensure that any system established to try military detainees followed existing legal procedures to the greatest extent practicable.

On that point, let us be clear. Despite the mischaracterizations of some Members on the floor today, no one has recommended giving terrorists the same rights as criminals or members of our Armed Forces. Everyone recognizes that many of these detainees are dangerous people, and we agree that the judicial system used to try them must reflect the complexities of prosecuting enemy combatants in the midst of an ongoing war. What the legal experts did counsel, though, was that if military commissions did not include basic, broadly accepted principles of jurisprudence, the commissions could be subject to legal challenge.

Unfortunately, we have no idea if the legislation before us will withstand such scrutiny because the commissions it would establish vary significantly from other accepted forms of tribunals that have been used to prosecute crimes in times of war.

I hope that this legislation does ultimately pass constitutional muster, because it would be a devastating blow to our efforts to combat global terrorism if the conviction of a terrorist were overturned on a legal challenge. However, because I am not confident that the legislation will be upheld, I must oppose it.

The other overarching concern I have with this measure is the impact it will have on the United States' obligations under the Geneva Conventions. The legislation would give the President broad authority to interpret U.S. compliance with the Geneva Conventions and would create confusion about which practices would be prohibited. The Supreme Court specifically stated in Hamdan that basic protections of the Geneva Conventions' Common Article 3 apply to detainees, but the legislation actually complicates compliance with Common Article 3 by creating new definitions of offenses that do not comport with international law. Unfortunately, this change could endanger our own men and women in uniform by encouraging other nations to redefine how they treat captured prisoners. We would not want other nations to offer anything other than full Geneva protections to our own troops; and we must therefore respect the concept of reciprocity on which the Conventions were established.

As Colin Powell noted, respecting the Geneva Conventions not only protects our own servicemembers, but it affirms our commitment to international standards of law and justice at a time when our moral authority in the global war on terrorism is increasingly being questioned.

I am deeply disappointed that, on a matter of such importance to the American people, Congress did not act in a careful and bipartisan fashion to establish a system of military commissions that can protect the American people and withstand legal scrutiny. Instead, the leadership is forcing this measure through the House while ignoring some very valid concerns. I simply ask where their sense of urgency was nearly 5 years ago when the President established military tribunals without congressional input.

Some of my Democratic colleagues have argued for years that we need greater congressional involvement in the justice system for military detainees, but those appeals were ignored. Once again, Congress has abdicated its constitutional oversight responsibility for too long and, when finally forced to act, has chosen partisanship over sound policy.

I urge my colleagues to oppose this measure so that we can craft an alternative that is tough on terrorists while meeting our legal and international obligations.

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this bill in its present form.

After 5 years of negligence by both the House Republican leadership and the president, today they are insisting the House vote rapidly on a long-overdue bill to establish military commissions to try "unlawful enemy combatants."

This should have been done sooner and the legislation definitely should be better.

If President Bush had come to Congress sooner with his request for legislation establishing military commissions, we could have avoided prolonged legal battles and delay in getting a system in place. But despite his stated interest in bringing the terrorists to justice, this president has seemed to be more interested in enhancing executive branch powers than he has in trying and convicting those who would harm Americans.

Five years ago, when President Bush first issued his executive order to set up military commissions, legal experts warned that the commissions lacked essential judicial guarantees, such as the right to attend all trial proceedings and challenge any prosecution evidence. I took those views very seriously because those experts made what I thought was a compelling case that the proposed system would depart too far from America's fundamental legal traditions to be immune from serious legal challenges.

So, beginning 3 years ago, I have cosponsored bills that would establish clear statutory authority for detaining enemy combatants and using special tribunals to try them. Unfortunately, neither the president nor the Republican leadership thought there was a need for Congress to act—the president preferred to insist on unilateral assertions of executive authority, and the leadership was content with an indolent abdication of Congressional authority and responsibility.

Then, earlier this year, the Supreme Court put an end to that approach.

In the case of Hamdan v. Rumsfeld, the Court ruled that the military commissions set up by the Administration to try enemy combatants lacked constitutional authority in part because their procedures violated basic tenets of military and international law, including that a defendant must be permitted to see and hear evidence against him. Although the Court did not rule that the president is prohibited from establishing military commissions, it did determine that the current system isn't a "regularly constituted court" and doesn't provide judicial guarantees.

We are voting on this bill—on any bill, in fact—only because that Hamdan decision forced the Administration to come to Congress, not because President Bush has been in any hurry to try the more than 400 detainees at Guantanamo under sound procedures based on specific legislation.

And we are being forced to vote today—not later, and only on this specific bill, with no opportunity to even consider any changes—because, above all, the Republicans have decided they need to claim a legislative victory when they go home to campaign, to help take voters' minds off the Administration's missteps and their own failure to pass legislation to address the voters' concerns.

In other words, for the Bush Administration and the Republican leadership it's business as usual—ignore a problem as long as possible, then come up with a last-minute proposal developed without any input from Democrats, allow only a "take it or leave it" vote, and then smear anyone who doesn't support it as failing to support our country.

That's been their approach to almost everything of importance, so while it's disappointing it's not surprising that the Administration and the Republican leadership have not approached this important topic more thoughtfully.

The goal, of course, should be to have legislation to help make America safer that can withstand the proper scrutiny of the courts while meeting the needs of the American people and not undermine our ability to have the support of our allies.

The bill originally proposed by the president fell short of meeting those standards. I opposed it because I thought it risked irreparably harming the war on terror by tying up the prosecution of terrorists with new untested legal norms that did not meet the requirement of the Hamdan decision; endangering our service members by attempting to rewrite and limit our compliance with Common Article Three of the Geneva Conventions; undermining basic standards of U.S. law; and departing from a body of law well understood by our troops.

I was not alone in rejecting the bill the president originally proposed. As we all know, several members of the other body, including Senator WARNER, Chairman of the Senate Armed Services Committee, and other members of that committee, including Senators MCCAIN and GRAHAM, also had serious objections to that legislation and, joined by Senator LEVIN, the ranking Democrat on the Committee, developed legislation that struck the important balance between military necessity and basic due process.

When the House Armed Services Committee took up the president's bill, I joined in voting for an alternative, offered by our colleague, Representative SKELTON, the Committee's senior Democratic member, that was identical to that bipartisan Senate legislation.

That alternative would have established tough but fair rules, based on the Uniform Code of Military Justice and its associated regulations, for trying terrorists. This would have fully responded to what the Supreme Court identified as the shortcomings in the previous system. But the Republican leadership insisted on moving forward with the president's bill rather than working in a bipartisan manner, and so that alternative was rejected. As a result, I voted against sending the president's bill to the House floor.

But the bill now before the House is neither the president's bill nor the bipartisan bill approved by the Senate Armed Services Committee. Instead, it is a new measure, just introduced, that differs in many respects and reflects the result of further negotiations involving the White House, several Republican Senators, and the House Republican leadership.

And while this new bill includes some improvements over the president's original bill, it still does not meet the test of deserving enactment, and I cannot support it.

Some of my concerns involve the bill's specific provisions. But just as serious are my concerns about what the bill does not say.

For example, the bill includes provisions intended to bar detainees from challenging their detentions in federal courts by denying those courts jurisdiction to hear an application for a writ of habeas corpus "or any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement" by or on behalf of an alien that the government—that is, the Executive Branch—has determined "to have been properly detained as an enemy combatant or is awaiting such determination."

These provisions, which the bill says are to apply to cases now before the courts, evidently allow indefinite detention, or detention at least until the war on terrorism is "over."

And while the reference to "aliens" seems to mean that this is not to apply to American citizens—who are not immune from being considered "enemy combatants"—some legal experts say it is not completely clear that citizens would really have the ability to challenge their detentions.

I could not support any legislation intended to give the President—any president, of any party—authority to throw an American citizen into prison without what the Supreme Court has described as "a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker," and I prefer to err on the side of caution before voting for a measure that is not more clear than the bill before us on this point.

Also, these sweeping jurisdiction-stripping provisions, as well as other parts of the bill, raise enough legal questions that military lawyers say there is a good chance the Supreme Court will rule it unconstitutional. I do not know if they are right about that, but their views deserve to be taken seriously—not only because we in Congress have sworn to uphold the Constitution but also because if our goal truly is to avoid unnecessary delays in bringing terrorists to justice, we need to take care to craft legislation that can and will operate soon, not only after prolonged legal challenges.

In addition, I am concerned that the bill gives the President the authority to "interpret the meaning and application" of U.S. obligations under the Geneva Conventions. Instead of clearly banning abuse and torture, the bill leaves in question whether or not we are authorizing the Executive Branch to carry out some of the very things the Geneva Conventions seek to ban.

I cannot forget or discount the words of Rear Adm. Bruce MacDonald, the Navy's Judge Advocate General, who told the Armed Services Committee "I go back to the reciprocity issue that we raised earlier, that I would be very concerned about other nations looking in on the United States and making a determination that, if it's good enough for the United States, it's good enough for us, and perhaps doing a lot of damage and harm internationally if one of our servicemen or women were taken and held as a detainee."

I share that concern, and could not in good conscience support legislation that could put our men and women in uniform at risk.

Mr. Speaker, establishing a system of military tribunals to bring to trial some of the worst terrorists in the world shouldn't be a partisan matter. I think we can all agree that there is a need for a system that can deliver swift and certain justice to terrorists without risking exposing Americans to improper treatment by those who are our adversaries now or who may become adversaries in the future.

Unfortunately, I think there is too much risk that the bill before the House today will not accomplish that goal and has too many flaws to deserve enactment as it stands. So, I cannot support it.

Mr. COSTELLO. Mr. Speaker, I rise today to oppose H.R. 6166, the Military Commission Act. I do so because I believe that America must maintain its status as a moral leader on the issue of the humane treatment of prisoners. It is important to our success in the war on terrorism, and it is critical to protecting our own soldiers. By lowering our moral standards in how we treat prisoners of war, we encourage other countries to do the same. This is not a good precedent, and we should reject this legislation.

While much debate and discussion concerning H.R. 6166 has revolved around military commissions and the use of secret evidence, this legislation also contains a provision that would strip Federal courts of their authority to review the detentions of almost all terrorism suspects. Specifically, the provision would bar foreigners held overseas from using the Federal trial courts for challenges to detention known as habeas corpus lawsuits. By eliminating this constitutional right, anyone deemed an "unlawful enemy combatant" could be held indefinitely, without recourse.

No one disputes whether or not legislation is needed. To date, not one detainee held has been tried or convicted of a crime. We need a framework to efficiently prosecute and convict those guilty of terrorist acts against the United States. However, this process must meet certain legal standards for fairness that form the moral basis of our country, which is what our troops are ultimately fighting to protect. Many times during this debate it has been said that since our enemies in this war do not respect any code of conduct, than we do not need to either. I do not agree with this sentiment. America must stand for a higher ideal.

While I believe the war on terror has brought with it the need for specialized rules and procedures, we must not forget the basic notion of due process. We, as Congress, should uphold our obligations under the Geneva Conventions, ensure expedited convictions for terrorists, and protect our service men and women, and I do not believe this legislation meets these goals.

Mr. Speaker, I oppose this legislation and ask my colleagues to do the same.

Mr. RADANOVICH. Mr. Speaker, I rise today to express my full support of H.R. 6166, the Military Commissions Act of 2006. This measure is vital in giving the President the resources he needs to bring terrorists and enemy combatants to justice. During these uncertain times of conflict and war, the United States requires established procedures to try captured terrorists and protect our troops. The justice system and rules of evidence that apply to enemies of war should be narrowly tailored within the legal framework to effectively prosecute terrorists. I fully support the compromise negotiated between the House, Senate, and Bush Administration on this important legislation. Though I was not able to cast my vote in favor of H.R. 6166 on September 27, 2006, I would like to go on record as being in full support of the Military Commissions Act of 2006.

Mr. ETHERIDGE. Mr. Speaker, I rise to speak on this legislation to establish military tribunals for terrorist suspects.

This legislation was made necessary by a U.S. Supreme Court decision in June in the case of Hamdan v. Rumsfeld, in which the court ruled that the military commissions created by the Bush administration violated both U.S. and international law. This important legislation is necessary to create a lawful framework in order to bring to trial such terrorist suspects as Khalid Sheik Mohammed, the alleged mastermind of the 9/11/01 terrorist attacks on America. Without passage of this legislation, the United States will have no legal means to bring to justice those who have participated in the most heinous acts of terrorism against our country.

I agree with my Democratic colleagues who rightfully argued we should have been allowed to consider substantive changes to the bill such as those contained in the Skelton motion to recommit, which I voted for. The Skelton language would have provided for expedited consideration of the statute's constitutionality and required the statute to be renewed in three years, but unfortunately, the Skelton motion failed to pass. Although the Republican Majority would not allow consideration of proposed Democratic amendments, it is important to note the significant and substantive changes that have been made to the bill to correct the serious flaws of the original White House proposal.

Specifically, the bill would replace the White House's denial of habeas corpus rights with a process known as combatant status review in which detainees may challenge their detention within the confines of the military commission system. In addition, the manager's amendment assures the prohibition of cruel, inhuman and degrading treatment, codified in the Detainee Treatment Act (Pub. L. 109–163, P.L. 109–148). It also clarifies that defendants will be able to examine and respond to redacted classified evidence being used against them.

Mr. Speaker, H.R. 6166 is not a perfect bill, but I will vote for it so the United States can move forward with prosecuting terrorist suspects in a manner consistent with our values in a fair and just system.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 6166, the Military Commissions Act of 2006.

Rather than allow a full and open debate on this important issue, the Majority has decided that 2 hours is sufficient and prohibited any amendments from being offered during consideration on the Floor.

We all are committed to bringing the masterminds of the 9/11 attack and other terrorist plots to justice. However, I have strong concerns about several provisions of the bill before us today. First, by allowing the President to interpret Geneva Conventions requirements, H.R. 6166 would endanger American soldiers who for 60 years have been protected by those very provisions. Under this bill, the President could determine what methods constitute torture rather than banning torture outright. This loophole could leave our soldiers vulnerable to the same reinterpretations should they be taken as prisoners.

Second, the bill prevents detainees from filing habeas corpus suits challenging their detentions in court. The indefinite detention of individuals who have been designated as enemy combatants without judicial recourse is very likely unconstitutional and rejects the long American commitment to the rule of law.

Finally, rather than use the existing appellate military system, H.R. 6166 creates a new and untested Court of Military Commission Review that would handle appeals of military commission determinations.

Amendments offered by Democratic members to address these three concerns were denied by the Republicans; and so the House today will debate a bill that raises serious constitutional issues. This is a shame.

I urge my colleagues to oppose H.R. 6166.

Ms. ESHOO. Mr. Speaker, I rise in opposition to this legislation which threatens to overturn two centuries of legal precedent, and which undermines our Nation's longstanding international obligations enshrined in the Geneva Conventions.

As Members of Congress we have no higher priority than the security of the American people. It's our duty to see that anyone who murders Americans is properly tried and punished. This responsibility requires us to address the disastrous detainee policies put in place by the Bush Administration. Republicans and Democrats have sought to create a sustainable legal framework that gives our judiciary the tools to deliver justice to our enemies in swift, clear and fair terms. Above all, our methods must reflect the ideals of our Constitution and the highest standards in protecting human rights and due process under the law.

The bill before us fails to meet these standards. Instead, it erodes the protections of the Geneva Conventions and reverses two centuries of American jurisprudence by denying habeas corpus protections for the accused. More dangerously, it fails to eliminate the use of torture, which has seriously undermined global support for our fight against terrorism.

As a member of the House Intelligence Committee I'm very familiar with the challenges we face in the fight against terror, and nothing I have seen has convinced me that the measures in this bill will make us safer or provide an effective framework for bringing our enemies to justice.

The Geneva Conventions exist not to embolden our enemies but to protect our own soldiers from harm should they be captured or detained. Our failure to embrace these standards of treatment opens the door to misconduct by our enemies, a reality that many current and former military experts have spoken out against. Former Secretary of State Colin Powell put it best by saying that redefining our obligations under the Geneva Conventions will encourage other countries to "doubt the moral basis of our fight against terrorism. . . . Furthermore, it would put our own troops at risk." No one doubts the wisdom of Secretary Powell in these matters and it's reckless of this body to ignore his counsel.

Habeas corpus rights, likewise, do not give comfort to the guilty, nor do they help to free terrorists in our custody. They exist only to protect the innocent, and their proper application helps reduce the risk of detaining the wrong individuals. The failure to provide habeas corpus rights was a key issue in the Supreme Court's decision to declare the Administration's original tribunal system unconstitutional. Denying these rights again with this bill creates a serious threat to the constitutionality of the legislation, and makes it more than likely that we'll all be back here in a year, or 5 years from now, trying once again to create a system that will bring terrorist enemies to justice.

Finally, this bill fails to set an appropriate standard for the treatment of prisoners and relaxes the restrictions on the use of torture embodied in Common Article 3 of the Geneva Conventions. The bill grants the sole authority for interpreting the Geneva Conventions, including Common Article 3, to the President, giving the Administration the option to relax or simply ignore these protections outright. The bill also specifies that the restrictions on the use of torture laid out in the Army Field Manual which apply uniformly to U.S. military personnel and facilities, do not apply to other U.S. agencies engaged in the fight against terror, including the CIA.

Our security depends on effective and lawful interrogation practices that yield dependable, actionable intelligence. This legislation gives the Administration a blank check to define its own methods for interrogation and opens the door for abuses. We've already seen where permissive interrogation rules can lead . . . it's called Abu Ghraib. Certainly what we have lost in credibility in the eyes of the world community and the Iraqi people weighs heavily against any information that has been obtained. To ensure accountability Congress must have the ability to review and set standards for interrogation practices around the world. Doing so ensures not only their legality, but ultimately their effectiveness. This bill takes that responsibility out of our hands.

Mr. Speaker, for all the stated reasons, this bill should not become the policy of our great Nation and I urge my colleagues to oppose it.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong opposition to H.R. 6166, the Military Commissions Act of 2006. There are many glaring problems with this bill. It gives the President unilateral discretion to interpret the meaning and application of provisions in the Geneva Convention that relate to torture, which could result in the allowance of humiliating and degrading interrogation practices. It redefines the definition of an "unlawful enemy combatant" to include any individual who "materially" and "purposefully" supported hostilities against the United States. This new definition is so broadly worded; it could include someone who made an economic contribution to an organization that they did not know was on a terror-watch list. It still allows into evidence information that was obtained through torture and coercion, as long as it was obtained before the passage of the Detainee Torture Act. Perhaps most damaging is the stripping of the United States courts' habeas corpus jurisdiction to review detentions, eliminating one of the most fundamental and important precepts of our American Constitutional tradition.

The court-stripping provisions included in this legislation would do serious harm to the longstanding rule that the government cannot just imprison people without giving them the opportunity for a fair and impartial determination that the detention is in accordance with the Constitution. Consider the case of Maher Arar, a Syrian-born Canadian citizen. During a layover in New York on his way home to Canada, United States authorities seized him and shipped him to Syria, where he was imprisoned and tortured for nearly a year. He was subjected to extensive interrogations, during which he was beaten and whipped. He was imprisoned in a 6-foot underground cell. The Canadian Government conducted an investigation into the case and found that Mr. Arar was placed on a terrorist watch-list based on inaccurate, unsubstantiated and unreliable evidence. Since being released, he has been cleared of all charges. This case illustrates why the right of habeas corpus is so vital to our rule of law. Individuals must always have an avenue to challenge their detention. If not, innocent people can be unlawfully detained and indefinitely imprisoned based upon insubstantial or even erroneous evidence.

In a letter to Members of Congress commenting on the habeas stripping provisions, former Judge Advocate Generals John Hutson, Donald Guter, and David Brahms stated, "it is critical to these detainees, who have not been charged with any crime, that Congress not strip the courts of jurisdiction to hear their pending habeas cases. The habeas cases are the only avenue open for them to challenge the bases of their detention—potentially life imprisonment—as 'enemy combatants.'" In another letter to Members of Congress, 9 former Federal judges also expressed concerns. They warn that ". . . depriving the courts of habeas jurisdiction will jeopardize the Judiciary's ability to ensure that Executive detentions are not grounded on torture or other abuse . . . Congress would thus be skating on thin constitutional ice in depriving the Federal courts of their power to hear the cases of Guantanamo detainees." Thomas Sullivan, a former United States attorney in Chicago who has represented Guantanamo Bay detainees, testified at a recent Senate hearing that he believed that if this legislation is "passed with these habeas-stripping provisions in it, then after I am dead and the members of this Senate are dead, an apology will be made, just as we did for the incarceration of the Japanese citizens in the Second World War." ("Security and War Take Center Stage as Campaign Break Nears," New York Times, September 26, 2006)

Mr. Speaker, as Members of Congress we should work to protect Constitutional rights, not deny them. As the former Judge Advocate Generals wrote in their letter to Members of Congress, ". . . the writ of habeas corpus embodies principles fundamental to our Nation. It is the essence of the rule of law, ensuring that neither king nor executive may deprive a person of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved."

H.R. 6166 has serious consequences for the safety of our brave military men and women and for our Nation. If the United States supports stripping detainees of fundamental legal protections, other countries will feel justified in doing the same thing. Allowing questionable interrogation techniques—practices that could actually violate the Geneva Convention—would have dangerous implications for the treatment of American soldiers who are captured abroad. It will also make the enemy fight harder because capture or surrender could have such dire consequences. In fact, there are fewer people surrendering to American troops now than in at the start of the war in Iraq.

While there are those who argue that the erosion of civil liberties is needed to protect our Nation, I believe it will actually have the opposite effect and will make our country less safe. The most important asset the United States has in the world community is our commitment to the rule of law and fair treatment. By denying habeas corpus rights and giving the President unfettered discretion in defining torture, we are sending out a signal to the world that the United States will no longer serve as the world's standard in our commitment to human rights, civil rights and the rule of law. It will erode our international reputation as a moral Nation that is an example of democracy and freedom, and it will undermine our leadership role in the world community.

I urge all of my colleagues to vote "no" on H.R. 6166.

Ms. HOOLEY. Mr. Speaker, in the 5 years since this Administration declared a "War on Terror", hundreds of insurgents have been detained in Afghanistan and Iraq and are currently being held at Guantanamo Bay by American military forces. It was my hope that this legislation would establish clear guidelines for the treatment of these detainees as opposed to the undefined, and often conflicting, rules that the Administration has been acting under. Instead, this legislation threatens both the safety of our troops and undermines our values. Rather than clearly banning abuse and clearly recognizing these detainees as POWs under the Geneva Conventions, this legislation reinterprets the Geneva Conventions' guidelines and leaves American soldiers serving in Iraq, Afghanistan, and elsewhere outside the scope of protection offered by the Geneva Conventions. We have made the decision to send these soldiers into harm's way and we cannot in good conscience vote for legislation that exposes them to the risk of abuse.

Mr. MOORE of Kansas. Mr. Speaker, I rise today to share my views on H.R. 6166, the Military Commissions Act. In the aftermath of the terrorist attacks of September 11, the Bush Administration established new procedures for war crime tribunals for terrorist suspects held at Guantanamo Bay, Cuba. The United States Supreme Court ruled 5–3 on June 29, 2006, that President Bush's military order in the detention and treatment of the Guantanamo Bay detainees exceeded his authority. Though the court did not dispute the President's authority to hold the petitioner as an "enemy combatant for the duration of hostilities," it found that military tribunals convened to try detainees did not comply with the Uniform Code of Military Justice of the law of war, as embodied by Common Article 3 of the Geneva Conventions.

Because of the unique nature of the War on Terror, no current system exists for bringing detainees to trial, many of whom are individuals believed to have committed a serious crime and who may seek to further their cause through the murder of innocent civilians. It is important that the United States establish a judicial process for dealing with illegal enemy combatants and allow for the continued interrogation of detainees while following basic international agreements on humane treatment. H.R. 6166 accomplishes this. This legislation provides a framework through which we can bring enemy combatants to justice through an open military commission system that affords substantial due process. It represents a comprehensive approach to try accused war criminals while recognizing the unique national security situation the United States faces in the War on Terror. The commission system created by H.R. 6166 takes into account the concerns of the Supreme Court, as well as the input of intelligence officers and military lawyers in all branches of the armed services.

Prior to casting my vote for H.R. 6166, I voted for the Motion to Recommit, offered by Representative IKE SKELTON of Missouri, which would provide expedited judicial review of the statute's constitutionality and require the reauthorization of the legislation in three years. Specifically, the provision would provide for expedited review of a civil action challenging the bill's legality. A three-judge panel in the D.C. District Court would hear the action and the Supreme Court would review a judgment or order of the panel. Additionally, by requiring a reauthorization in 3 years, we give Congress the ability to carefully review how this statute is working in the real world. Unfortunately, the Skelton Motion to Recommit failed by a vote of 195–228.

While H.R. 6166 is certainly not perfect, it is a step in the right direction. It is essential that our government has the necessary intelligence to prevent future terrorist attacks on our Nation and our allies. As this legislation is implemented, it is important that the Legislative and Judicial branches provide vigorous oversight to ensure that no international laws regarding the treatment of detainees are violated in the name of security.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to S. 3930, the Military Commissions Act. I oppose this bill because I stand strong for our troops. I stand strong for the Constitution. I stand strong for the values that have made our country, the United States of America, the greatest country in the history of the world. I oppose this legislation because it is not becoming a nation that is strong in its values, confident of its future, and proud of its ancient heritage.

Mr. Speaker, let us be crystal clear: All Americans, and Democrats especially, want those responsible for 9/11 and other terrorist acts to be tried fairly and punished accordingly, and we want those convictions to be upheld by our courts.

Democrats want the President to have the best possible intelligence to prevent future terrorist attacks on the United States and its allies.

Democrats agreed with the President when he said "whether the terrorists are brought to justice or justice brought to the terrorists, justice will be done." But Democrats understand that justice requires the Congress to establish a system for trying suspected terrorists that is fundamentally fair and consistent with the Geneva Conventions.

We should abide by the Geneva Conventions not out of some slavish devotion to international law or desire to coddle terrorists, but because adherence to the Geneva Conventions protects American troops and affirms American values.

S. 3930, the compromise before us, includes some improvements that I strongly support. For example, evidence obtained through torture can no longer be used against the accused. Similarly, the compromise bill provides that hearsay evidence can be challenged as unreliable.

Perhaps the most important improvement over the bill passed by the House is that accused terrorists will have the right to rebut all evidence offered by the prosecution. As is the case in the existing military justice system, classified evidence can be summarized, redacted, declassified, or otherwise made available to the accused without compromising sources or methods. This change to the bill goes a long way toward minimizing the chance that an accused may be convicted with secret evidence, a shameful practice favored by dictators and totalitarians but beneath the dignity of a great nation like the United States. As Senator JOHN MCCAIN said: "I think it's important that we stand by 200 years of legal precedents concerning classified information because the defendant should have a right to know what evidence is being used."

However, I am concerned that there is reason to believe that even with this compromise legislation, this system of military commissions may lead to endless litigation and get struck down by the courts. Then we would find ourselves back here again next year, or 5 years from now, trying to develop a system that can finally bring the likes of Khalid Sheik Mohammed to justice. Why would we want to give terrorist detainees a "get out of jail free" card when we can avoid that by establishing military commissions that work. As currently written, the compromise bill has provisions that could lead to the reversal of a conviction.

Specifically, the bill contains a section that strips the federal courts of jurisdiction over habeas corpus petitions filed prior to the passage of the Detainee Treatment Act last December on behalf of detainees at Guantanamo Bay.

Mr. Speaker, nine former federal judges were so alarmed by this prospect that they were compelled go public with their concerns: "Congress would thus be skating on this constitutional ice in depriving the federal courts of their power to hear the cases of Guantanamo detainees. . . . If one goal of the provision is to bring these cases to a speedy conclusion, we can assure from our considerable experience that eliminating habeas would be unconstitutional."

Mr. Speaker, common Article 3 of the Geneva Convention requires that a military commission be a regularly constituted court affording all the necessary "judicial guarantees which are recognized as indispensable by civilized peoples." Notwithstanding the provision in the House bill asserting that the military commissions established therein satisfy this standard, the fact is that many other nations will disagree. Simply saying so does not make it so. Moreover, they may well be right. Consider this, Mr. Speaker:

The compromise allows statements to be entered into evidence that were obtained through cruel, inhuman and degrading treatment and lesser forms of coercion if the statement was obtained before passage of the Detainee Treatment Act last December.

To provide limited immunity to government agents involved in the CIA detention and interrogation program, the bill amends the War Crimes Act of 1996 to encompass only "grave breaches" of the Geneva Conventions. U.S. agents could not be tried under the War Crimes Act for past actions that degraded and humiliated detainees. The bill also limits any use of international law such as the Geneva Convention in interpreting the War Crimes Act.

Mr. Speaker, what is sometimes lost sight of in all the tumult and commotion is that the reason we have observed the Geneva Conventions since their adoption in 1949 is to protect members of our military. But as the Judge Advocate Generals pointed out, the compromise bill could place United States service members at risk by establishing an entirely new international standard that American troops could be subjected to if captured overseas. As Rear Admiral Bruce McDonald testified: "I go back to the reciprocity issue that we raised earlier, that I would be very concerned about other nations looking in on the United States and making a determination that, if it's good enough for the United States, it's good enough for us, and perhaps doing a lot of damage and harm internationally if one of our servicemen—or women—were taken and held as a detainee."

What's more, Mr. Speaker, the Geneva Conventions also protect those not in uniform—special forces personnel, diplomatic personnel, CIA agents, contractors, journalists, missionaries, relief workers and all other civilians. Changing our commitment to this treaty could endanger them, as well.

We can fix these deficiencies easily if we only have the will. What we should do is recommit the bill with instructions to add two important elements: (1) expedited constitutional review of the legislation; and (2) a requirement that these military commissions be reauthorized after 3 years.

Under expedited review, the constitutionality of the military commission system could be tested and determined quickly and early—before there are trials and convictions. And it would help provide stability and sure-footing for novel legislation that sets up a military commissions system unlike anything in American history.

Such an approach provides no additional rights to alleged terrorists. All it does is give the Supreme Court of the United States the ability to decide whether the military commissions system under this act is legal or not. It simply guarantees rapid judicial review.

Second, any system of military commissions to deal with detainees should be required to be reauthorized in 3 years. There are several good reasons for requiring Congress to reaffirm its judgment that such tribunals are necessary:

The Military Commissions Act of 2006 is a far-reaching measure that implements an entirely new kind of military justice system outside the Uniform Code of Military Justice. It has many complex provisions.

This legislation has been rushed to the floor. It has numerous provisions that are still poorly understood by many in Congress. By requiring a reauthorization in 3 years, we give Congress the ability to carefully review how this statute is working in the real world.

Providing for a reauthorization in 3 years is the best way to ensure congressional oversight. This reauthorization requirement will allow Congress to evaluate the effectiveness of the military commission provisions and decide whether they need any modifications in the future.

The reauthorization requirement in the Patriot Act has worked well—compelling Congress to review how various provisions in the Patriot Act have worked. As a result of congressional review, important modifications in the Patriot Act were signed into law in January 2006 when 16 provisions were reauthorized.

Mr. Speaker, even Republicans on the House Judiciary Committee admitted that the only way Congress was able to get information out of the Justice Department about the operation of the Patriot Act was that Congress had to reauthorize it—similarly, the only way Congress will be able to perform proper oversight on military commissions is this similar requirement that the program must be reauthorized. The reauthorization requirement is a critical tool in Congress' ability to hold the administration accountable and review the military commission program's performance.

Mr. Speaker, I cannot recall being asked to render final judgment on a matter of such scope, consequence, and moment in so short a period of time with such a sparsely developed legislative record. Now is not the time to rush blindly forward. Rather, now more than ever, it is important to take our time and make the right decision and establish the right policy. And the right policy is not to jettison the Geneva Convention.

We should not try to redefine the Geneva Convention. We should not do anything to alter our international obligations in an election-year rush. We cannot use international law only when it is convenient and expedient. Our commitment to the Geneva Conventions gives us the moral high ground. This is true in both a long war against radical terrorists and a war for the hearts and minds of people from every religion and every nation. If we compromise our values, the terrorists win. As Senator McCain has said: "This is not about who the terrorists are, this is about who we are."

The United States was one of the prime architects of the Geneva Conventions and other international laws. Our goal was to protect prisoners of war in all kinds of armed conflicts and insure that no one would be outside the law of war. Coming shortly after World War II, they knew the horrors of war but they still chose to limit the inhumanity of war by establishing minimum protections of due process and humane treatment, even for those accused of grave breaches of the Conventions.

Mr. Speaker, our Nation has the finest military in the world. Our Nation also deserves to have the finest military justice system in the world. I oppose S. 3930 because it departs significantly from the tried and true procedures established in the UCMJ.

The United States has long served as the model for the world of a civilized society that effectively blends security and human liberty. When we refuse to observe the very international standards for the treatment of detainees, which we were so instrumental in developing, we provide encouragement for others around the world to do the same. Our British allies have demonstrated that these traditional principles can be adhered to without distinguishing the ability to provide for the security of its citizens. We must do likewise.

Mr. Speaker, the treatment and trials of detainees by the United States is too important not to do it right. In the words of Jonathan Winthrop, often quoted by President Reagan, "for we must consider that we shall be as a City upon a hill. The eyes of all people are upon us." Let us act worthy of ourselves and our Nation.

So, Mr. Speaker, I stand in opposition to this legislation. But I do not stand alone. I stand with former Secretary of State Colin Powell. I stand with former Chairman of the Joint Chiefs John Vesey. I stand with the 9/11 Families Opposed to Administration Efforts to Undermine Geneva Conventions. I stand with the retired federal judges and admirals and Judge Advocate Generals.

The bill before us is not the right way to do justice by the American people. I therefore cannot support it and I urge my colleagues to reject it. We have time to come up with a better product and we should. The American people deserve no less. The eyes of the world are upon us. Let us act worthy of ourselves.

Mr. UDALL of New Mexico. Mr. Speaker, today, as we consider passage of H.R. 6166, we stand on the verge of undermining our Nation's own moral standard, and risk further eroding the moral authority we have already jeopardized with our unilateral action in Iraq. H.R. 6166 must be defeated.

Former Chairman of the Joint Chiefs of Staff and former Secretary of State Colin Powell has written that the kinds of proposals included in H.R. 6166 add to the worldwide doubts of "the moral basis of our fight against terrorism" and "would put our own troops at risk." Nearly all of the military's top attorneys have publicly expressed strong opposition to the proposals, saying that they not only go against the historical standards of conduct we have previously followed, but that the acts of torture and coercion are actually counterproductive, and in fact damaging, to the ability of our military to fully fight terrorism.

It has been said that we must develop new ways to fight the enemy we now face, that the enemy confronting us does not care for human life and therefore we must not be restrained by unclear or antiquated laws. And Mr. Speaker, there is some truth to that. We do need to pass legislation that will provide the President with a tough and fair system of military commissions that will ensure swift prosecution of terrorists and protect our men and women in uniform. However, we must do so within the boundaries of our own standards and values. Not those of the enemy. In the meantime, if we continue to defile our international agreements by blatantly disregarding them, it will only mean our profile abroad will continue to suffer, potentially to the great detriment of our men and women in uniform, and ultimately to our goal of successfully defeating our enemy.

I would ask my colleagues, and I would ask the American people, do we really believe that we must betray our moral standard in order to defeat our enemies? We are fighting a different enemy, one espousing a radical ideology and using blatant violence as a vehicle to achieve its goals. But I do not believe for one second that this means our adaptation and our military strategy against this new enemy must include torture. Nor should it include a subversion of some of our most precious judicial protections. Tragically, and outrageously, H.R. 6166 includes both of these.

H.R. 6166 must be defeated.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1042, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SKELTON. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Skelton moves to recommit the bill H.R. 6166 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following new sections:

SEC. 11. EXPEDITED JUDICIAL REVIEW.

Notwithstanding any other provision of law, the following rules shall apply to any civil action, including an action for declaratory judgment, that challenges any provision of this Act, or any amendment made by this Act, on the ground that such provision or amendment violates the Constitution or the laws of the United States:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard in that Court by a court of three judges convened pursuant to section 2284 of title 28, United States Code.

(2) An interlocutory or final judgment, decree, or order of the United States District Court for the District of Columbia in an action under paragraph (1) shall be reviewable as a matter of right by direct appeal to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after the date on which such judgment, decree, or order is entered. The jurisdictional statement with respect to any such appeal shall be filed within 30 days after the date on which such judgment, decree, or order is entered.

(3) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any action or appeal, respectively, brought under this section.

SEC. 12. REAUTHORIZATION REQUIRED.

(a) MILITARY COMMISSIONS.—No military commission may be convened under chapter 47A of title 10, United States Code, as added by this Act, after December 31, 2009, except for trial for an offense with respect to which charges and specifications against the accused are sworn under section 948q(a) of that title before that date.

(b) TREATY OBLIGATIONS.—Effective on December 31, 2009—

(1) sections 5, 6(a), and 6(c) of this Act shall cease to be in effect; and

(2) section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking the text of paragraph (3) and inserting the text of that paragraph as in effect on the day before the date of the enactment of this Act; and

(B) by striking subsection (d) (as added by section 6(b)(1)).

Mr. SKELTON (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri is recognized for 5 minutes in support of his motion.

Mr. SKELTON. Mr. Speaker, it is our obligation in this body to fix the deficiencies in this system in order to bring terrorists to justice. My motion to recommit with instructions would add two important elements to the bill that address this basic concern. First, it would require an expedited constitutional review of the entire matter. That is what we need. Second, it would require reauthorization of these military commissions after 3 years.

Expedited judicial review is a well-known way to improve legislation for which legal challenges can be anticipated, and we can be sure that the military commissions system created by this bill will be subject to change. We can provide for expedited review of civil actions challenging the legality of this act by creating a three-judge panel of the D.C. District Court that would hear the actions. The U.S. Supreme Court would then review a judgment or review an order of the panel on an expedited basis.

This type of provision is routinely placed in novel legislation. It was part of the McCain-Feingold campaign finance bill, part of the Voting Rights Act, and part of the Communications Decency Act.

The motion to recommit would also require that Congress reauthorize these military commissions after 3 years and would allow any action before a military commission begun before 2010 to go forward, but it would require an educated debate on reauthorizing this system after we have had some real-world experience with this new judicial process.

There is ample precedent for requiring reauthorization for controversial measures passed in a hurry in times of conflict. Most recently, Mr. Speaker, the PATRIOT Act contained reauthorization, or sunset, provisions. And taken together, Mr. Speaker, these two provisions will significantly improve the flawed legislation that we have before us today.

We need not only to be tough. We need to be certain. And my motion to recommit would make this more certain that those despicable terrorists would be brought to justice.

The SPEAKER pro tempore. Does the gentleman from California claim time in opposition to the motion to recommit?

Mr. HUNTER. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I do rise to oppose this motion.

First, let me thank my colleague, Mr. SKELTON, an outstanding gentleman and friend and a guy who cares about our country, and all the folks who have really worked this issue and participated in the hearings and the briefings that we have had and the discussions with military experts.

Let me tell you why I oppose this. First, Mr. Speaker, the Supreme Court not only gave permission but invited the Congress to put together this new system to try terrorists. And I want to direct my colleagues to the opinion of Justice Breyer, where he said: "Nothing prevents the President from returning to Congress to seek the authority he believes necessary."

So the point is the Supreme Court has not only given us permission. They have given us the obligation of putting this together. The American people have given us the obligation of putting this together.

The idea that we are going to pass this legislation with an uncertainty, with a lack of confidence, sending a message that somehow we need two permissions, is, I think, exactly the wrong message to send to the world.

And I just remind my colleague Mr. SKELTON that when we had our initial hearings and our initial markup, Mr. SKELTON, you held up Senator GRAHAM in the Senate and Senator MCCAIN as having the gold standard with respect to this legislation and you offered their legislation. Let me tell you that this legislation will be introduced by them. The gentlemen that you said had the gold standard and judgment on what is fair, they will be introducing this in the other body very shortly.

So, my colleagues, this is not a time to seek a second permission before we have passed the first legislation that actually sets into force and effect this important structure with which to try terrorists.

□ 1600

Let me just go to the second problem with what Mr. SKELTON has. Mr. SKELTON has a sunset provision. This sunsets a very important part of the bill.

It sunsets the commission. So it says we have to go back and redo it, that we don't have confidence in what we have done, and we have to redo it after 3 years.

The other bad part about this motion to recommit is it sunsets section 5 and section 6 which protect American troops. They say that you cannot sue American troops under Geneva article 3. You can't sue them civilly. Now that is a bad thing. That means that you would have, if this sunset goes into place that Mr. Skeleton is asking for, that you will have American troops exposed to civil suit by terrorists in American courts for alleged violations of Geneva article 3.

It also does away with this distinction that we have made between grave offenses under Geneva article 3. The real grave offenses, the murder, the torture, all of those things, goes away with the cleavage between that. And maybe an American female colonel interrogating a male Muslim, and therefore being construed as having degraded him and his culture by having an American female interrogate him, that distinction between that and a bad offense would now be erased and American troops would be exposed to civil liability and civil suits under Geneva article 3.

I would just ask my colleagues, if you have confidence in what we have done, and this has been a product of this body, of the other body, and of the administration working night and day to put together a solid package, if you have confidence in that, and you have confidence in this list of rights that we have enumerated, that we give to the defendants, that we give to the people who designed the attack on 9/11: the right to counsel, the right to proof beyond a reasonable doubt, the right to a secret vote in the jury so that a colonel cannot lean on a lieutenant to get a guilty verdict, the right against self-incrimination, all of the basic rights. If you look at that package of rights and you think that is enough for the terrorists, then vote "yes" on this bill, vote "no" on this motion to recommit.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of the Skelton motion to recommit with instructions to the Armed Services Committee the bill H.R. 6166, the Military Commissions Act of 2006. I support the Skelton motion because it provides for expedited judicial review of the bill's constitutionality.

The need for expedited judicial review of the constitutionality of this proposed law is clear. Already, the Administration's military commissions plan has already been found fatally defective by the Supreme Court. That the majority has worked closely with the Administration to produce the bill before us provides little comfort or confidence that this bill will pass constitutional muster. It would be a shame to go prosecute detainees under the regime established in this bill only to have any convictions set aside because the procedures are later found to be constitutionally infirm.

Mr. Speaker, Congress should pass legislation that will provide the President with a tough and fair system of military commissions that will ensure swift convictions for terrorists and protect our men and women in uniform. But the legislation must also respond to the United States Supreme Court's ruling in the Hamdan case and withstand judicial scrutiny, or it may not serve its other purposes.

Many legal experts have raised serious questions about this bill's constitutionality. That is why it is critically important to quickly determine whether the statute will survive judicial scrutiny. Just think. If this bill is tied up in years of litigation and eventually struck down by the Supreme Court as unconstitutional, this could have disastrous implications: Convictions would be overturned; terrorists would have a "get-out-of-jail-free" card; and the United States would once again be left without a working military commissions system.

Mr. Speaker, there is a right way to remedy this situation and it is simple. Under the Skelton provision, the judicial review would occur early on and quickly—before there are trials and convictions. And it would help provide stability and sure-footing for novel legislation that sets up a military commissions system unlike anything in American history.

Such an approach provides no additional rights to alleged terrorists. All it does is give the Supreme Court of the United States the ability to decide whether the military commissions system under this act is legal or not. It simply guarantees rapid judicial review.

For this reason, I support the Motion to Recommit.

Mr. HUNTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SKELTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered:

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 195, noes 228, not voting 9, as follows:

[Roll No. 490]

AYES—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—228

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)

Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Castle
Cleaver
Davis (FL)
Jackson-Lee (TX)
Lewis (GA)
Meehan
Millender-McDonald
Ney
Strickland

☐ 1628

Messrs. GALLEGLY, KENNEDY of Minnesota and MURTHA changed their vote from "aye" to "no."

Ms. ZOE LOFGREN of California, Messrs. GORDON, OTTER, BRADY of Pennsylvania, STUPAK, MOLLOHAN and KANJORSKI changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BASS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 253, noes 168, not voting 12, as follows:

[Roll No. 491]

AYES—253

Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—168

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Bartlett (MD)
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gilchrest
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meek (FL)
Meeks (NY)
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Stark
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Castle
Cleaver
Davis (FL)
Davis, Tom
Jackson-Lee (TX)
Keller
Lewis (GA)
Meehan
Millender-McDonald
Ney
Radanovich
Strickland

☐ 1645

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KELLER. Mr. Speaker, on rollcall No. 491, I voted "aye" and I was here. Apparently, there was a card malfunction and it did not record my vote. Had I been present, I would have voted "aye".

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

Mr. CONAWAY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6166, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, and that the Clerk be authorized to make the additional technical corrections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection,

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

NONADMITTED AND REINSURANCE REFORM ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5637) to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Nonadmitted and Reinsurance Reform Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Effective date.

TITLE I—NONADMITTED INSURANCE

Sec. 101. Reporting, payment, and allocation of premium taxes.
Sec. 102. Regulation of nonadmitted insurance by insured's home State.
Sec. 103. Participation in national producer database.
Sec. 104. Uniform standards for surplus lines eligibility.
Sec. 105. Streamlined application for commercial purchasers.
Sec. 106. GAO study of nonadmitted insurance market.
Sec. 107. Definitions.

TITLE II—REINSURANCE

Sec. 201. Regulation of credit for reinsurance and reinsurance agreements.
Sec. 202. Regulation of reinsurer solvency.
Sec. 203. Definitions.

TITLE III—RULE OF CONSTRUCTION

Sec. 301. Rule of Construction.

SEC. 2. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this Act.

TITLE I—NONADMITTED INSURANCE

SEC. 101. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.

(a) HOME STATE'S EXCLUSIVE AUTHORITY.—No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.

(b) ALLOCATION OF NONADMITTED PREMIUM TAXES.—

(1) IN GENERAL.—The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a).

(2) EFFECTIVE DATE.—Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures—

(A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this Act, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and

(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.

(3) REPORT.—Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.

(4) NATIONWIDE SYSTEM.—The Congress intends that each State adopt a nationwide or uniform procedure, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.

(c) ALLOCATION BASED ON TAX ALLOCATION REPORT.—To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.

SEC. 102. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE.

(a) HOME STATE AUTHORITY.—Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State.

(b) BROKER LICENSING.—No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

(c) ENFORCEMENT PROVISION.—Any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.

(d) WORKERS' COMPENSATION EXCEPTION.—This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

SEC. 103. PARTICIPATION IN NATIONAL PRODUCER DATABASE.

After the expiration of the 2-year period beginning on the date of the enactment of this Act, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

SEC. 104. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.

A State may not—

(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with section 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act; and

(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

SEC. 105. STREAMLINED APPLICATION FOR COMMERCIAL PURCHASERS.

A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if—

(1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.

SEC. 106. GAO STUDY OF NONADMITTED INSURANCE MARKET.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this title on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market.

(b) CONTENTS.—The study shall determine and analyze—

(1) the change in the size and market share of the nonadmitted insurance market and in the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this Act;

(2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market;

(3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets;

(4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and

(5) the extent to which there has been a change in the number of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market.

(c) CONSULTATION WITH NAIC. In conducting the study under this section, the Comptroller General shall consult with the NAIC.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the findings of the study not later than 30 months after the effective date of this Act.

SEC. 107. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) ADMITTED INSURER.—The term "admitted insurer" means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.

(2) EXEMPT COMMERCIAL PURCHASER.—The term "exempt commercial purchaser" means any person purchasing commercial insurance that meets the following requirements:

(A) The person employs or retains a qualified risk manager to negotiate insurance coverage.

(B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months.

(C) The person meets at least one of the following criteria:

(i) The person possesses a net worth in excess of $20,000,000.

(ii) The person generates annual revenues in excess of $50,000,000.

(iii) The person employs more than 500 full time or full time equivalent employees per individual insured or is a member of affiliated group employing more than 1,000 employees in the aggregate.

(iv) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000.

(v) The person is a municipality with a population in excess of 50,000 persons.

(3) HOME STATE.—The term "home State" means the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence.

(4) INDEPENDENTLY PROCURED INSURANCE.—The term "independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.

(5) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners or any successor entity.

(6) NONADMITTED INSURANCE.—The term "nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.

(7) NON-ADMITTED INSURANCE MODEL ACT.—The term "Non-Admitted Insurance Model Act" means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002.

(8) NONADMITTED INSURER.—The term "nonadmitted insurer" means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State.

(9) QUALIFIED RISK MANAGER.—The term "qualified risk manager" means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(A) The person is an employee of, or third party consultant retained by, the commercial policyholder.

(B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

(C) The person possesses at least two of the following credentials:

(i) An advanced degree in risk management issued by an accredited college or university.

(ii) At least 5 years of experience in one or more of the following areas of commercial property insurance or commercial casualty insurance:

(I) Risk financing.

(II) Claims administration.

(III) Loss prevention.

(IV) Risk and insurance coverage analysis.

(iii) At least one of the following designations:

(I) A designation as a Chartered Property and Casualty Underwriter (in this clause referred to as "CPCU") issued by the American Institute for CPCU/Insurance Institute of America.

(II) A designation as an Associate in Risk Management (ARM) issued by American Institute for CPCU/Insurance Institute of America.

(III) A designation as a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research.

(IV) A designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute.

(V) Any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management.

(10) PREMIUM TAX.—The term "premium tax" means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a State on an insured based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.

(11) SURPLUS LINES BROKER.—The term "surplus lines broker" means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers.

(12) STATE.—The term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

TITLE II—REINSURANCE

SEC. 201. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.

(a) CREDIT FOR REINSURANCE.—If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance.

(b) ADDITIONAL PREEMPTION OF EXTRATERRITORIAL APPLICATION OF STATE LAW.—In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State other than those of the State of domicile of the ceding insurer are preempted to the extent that they—

(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code;

(2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;

(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this title; or

(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

SEC. 202. REGULATION OF REINSURER SOLVENCY.

(a) DOMICILIARY STATE REGULATION.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) NONDOMICILIARY STATES.—

(1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) RECEIPT OF INFORMATION.—No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

SEC. 203. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) CEDING INSURER.—The term "ceding insurer" means an insurer that purchases reinsurance.

(2) DOMICILIARY STATE.—The terms "State of domicile" and "domiciliary State" means, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) REINSURANCE.—The term "reinsurance" means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(4) REINSURER.—

(A) IN GENERAL.—The term "reinsurer" means an insurer to the extent that the insurer—

(i) is principally engaged in the business of reinsurance;

(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and

(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) DETERMINATION.—A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

(5) STATE.—The term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

TITLE III—RULE OF CONSTRUCTION

SEC. 301. RULE OF CONSTRUCTION.

Nothing in this Act or amendments to this Act shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this Act and any amendments to this Act and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Kansas (Mr. MOORE) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a historic moment in the evolution of our insurance marketplace. The Nonadmitted and Reinsurance Reform Act is an important reform for consumers, helping American homeowners and businesses to obtain more available and more affordable insurance coverage. It will especially help consumers in high-cost areas, such as coastal regions and urban cities vulnerable to terrorist risk. But equally important, this bill is the next critical step in a long journey towards comprehensive reform of how insurance is regulated at the State and Federal levels.

In 1995, I chaired some of the first hearings in the new Republican Congress on insurance reform and helped shape the largest financial services modernization bill of the last decade, the Gramm-Leach-Bliley Act. We finally got GLBA enacted in the waning days of 1999, but it wasn't easy. The Congress had been working on regulatory reform for some 66 years, enough time for three generations of lobbyists to put their children through college.

The debate on GLBA underscored the importance of the financial services industry to our country and the critical need for additional reform. To facilitate further legislative reforms and continue building on our hard-fought success, the House leadership created the Committee on Financial Services, which I have had the privilege of chairing for nearly its 6 years in existence.

Since then, we have had dozens of hearings with hundreds of witnesses on insurance regulation. We have heard that, starting back in 1871, the State insurance regulators committed to modernizing their regulations to provide for more uniformity and coordination and that they continue to hope to some day reach that goal. We have sorted through numerous State and Federal proposals to address the problems of a sluggish insurance marketplace beset by inefficient regulation and the threats of terrorism and other catastrophic disasters. And we have completed numerous investigations of how insurance providers and regulators have lived up to their promises to consumers and the marketplace.

After Gramm-Leach-Bliley, the heads of the State insurance regulators approached our committee to work together in forging several formal policy papers making a commitment towards uniformity and reform, culminating in an agreement to pursue Federal legislation to help the States achieve their own modernization goals.

These policy discussions culminated in the State Modernization and Regulatory Transparency Act, or SMART, as a template for further reform. Two of the SMART titles that appeared to have the greatest bipartisan consensus now form the basis of the legislation before us being moved forward by the leadership of Representative GINNY BROWN-WAITE, Representative MOORE, Capital Market Subcommittee Chairman BAKER, Representative WASSERMAN SCHULTZ, and several others.

Insurance reform is never easy and never quick. Believe me, it is never quick. Each success that we have had has been the result of strong bipartisan cooperation in working together to overcome the turf and vested interests that will always cling to the status quo.

I am proud though to have had the opportunity to work with my colleagues to finish one stage of modernization and help launch the next, and I wish my colleagues well as they continue down this long journey towards modernization of insurance regulation.

I again compliment the bill cosponsors, subcommittee Chairman BAKER and Ranking Members FRANK and KANJORSKI for their help and leadership. I look forward to passing this measure to improve the availability and affordability of insurance and taking another giant leap forward in this historical step towards insurance reform.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank Congresswoman GINNY BROWN-WAITE for introducing H.R. 5637, the Nonadmitted and Reinsurance Reform Act, and for working with me on it as it has moved through the legislative process. I would also like to thank Chairman MIKE OXLEY and RICHARD BAKER and Ranking Members BARNEY FRANK and PAUL KANJORSKI for their support of this measure. The bipartisan support for this bill is a good example of how both sides can come together to introduce and pass legislation that is not and should not be about Democrats and Republicans.

Congresswoman GINNY BROWN-WAITE and I introduced H.R. 5637 three months ago on June 19 with strong bipartisan support and strong support on the Financial Services Committee. Since the bill's introduction, the Capital Market Subcommittee has held a useful and informative hearing on the issue, followed by a markup in which the bill received unanimous support. The full Financial Services Committee followed the successful subcommittee markup with a voice vote just one week later, and I look forward to strong support on the House floor today.

In short, H.R. 5637 would improve the regulation of two specific areas in the commercial insurance marketplace, namely, surplus lines and reinsurance transactions. This legislation would prohibit the extraterritorial application of State laws and allow ceding insurers and reinsurers to resolve disputes pursuant to contractual arbitration clauses. This reform, Mr. Speaker, is long overdue and necessary to restore regulatory certainty to the reinsurance market.

Finally, I would like to note that while many legislative attempts to reform the insurance industry encounter at least some industry opposition, H.R. 5637 is supported by the insurers, the reinsurers, the agents and brokers, as well as by many State regulators.

Mr. Speaker, I look forward to passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), one of the leaders and the lead sponsor of this legislation.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the chairman.

Mr. Speaker, today the regulation of the surplus lines market is fragmented and very cumbersome. Insurers and brokers who want to provide insurance across State lines are subject to a myriad of different State tax and licensing requirements. Oftentimes these regulations will conflict, making it virtually impossible for one company to comply with all of them. This situation leaves policyholders underinsured and with little choice in providers.

Moreover, most of the policyholders who have purchased insurance in the nonadmitted market do so every day. These very sophisticated commercial entities have educated risk advisers on staff with a thorough understanding of the market and their risk exposure. Yet most States require that these experts be denied coverage from multiple providers before they are allowed to purchase insurance in the nonadmitted market.

The reinsurance market faces additional obstacles because some State regulators are taking it upon themselves to throw out arbitration agreements between reinsurance providers and primary carriers. These are contractual agreements decided upon by sophisticated parties on both sides of the transaction to settle disputes without tying up the courts.

Accordingly, the bill that we have before us today, H.R. 5637, specifies that only the tax policies and licensing regulations of the State in which the policy holder is domiciled will govern the transaction. It also requires States within 2 years of the bill's passage to participate in the National Association of Insurance Commissioners National Insurance Producer Database and to adopt regulations under NAIC's Nonadmitted Insurance Model Act.

The bill allows sophisticated commercial entities direct access to the surplus lines market without going through the multiple denial process. It also prohibits States from voiding established contractual arbitration agreements between reinsurers and primary companies.

Policyholders in a number of States are facing skyrocketing rates. With these obstacles already impeding affordability, adding a quagmire of inefficient State rules certainly does not help. Additionally, with reinsurance rates rising at an alarming rate, companies should be encouraged to stay out of the courts and to follow their own voluntarily entered into arbitration agreements. This bill provides commonsense solutions to the nonadmitted and reinsurance market.

I want to thank certainly Chairman OXLEY, who will be very much missed, not only by the committee, but by this entire body, certainly Representative MOORE and the other Members who signed onto this very bipartisan bill, as well as Mr. BAKER, for their leadership on this very important issue.

I urge members to vote in favor of H.R. 5637.

Mr. MOORE of Kansas. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, as an original cosponsor of this bill, I commend the Financial Services and Judiciary Committees for working together in a bipartisan spirit to move it forward. I especially want to thank Ranking Member CONYERS and Ranking Member FRANK and you, Chairman OXLEY, for your support and leadership.

This bill provides much needed relief to Florida's commercial firms, which are experiencing severe increases, and I mean thousands of percent increases in insurance premiums.

This is not endemic to Florida. It is really happening across the Nation. Surplus lines are a safety valve on traditional insurance markets. In some cases, they are the only way firms can get insurance when regulated lines fail.

Market perception of unsustainable increases in catastrophic risk has resulted in the precipitous decline of insurance coverage availability at astronomical cost to consumers.

This bill expands market capacity to provide surplus lines coverage. It eliminates hundreds of billions of dollars in administrative costs and duplicative filing fees, which are passed on to consumers. Maintaining the status quo means higher costs for commercial firms, consumers, and ultimately our economy.

I encourage my colleagues to support this bill because it ensures that companies are able to obtain insurance, meaning they can stay in our communities, provide much needed jobs and keep our economies strong. Companies in my home State are literally closing their doors or leaving Florida altogether because they cannot get insurance.

I urge my colleagues to support this bill.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Bucks County, Pennsylvania (Mr. FITZPATRICK).

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, the surplus lines and reinsurance marketplace is subject to regulatory problems that hamper efficiency and pass on higher costs to policyholders.

I find it extremely troubling that surplus lines policyholders in a number of States are facing skyrocketing rates due to an unnecessary, inefficient and burdensome regulatory maze for compliance. In addition, I find it problematic that reinsurance rates are rising because some State regulators are taking it upon themselves to throw out arbitration agreements between reinsurance providers and primary carriers. For this reason, I am an original cosponsor of this bipartisan and broadly endorsed legislation.

This commonsense bill fixes the problems created by the multitude of conflicting State laws and regulations and by some state-by-state regulators that are taking it upon themselves to throw out the agreements between the reinsurance providers and primary carriers to settle disputes without tying up the courts.

Congress must correct flaws in the current regulatory regime of commercial insurance. These policyholders cannot continue to be picking up the tab because of the basic problems in the current insurance regulatory system.

I commend Congresswoman GINNY BROWN-WAITE and Congressman DENNIS MOORE for introducing this legislation. I strongly urge the Members to vote for H.R. 5637.

Mr. MOORE of Kansas. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, just as the ranking member, I want to say that the leadership shown both by the gentleman from Kansas and the gentlewoman from Florida on this has been very important. Particularly I would say the gentleman from Kansas has been a very steady contributor to our deliberations regarding the importance of balance; and given the physical conditions that have occurred in Florida and the reaction thereto, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) has been a real leader in trying to get an appropriate Federal response to the insurance crisis, and I am glad we were able to take this step today.

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Mr. OXLEY. Mr. Speaker, I am pleased now to recognize the chairman of the Capital Markets Subcommittee, Mr. BAKER, for 2 minutes.

Mr. BAKER. Mr. Speaker, I certainly want to start by acknowledging the focused work of our chairman who has worked diligently on many aspects of reform, and the bill now pending is one small piece of a larger puzzle which has been constructed by the committee in an effort to facilitate provision of insurance of all sorts, but particularly focusing on the needs of homeowners. And a word of special appreciation from those of us in Louisiana as a result of the debacles of Katrina and Rita. We are experiencing a similar circumstance to that of our colleagues in the State of Florida.

The remedy posed under the pending bill is an important one. In one small area, it enables someone to have direct access to surplus lines policies which currently is not facilitated. Current rules require you to apply to at least three separate companies and be denied coverage before you can approach a surplus lines company to acquire the needed insurance. The proposed reform would enable certain qualifying purchasers of product, whether it be business owners or individuals, to have direct access. And in the case of the Katrina-Rita impact areas, this is of extreme importance in facilitating access to insurance which otherwise would not be made available.

I also want to speak to those members of the committee who worked diligently on this subject matter. As the ranking member indicated, this has been a bipartisan effort, and certainly Mr. MOORE and Ms. WASSERMAN SCHULTZ on their side are to be commended for their contributions. Ms. BROWN-WAITE and Mr. FITZPATRICK and others on our side have worked diligently as well.

I think the product we now have pending before the House is a very important step, but should be viewed only as that, a first step. There is much work yet to be done to facilitate regulatory commonsense oversight of the insurance industry, and hopefully provide for enhanced product development and competitiveness in markets where we find in many States people are better served where markets are open, products are available, and prices are competitive.

I believe this surplus lines reform proposal will demonstrate that as an effective remedy to the problems we now face in a very expensive insurance market, and, in some cases, a market where a product is not available at all.

Mr. MOORE of Kansas. Mr. Speaker, I thank Mr. BAKER and the other speakers and the ranking member all for their comments. I hope we pass this.

I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, this was, again, in the great tradition of our committee, a good bipartisan effort by a lot of members that have been mentioned heretofore, and it is really what makes our committee very special. I am very proud of the work product that was put out. It is a somewhat controversial subject, the overall issue; but to be able to take a chunk of this, a very important chunk, and move it separately I think was a wise decision that our staff participated in as well as the members.

Ms. WATERS. Mr. Speaker, I rise in support of the Non-admitted and Reinsurance Reform Act of 2006, reported by the Committee on Financial Services. I want to thank the Gentlelady from Florida, Ms. BROWN-WAITE, for sponsoring this bill and the distinguished Chairman of the Committee on Financial Services, Mr. OXLEY for reporting this legislation out of the Committee.

If any of you have visited the Gulf Region in the last year since Hurricanes Katrina and Rita, you know how essential it is that we come to grips with reality and the potential for a major disaster by reforming nonadmitted and reinsurance in this nation. More than half the City of New Orleans' pre-storm population of 450,000 has not returned to the City, while large areas of the City remain uninhabitable. We were not adequately insured to deal with the aftermath of Katrina and Rita—no more than we are today to address another disaster somewhere else in this country.

We all know that one of the major elements to any recovery after a disaster is insurance, and many of us have heard the horror stories related to the damage incurred as a result of the hurricanes in the Gulf Region. Insurance is one aspect of recovery that we need to be able to rely on after a catastrophe to help make victims whole again. However, on many occasions the reverse has been true, and insurance claims have gone unpaid, or the claims paid have not been commensurate with the damage to the property. In addition, there are many who have not been able to afford insurance and have not been covered, or there are those who had limited and inadequate insurance prior to a natural catastrophe. In many places like California, many homeowners decide not to carry disaster insurance at all, precisely because they believe that the government will become involved if a natural catastrophe occurs.

In the Gulf Region, many insurance companies did not offer flood damage insurance. Although homeowners have the option to obtain a policy under various state programs, it is unaffordable for most. Most people do not carry any insurance for protection from disasters for this reason. In New Orleans, only one-half of the households had flood insurance under the government's National Flood Insurance program.

This bill will create more uniformity among the different state insurance programs by streamlining the regulation of nonadmitted and reinsurance activities. This would be accomplished primarily through preempting various state laws. While these state laws would not be replaced with federal law, laws from other states or model laws of the National Association of Insurance Commissioners (NAIC). Further, the bill requires a GAO study of the nonadmitted insurance market. Currently, rather than requiring consumers who may be unable to find insurance from a licensed insurer to go without insurance, states have allowed consumers to purchase insurance from non-licensed insurers. These nonadmitted or surplus line insurers provide insurance for natural disasters. Disaster insurance is regulated and taxed by the state by placing requirements on the brokers who initiate the transactions. Because non-admitted and reinsurance policies are different from state to state, this bill will allow for "harmonization" of state laws. It will bring some sanity to the insurance marketplace, particularly where disasters are concerned. Many states have seen a dramatic increase in the cost of non-admitted and reinsurance forcing some businesses to relocate, resulting in unemployment and lost revenue. Therefore, I urge my colleagues to support this bill.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5637, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

CREDIT RATING AGENCY REFORM ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3850) to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

The Clerk read as follows:

S. 3850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Rating Agency Reform Act of 2006".

SEC. 2. FINDINGS.

Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 702 of the Sarbanes-Oxley Act of 2002 (116 Stat. 797), hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives during the 108th and 109th Congresses, comment letters to the concept releases and proposed rules of the Commission, and facts otherwise disclosed and ascertained, Congress finds that credit rating agencies are of national importance, in that, among other things—

(1) their ratings, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their ratings, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System;

(3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, the securities markets, the national banking system, and the national economy;

(4) the oversight of such credit rating agencies serves the compelling interest of investor protection;

(5) the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest; and

(6) the Commission has indicated that it needs statutory authority to oversee the credit rating industry.

SEC. 3. DEFINITIONS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

"(60) CREDIT RATING.—The term 'credit rating' means an assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments.

"(61) CREDIT RATING AGENCY.—The term 'credit rating agency' means any person—

"(A) engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;

"(B) employing either a quantitative or qualitative model, or both, to determine credit ratings; and

"(C) receiving fees from either issuers, investors, or other market participants, or a combination thereof.

"(62) NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'nationally recognized statistical rating organization' means a credit rating agency that—

"(A) has been in business as a credit rating agency for at least the 3 consecutive years immediately preceding the date of its application for registration under section 15E;

"(B) issues credit ratings certified by qualified institutional buyers, in accordance with section 15E(a)(1)(B)(ix), with respect to—

"(i) financial institutions, brokers, or dealers;

"(ii) insurance companies;

"(iii) corporate issuers;

"(iv) issuers of asset-backed securities (as that term is defined in section 1101(c) of part

229 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph);

"(v) issuers of government securities, municipal securities, or securities issued by a foreign government; or

"(vi) a combination of one or more categories of obligors described in any of clauses (i) through (v); and

"(C) is registered under section 15E.

"(63) PERSON ASSOCIATED WITH A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'person associated with' a nationally recognized statistical rating organization means any partner, officer, director, or branch manager of a nationally recognized statistical rating organization (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a nationally recognized statistical rating organization, or any employee of a nationally recognized statistical rating organization.

"(64) QUALIFIED INSTITUTIONAL BUYER.—The term 'qualified institutional buyer' has the meaning given such term in section 230.144A(a) of title 17, Code of Federal Regulations, or any successor thereto.".

(b) APPLICABLE DEFINITIONS.—As used in this Act—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "nationally recognized statistical rating organization" has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934, as added by this Act.

SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 is amended by inserting after section 15D (15 U.S.C. 78o–6) the following new section:

"SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

"(a) REGISTRATION PROCEDURES.—

"(1) APPLICATION FOR REGISTRATION.—

"(A) IN GENERAL.—A credit rating agency that elects to be treated as a nationally recognized statistical rating organization for purposes of this title (in this section referred to as the 'applicant'), shall furnish to the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).

"(B) REQUIRED INFORMATION.—An application for registration under this section shall contain information regarding—

"(i) credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable) of the applicant;

"(ii) the procedures and methodologies that the applicant uses in determining credit ratings;

"(iii) policies or procedures adopted and implemented by the applicant to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, nonpublic information;

"(iv) the organizational structure of the applicant;

"(v) whether or not the applicant has in effect a code of ethics, and if not, the reasons therefor;

"(vi) any conflict of interest relating to the issuance of credit ratings by the applicant;

"(vii) the categories described in any of clauses (i) through (v) of section 3(a)(62)(B) with respect to which the applicant intends to apply for registration under this section;

"(viii) on a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the applicant, by amount of net revenues received therefrom in the fiscal year immediately preceding the date of submission of the application;

"(ix) on a confidential basis, as to each applicable category of obligor described in any of clauses (i) through (v) of section 3(a)(62)(B), written certifications described in subparagraph (C), except as provided in subparagraph (D); and

"(x) any other information and documents concerning the applicant and any person associated with such applicant as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(C) WRITTEN CERTIFICATIONS.—Written certifications required by subparagraph (B)(ix)—

"(i) shall be provided from not fewer than 10 qualified institutional buyers, none of which is affiliated with the applicant;

"(ii) may address more than one category of obligors described in any of clauses (i) through (v) of section 3(a)(62)(B);

"(iii) shall include not fewer than 2 certifications for each such category of obligor; and

"(iv) shall state that the qualified institutional buyer—

"(I) meets the definition of a qualified institutional buyer under section 3(a)(64); and

"(II) has used the credit ratings of the applicant for at least the 3 years immediately preceding the date of the certification in the subject category or categories of obligors.

"(D) EXEMPTION FROM CERTIFICATION REQUIREMENT.—A written certification under subparagraph (B)(ix) is not required with respect to any credit rating agency which has received, or been the subject of, a no-action letter from the staff of the Commission prior to August 2, 2006, stating that such staff would not recommend enforcement action against any broker or dealer that considers credit ratings issued by such credit rating agency to be ratings from a nationally recognized statistical rating organization.

"(E) LIMITATION ON LIABILITY OF QUALIFIED INSTITUTIONAL BUYERS.—No qualified institutional buyer shall be liable in any private right of action for any opinion or statement expressed in a certification made pursuant to subparagraph (B)(ix).

"(2) REVIEW OF APPLICATION.—

"(A) INITIAL DETERMINATION.—Not later than 90 days after the date on which the application for registration is furnished to the Commission under paragraph (1) (or within such longer period as to which the applicant consents) the Commission shall—

"(i) by order, grant such registration for ratings in the subject category or categories of obligors, as described in clauses (i) through (v) of section 3(a)(62)(B); or

"(ii) institute proceedings to determine whether registration should be denied.

"(B) CONDUCT OF PROCEEDINGS.—

"(i) CONTENT.—Proceedings referred to in subparagraph (A)(ii) shall—

"(I) include notice of the grounds for denial under consideration and an opportunity for hearing; and

"(II) be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission under paragraph (1).

"(ii) DETERMINATION.—At the conclusion of such proceedings, the Commission, by order, shall grant or deny such application for registration.

"(iii) EXTENSION AUTHORIZED.—The Commission may extend the time for conclusion of such proceedings for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.

"(C) GROUNDS FOR DECISION.—The Commission shall grant registration under this subsection—

"(i) if the Commission finds that the requirements of this section are satisfied; and

"(ii) unless the Commission finds (in which case the Commission shall deny such registration) that—

"(I) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under paragraph (1)(B) and with subsections (g), (h), (i), and (j); or

"(II) if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (d).

"(3) PUBLIC AVAILABILITY OF INFORMATION.—Subject to section 24, the Commission shall, by rule, require a nationally recognized statistical rating organization, upon the granting of registration under this section, to make the information and documents submitted to the Commission in its completed application for registration, or in any amendment submitted under paragraph (1) or (2) of subsection (b), publicly available on its website, or through another comparable, readily accessible means, except as provided in clauses (viii) and (ix) of paragraph (1)(B).

"(b) UPDATE OF REGISTRATION.—

"(1) UPDATE.—Each nationally recognized statistical rating organization shall promptly amend its application for registration under this section if any information or document provided therein becomes materially inaccurate, except that a nationally recognized statistical rating organization is not required to amend—

"(A) the information required to be furnished under subsection (a)(1)(B)(i) by furnishing information under this paragraph, but shall amend such information in the annual submission of the organization under paragraph (2) of this subsection; or

"(B) the certifications required to be provided under subsection (a)(1)(B)(ix) by furnishing information under this paragraph.

"(2) CERTIFICATION.—Not later than 90 days after the end of each calendar year, each nationally recognized statistical rating organization shall furnish to the Commission an amendment to its registration, in such form as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) certifying that the information and documents in the application for registration of such nationally recognized statistical rating organization (other than the certifications required under subsection (a)(1)(B)(ix)) continue to be accurate; and

"(B) listing any material change that occurred to such information or documents during the previous calendar year.

"(c) ACCOUNTABILITY FOR RATINGS PROCEDURES.—

"(1) AUTHORITY.—The Commission shall have exclusive authority to enforce the provisions of this section in accordance with this title with respect to any nationally recognized statistical rating organization, if such nationally recognized statistical rating organization issues credit ratings in material contravention of those procedures relating to such nationally recognized statistical rating organization, including procedures relating to the prevention of misuse of nonpublic information and conflicts of interest, that such nationally recognized statistical rating organization—

"(A) includes in its application for registration under subsection (a)(1)(B)(ii); or

"(B) makes and disseminates in reports pursuant to section 17(a) or the rules and regulations thereunder.

"(2) Limitation.—The rules and regulations that the Commission may prescribe pursuant to this title, as they apply to nationally recognized statistical rating organizations, shall be narrowly tailored to meet the requirements of this title applicable to nationally recognized statistical rating organizations. Notwithstanding any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings.

"(d) Censure, Denial, or Suspension of Registration; Notice and Hearing.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is necessary for the protection of investors and in the public interest and that such nationally recognized statistical rating organization, or any person associated with such an organization, whether prior to or subsequent to becoming so associated—

"(1) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of section 15(b)(4), has been convicted of any offense specified in section 15(b)(4)(B), or is enjoined from any action, conduct, or practice specified in subparagraph (C) of section 15(b)(4), during the 10-year period preceding the date of commencement of the proceedings under this subsection, or at any time thereafter;

"(2) has been convicted during the 10-year period preceding the date on which an application for registration is furnished to the Commission under this section, or at any time thereafter, of—

"(A) any crime that is punishable by imprisonment for 1 or more years, and that is not described in section 15(b)(4)(B); or

"(B) a substantially equivalent crime by a foreign court of competent jurisdiction;

"(3) is subject to any order of the Commission barring or suspending the right of the person to be associated with a nationally recognized statistical rating organization;

"(4) fails to furnish the certifications required under subsection (b)(2); or

"(5) fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.

"(e) Termination of Registration.—

"(1) Voluntary withdrawal.—A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission.

"(2) Commission authority.—In addition to any other authority of the Commission under this title, if the Commission finds that a nationally recognized statistical rating organization is no longer in existence or has ceased to do business as a credit rating agency, the Commission, by order, shall cancel the registration under this section of such nationally recognized statistical rating organization.

"(f) Representations.—

"(1) Ban on representations of sponsorship by United States or agency thereof.—It shall be unlawful for any nationally recognized statistical rating organization to represent or imply in any manner whatsoever that such nationally recognized statistical rating organization has been designated, sponsored, recommended, or approved, or that the abilities or qualifications thereof have in any respect been passed upon, by the United States or any agency, officer, or employee thereof.

"(2) Ban on representation as NRSRO of unregistered credit rating agencies.—It shall be unlawful for any credit rating agency that is not registered under this section as a nationally recognized statistical rating organization to state that such credit rating agency is a nationally recognized statistical rating organization registered under this title.

"(3) Statement of registration under Securities Exchange Act of 1934 provisions.—No provision of paragraph (1) shall be construed to prohibit a statement that a nationally recognized statistical rating organization is a nationally recognized statistical rating organization under this title, if such statement is true in fact and if the effect of such registration is not misrepresented.

"(g) Prevention of Misuse of Nonpublic Information.—.

"(1) Organization policies and procedures.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization, to prevent the misuse in violation of this title, or the rules or regulations hereunder, of material, nonpublic information by such nationally recognized statistical rating organization or any person associated with such nationally recognized statistical rating organization.

"(2) Commission authority.—The Commission shall issue final rules in accordance with subsection (n) to require specific policies or procedures that are reasonably designed to prevent misuse in violation of this title (or the rules or regulations hereunder) of material, nonpublic information.

"(h) Management of Conflicts of Interest.—

"(1) Organization policies and procedures.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address and manage any conflicts of interest that can arise from such business.

"(2) Commission authority.—The Commission shall issue final rules in accordance with subsection (n) to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including, without limitation, conflicts of interest relating to—

"(A) the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

"(B) the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, to the obligor, or any affiliate of the obligor;

"(C) business relationships, ownership interests, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

"(D) any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites the securities or money market instruments that are the subject of a credit rating; and

"(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

"(i) Prohibited Conduct.—

"(1) Prohibited acts and practices.—The Commission shall issue final rules in accordance with subsection (n) to prohibit any act or practice relating to the issuance of credit ratings by a nationally recognized statistical rating organization that the Commission determines to be unfair, coercive, or abusive, including any act or practice relating to—

"(A) conditioning or threatening to condition the issuance of a credit rating on the purchase by the obligor or an affiliate thereof of other services or products, including pre-credit rating assessment products, of the nationally recognized statistical rating organization or any person associated with such nationally recognized statistical rating organization;

"(B) lowering or threatening to lower a credit rating on, or refusing to rate, securities or money market instruments issued by an asset pool or as part of any asset-backed or mortgage-backed securities transaction, unless a portion of the assets within such pool or part of such transaction, as applicable, also is rated by the nationally recognized statistical rating organization; or

"(C) modifying or threatening to modify a credit rating or otherwise departing from its adopted systematic procedures and methodologies in determining credit ratings, based on whether the obligor, or an affiliate of the obligor, purchases or will purchase the credit rating or any other service or product of the nationally recognized statistical rating organization or any person associated with such organization.

"(2) Rule of construction.—Nothing in paragraph (1), or in any rules or regulations adopted thereunder, may be construed to modify, impair, or supersede the operation of any of the antitrust laws (as defined in the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act, to the extent that such section 5 applies to unfair methods of competition).

"(j) Designation of Compliance Officer.—Each nationally recognized statistical rating organization shall designate an individual responsible for administering the policies and procedures that are required to be established pursuant to subsections (g) and (h), and for ensuring compliance with the securities laws and the rules and regulations thereunder, including those promulgated by the Commission pursuant to this section.

"(k) STATEMENTS OF FINANCIAL CONDITION.—Each nationally recognized statistical rating organization shall, on a confidential basis, furnish to the Commission, at intervals determined by the Commission, such financial statements, certified (if required by the rules or regulations of the Commission) by an independent public accountant, and information concerning its financial condition, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(l) SOLE METHOD OF REGISTRATION.—

"(1) IN GENERAL.—On and after the effective date of this section, a credit rating agency may only be registered as a nationally recognized statistical rating organization for any purpose in accordance with this section.

"(2) PROHIBITION ON RELIANCE ON NO-ACTION RELIEF.—On and after the effective date of this section—

"(A) an entity that, before that date, received advice, approval, or a no-action letter from the Commission or staff thereof to be treated as a nationally recognized statistical rating organization pursuant to the Commission rule at section 240.15c3–1 of title 17, Code of Federal Regulations, may represent itself or act as a nationally recognized statistical rating organization only—

"(i) during Commission consideration of the application, if such entity has furnished an application for registration under this section; and

"(ii) on and after the date of approval of its application for registration under this section; and

"(B) the advice, approval, or no-action letter described in subparagraph (A) shall be void.

"(3) NOTICE TO OTHER AGENCIES.—Not later than 30 days after the date of enactment of this section, the Commission shall give notice of the actions undertaken pursuant to this section to each Federal agency which employs in its rules and regulations the term 'nationally recognized statistical rating organization' (as that term is used under Commission rule 15c3–1 (17 C.F.R. 240.15c3–1), as in effect on the date of enactment of this section).

"(m) RULES OF CONSTRUCTION.—

"(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR DEFENSES.—Registration under and compliance with this section does not constitute a waiver of, or otherwise diminish, any right, privilege, or defense that a nationally recognized statistical rating organization may otherwise have under any provision of State or Federal law, including any rule, regulation, or order thereunder.

"(2) NO PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed as creating any private right of action, and no report furnished by a nationally recognized statistical rating organization in accordance with this section or section 17 shall create a private right of action under section 18 or any other provision of law.

"(n) REGULATIONS.—

"(1) NEW PROVISIONS.—Such rules and regulations as are required by this section or are otherwise necessary to carry out this section, including the application form required under subsection (a)—

"(A) shall be issued by the Commission in final form, not later than 270 days after the date of enactment of this section; and

"(B) shall become effective not later than 270 days after the date of enactment of this section.

"(2) REVIEW OF EXISTING REGULATIONS.—Not later than 270 days after the date of enactment of this section, the Commission shall—

"(A) review its existing rules and regulations which employ the term 'nationally recognized statistical rating organization' or 'NRSRO'; and

"(B) amend or revise such rules and regulations in accordance with the purposes of this section, as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(o) NRSROS SUBJECT TO COMMISSION AUTHORITY.—

"(1) IN GENERAL.—No provision of the laws of any State or political subdivision thereof requiring the registration, licensing, or qualification as a credit rating agency or a nationally recognized statistical rating organization shall apply to any nationally recognized statistical rating organization or person employed by or working under the control of a nationally recognized statistical rating organization.

"(2) LIMITATION.—Nothing in this subsection prohibits the securities commission (or any agency or office performing like functions) of any State from investigating and bringing an enforcement action with respect to fraud or deceit against any nationally recognized statistical rating organization or person associated with a nationally recognized statistical rating organization.

"(p) APPLICABILITY.—This section, other than subsection (n), which shall apply on the date of enactment of this section, shall apply on the earlier of—

"(1) the date on which regulations are issued in final form under subsection (n)(1); or

"(2) 270 days after the date of enactment of this section.".

(b) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(A) in section 15(b)(4) (15 U.S.C. 78o(b)(4))—

(i) in subparagraph (B)(ii), by inserting "nationally recognized statistical rating organization," after "transfer agent,"; and

(ii) in subparagraph (C), by inserting "nationally recognized statistical rating organization," after "transfer agent,"; and

(B) in section 21B(a) (15 U.S.C. 78u–2(a)), by inserting "15E," after "15C,".

(2) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a et seq.) is amended—

(A) in section 2(a) (15 U.S.C. 80a–2(a)), by adding at the end the following new paragraph:

"(53) The term 'credit rating agency' has the same meaning as in section 3 of the Securities Exchange Act of 1934."; and

(B) in section 9(a) (15 U.S.C. 80a–9(a))—

(i) in paragraph (1), by inserting "credit rating agency," after "transfer agent,"; and

(ii) in paragraph (2), by inserting "credit rating agency," after "transfer agent,".

(3) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended—

(A) in section 202(a) (15 U.S.C. 80b–2(a)), by adding at the end the following new paragraph:

"(28) The term 'credit rating agency' has the same meaning as in section 3 of the Securities Exchange Act of 1934.";

(B) in section 202(a)(11) (15 U.S.C. 80b–2(a)(11)), by striking "or (F)" and inserting the following: "(F) any nationally recognized statistical rating organization, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934, unless such organization engages in issuing recommendations as to purchasing, selling, or holding securities or in managing assets, consisting in whole or in part of securities, on behalf of others; or (G)"; and

(C) in section 203(e) (15 U.S.C. 80b–3(e))—

(i) in paragraph (2)(B), by inserting "credit rating agency," after "transfer agent,"; and

(ii) in paragraph (4), by inserting "credit rating agency," after "transfer agent,".

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended by striking "effectively" and all that follows through "broker-dealers" and inserting "that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934".

(5) HIGHER EDUCATION ACT OF 1965.—Section 439(r)(15)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)(15)(A)) is amended by striking "means any entity recognized as such by the Securities and Exchange Commission" and inserting "means any nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934".

(6) TITLE 23.—Section 181(11) of title 23, United States Code, is amended by striking "identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization" and inserting "registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934".

SEC. 5. ANNUAL AND OTHER REPORTS.

Section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)) is amended—

(1) by inserting "nationally recognized statistical rating organization," after "registered transfer agent,"; and

(2) by adding at the end the following: "Any report that a nationally recognized statistical rating organization is required by Commission rules under this paragraph to make and disseminate to the Commission shall be deemed furnished to the Commission.".

SEC. 6. COMMISSION ANNUAL REPORT.

The Commission shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that, with respect to the year to which the report relates—

(1) identifies applicants for registration under section 15E of the Securities Exchange Act of 1934, as added by this Act;

(2) specifies the number of and actions taken on such applications; and

(3) specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among nationally recognized statistical rating organizations.

SEC. 7. GAO STUDY AND REPORT REGARDING NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of this Act and the amendments made by this Act on—

(A) the quality of credit ratings issued by nationally recognized statistical ratings organizations;

(B) the financial markets;

(C) competition among credit rating agencies;

(D) the incidence of inappropriate conflicts of interest and sales practices by nationally recognized statistical rating organizations;

(E) the process for registering as a nationally recognized statistical rating organization; and

(F) such other matters relevant to the implementation of this Act and the amendments made by this Act, as the Comptroller General deems necessary to bring to the attention of the Congress;

(2) to identify problems, if any, that have resulted from the implementation of this Act and the amendments made by this Act; and

(3) to recommend solutions, including any legislative or regulatory solutions, to any problems identified under paragraphs (1) and (2).

(b) REPORT REQUIRED.—Not earlier than 3 years nor later than 4 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 4 years ago Congress passed the Sarbanes-Oxley Act to rectify the troubling accounting and reporting issue exposed by the largest corporate scandals in U.S. history. This landmark legislation strengthened the role of auditors, boards of directors, and audit committees, and in doing so stabilized America's capital markets. By enhancing the transparency and accountability of our public companies, Sarbanes-Oxley sought to fortify the pillars upon which our securities laws stand.

Within the many sweeping reforms implemented by the act was a provision, little noticed at the time, which required the SEC to examine credit rating agencies. Four years, one SEC report, over seven House and Senate hearings, and countless committee hours later, I stand before my colleagues in support of final action to bring much needed competition to the credit rating agencies.

S. 3850, the Credit Rating Agency Reform Act, closely follows and makes minor additions to H.R. 2990, the Credit Rating Agency Duopoly Relief Act, which was introduced by Congressman MICHAEL FITZPATRICK in June 2005, and passed the House on July 12 of this year. Like Mr. FITZPATRICK's bill, S. 3850 levels the playing field in the ratings industry by replacing an SEC designation process that benefits a privileged few with a voluntary registration system available to all.

Credit ratings are vital to our capital markets, providing investors with an evaluation of the creditworthiness of the debt issued by America's corporations and municipalities. High-profile mistakes made by prominent rating agencies, including missteps in the rating of Enron and WorldCom, highlight an industry in drastic need of increased competition and improved transparency.

As it now stands, the SEC designates rating agencies as nationally recognized statistical ratings organizations, or NRSROs, through an opaque process that provides applicants little guidance on the substance and procedure by which they will be evaluated. Currently, only five rating agencies are designated as NRSROs by the SEC. Understandably, many more aspire to attain that designation, as NRSRO status confers a significant competitive advantage. However, new applicants languish for years without an up-or-down vote in admission into this elite club. In fact, the Department of Justice commented upon the SEC designation process in 1998, calling it a "nearly insurmountable barrier to entry."

The SEC's opaque designation process has created an artificial government-sponsored barrier to entry that has stifled competition and helped the top two rating agencies, Moody's and Standard & Poor's, garner an 80 percent market share, clearly a duopoly. Without true competition in this industry, fees have skyrocketed and ratings quality has deteriorated. Ultimately, individual investors will benefit from a voluntary registration system that produces cheaper, more accurate ratings.

In the many years that I, Capital Markets Subcommittee Chairman RICHARD BAKER, and the rest of the Financial Services Committee have studied and deliberated over credit ratings, we have heard from countless parties, including the SEC, industry, academia, and the rating agencies themselves about the conflicts of interest that pervade the industry. Ratings firms have expanded into new areas which, many commentators have suggested, further compromise their objectivity. In addition, it has been alleged that leading rating agencies engage in certain abusive practices, to the detriment of smaller market players. S. 3850 closes the door on this behavior by requiring disclosure of conflict of interest and prohibiting abusive practices.

I want to commend the leading credit rating agencies, Moody's and Standard & Poor's, for lending support for this measure despite their initial opposition. Taking the handoff from Congressman FITZPATRICK and H.R. 2990, S. 3850 provides a strong framework for advancing the credit rating industry for the 21st century.

As for Senator SARBANES and me, the bill provides a logical follow-up to the Sarbanes-Oxley Act and our efforts to restore integrity to the capital markets.

I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3850, the Credit Rating Agency Reform Act. This investor protection bill will create a new regulatory system for identifying and overseeing the nationally recognized agencies that issue credit ratings.

A robust free market for trading debt securities relies on an independent assessment of financial strength provided by credit rating agencies like Moody's, Fitch, and Standard & Poor's. Sound financial regulation also depends on the work of these raters.

Since the Securities and Exchange Commission created the concept of nationally recognized statistical rating organizations in 1970, the term, with its inference to credible and reliable ratings, has become embedded in nearly 10 Federal statutes, about 100 Federal regulations, approximately 200 State laws, and around 50 State rules. Many private parties have also included references to national recognized agencies in the terms of their contracts, corporate bylaws, and pension trust agreements. Foreign governments and international bodies have used the concept in their accords and codes, too.

In considering any bill to modify the process for identifying and overseeing nationally recognized agencies, we must therefore keep in mind the need to maintain the integrity of ratings. It is this credible and reliable standard on which investors and regulators rely. We should not lightly abandon this benchmark.

The critics of the present designation system have also long raised legitimate concerns about competition. In any legislative effort to increase the quantity of raters, I have long advocated that we should refrain from sacrificing the quality of their ratings. Unlike the bill the House considered earlier this year, S. 3850 has found the right equilibrium on these matters. It balances the desire to increase the quantity of approved agencies with the need to ensure quality ratings.

S. 3850 is a considerably better legislative product than H.R. 2990 in several significant ways:

First, unlike H.R. 2990, the bill before us would allow the commission to reject an application for registration as a nationally recognized agency if the entity lacks sufficient financial and managerial resources. This major improvement helps to ensure consistent high quality ratings.

Second, unlike H.R. 2990, the bill before us would require applicants for national recognition to provide to the commission written certifications from at least 10 of their institutional customers and a list of their 20 largest issuers and subscribers by the amount of net revenues received in the previous year. These important adjustments help guarantee that ratings used for regulatory purposes are accepted and used in the market.

Finally, unlike H.R. 2990, the bill before us would instruct the commission to issue rules on conflicts of interest and the misuse of nonpublic information. This helpful change advances investor protection.

Now that we are nearing the end of the legislative process, I want to clarify the legislative record on two specific provisions contained in S. 3850.

First, in the manager's amendment to S. 3850, the Senate added a preemption that gives exclusive oversight authority to the Securities and Exchange Commission to register, license, or qualify as a nationally recognized agency except in cases of fraud.

This preemption, based on existing language in the Investment Advisers Act, should be viewed narrowly as limiting a State's authority to regulate the day-to-day activities of credit rating agencies. It should not be taken to apply to typical State governmental functions in which States, their localities, and their agencies are users of credit ratings. Accordingly, States will continue to have the ability to continue to oversee their departments, programs, and political subdivisions with respect to debt issuance conditions, contract specifications, and investment standards for governmental funds, such as pension portfolios and financial reserves.

The preemption also should not be taken to apply to the regulation of insurers and bank solvency standards and generic business licensing requirements normally applied to entities performing business within a State.

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Finally, while many States often currently use the "nationally recognized" designation as their standard for defining rating agencies, this legislation should not be read as compelling them to do so for all purposes going forward.

Second, S. 3850 gives clear authority to the Commission to reject those applicants for national recognition who lack adequate financial and managerial resources to produce credit ratings with consistent integrity. The bill also explicitly details a number of requirements for an application and authorizes the Commission to add additional conditions via the rulemaking process. Accordingly, it is my expectation that the Commission will expeditiously complete a rulemaking to require the production of documents related to the financial and managerial resources for any and all applications.

In conclusion, Mr. Speaker, Congress wisely adopted standards in the Sarbanes-Oxley Act to strengthen financial reporting and assure the integrity of our capital markets in the wake of the bankruptcies of Enron and WorldCom. Although many observers criticized the "nationally recognized" agencies for their failure to identify these insolvencies more expeditiously, we could not decide at that time how best to proceed on improving the oversight of the credit rating agencies. Four years later, however, we have reached a consensus and determined the best way to address these prior shortcomings. Because this consensus will protect the quality of credit ratings, I encourage my colleagues to support S. 3850.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I recognize the gentleman from Pennsylvania (Mr. FITZPATRICK), the author of the legislation, for 4 minutes.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, in the wake of the Enron and WorldCom scandals, it is vital that Congress bring competition, transparency and accountability to the credit rating industry. Thanks to the leadership of House Financial Services Committee Chairman MIKE OXLEY and Capital Markets Subcommittee Chairman RICHARD BAKER, our quest to reform the credit rating industry is becoming a reality.

It is extremely disturbing that the two largest NRSROs, S&P and Moody's, rated Enron at investment grade just prior to its bankruptcy filing. Essentially, S&P and Moody's told the market that Enron was a safe investment; and Enron was not their only blunder. S&P and Moody's also rated WorldCom and Orange County at investment grade just prior to their bankruptcy filings. But what other options were out there?

There are over 130 credit ratings agencies in the financial market. However, only five are currently designated as NRSROs by the Securities and Exchange Commission. This label is the root of the problem. To receive the elusive SEC distinction, companies must be "nationally recognized" or, that is, their ratings must be widely used and generally accepted in the financial markets.

This artificial barrier to entry has created a chicken-and-the-egg situation for non-NRSRO credit rating agencies trying to enter this industry, thus fostering a duopoly. S&P and Moody's have over 80 percent of the market share, and they rate more than 99 percent of the debt and preferred stock issues in the United States. As a result, they are raking in record fees.

This lack of competition in the credit rating industry has lowered the quality of ratings, inflated prices, stifled innovation, and allowed anti-competitive industry practices and conflicts of interest to go unchecked.

On June 20, 2005, I introduced the Credit Rating Agency Duopoly Relief Act. On July 12, 2006, the House passed H.R. 2990 with a bipartisan vote. Last Friday, the Senate passed bipartisan and broadly endorsed legislation, the Credit Rating Agency Reform Act, S. 3850, by unanimous consent.

I am extremely pleased that S. 3850 took the legislation, H.R. 2990, as its base text. Like H.R. 2990, Senate bill S. 3850 would eliminate the SEC staff's anti-competitive NRSRO process.

Mr. Speaker, in the wake of a seminal failure by S&P and Moody's in the Enron and WorldCom scandals, we must ensure integrity in the credit ratings process. This bill will reduce prices and anti-competitive practices. It will improve credit ratings quality and spur innovation. This view is broadly endorsed by the Investment Company Institute, Association for Financial Professionals, the Bond Market Association, the Financial Executives International, Financial Services Roundtable, Standards & Poor's, Moody's Corporation, Fitch Ratings, Fidelity Investments, and Consumer Federation of America.

Today's passage of this important reform legislation demonstrates Congress' commitment to protecting the individual investor by creating a more accountable, transparent and competitive market in our financial services industry.

This would not have been possible without the exemplary work by the staff of the Financial Services Committee, especially Bob Foster, Kristen Jaconi, Frank Tillotson, Josh Wilsusen, Alex Urrea, Marisol Garibay, and Tom Duncan, and the staff in the Senate Banking Committee, especially Justin Daly. Thanks for your diligence.

Again, I thank Chairman OXLEY and Chairman BAKER for their leadership. This artificial barrier of entry that fostered the duopoly and allowed the warning signs of Enron and WorldCom to go unnoticed had to be broken. Thank you for supporting our legislative efforts.

Chairman OXLEY, it has been a pleasure to work with you. Your bipartisanship and knowledge of the issues are envied, admired, and they need to be replicated. I wish you and your wife, Pat, many future successes and endeavors. You will be greatly missed.

Mr. Speaker, I strongly urge a "yes" vote on S. 3850 to kill the duopoly and ensure integrity in the credit rating industry.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to recognize the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for 1 minute.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, when companies like WorldCom and Enron continued to enjoy high-rated bonds just days before they declared bankruptcy, something was wrong with the system. Congress has taken great strides in ensuring that the corporate scandals these companies precipitated will not happen again, and improving the agencies that rate them is yet another important step.

I was not in Congress when the Enron and WorldCom scandals erupted, but I still regularly hear from constituents who lost a great deal of their retirement packages because of these criminals.

Listen up America. If Congress cannot improve investor confidence in other corporations, many more constituents will have difficulty planning for their retirement as well. Let's kill the duopoly, and that is what this bill does.

I thank Mr. FITZPATRICK for his leadership on credit rating agency reform. Without his hard work, we could not go home to our districts with the confidence that we are doing what we can to protect our constituents' hard-earned savings.

I urge members to support S. 3850 to help ensure that the credit rating agencies are working as they should, providing reliable evaluations of corporations on which so many retirees rely.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I recognize the gentleman from Georgia (Mr. PRICE) for 2 minutes.

Mr. PRICE of Georgia. Mr. Speaker, I want to congratulate the chairman and Mr. BAKER for their work on this and appreciate their leadership; and I thank the gentleman from Pennsylvania (Mr. FITZPATRICK) for his leadership on this issue. I truly tell our colleagues and folks all across this Nation that the State of Pennsylvania and the citizens all across this Nation are fortunate to have your leadership.

This bill addresses credit ratings or judging the financial worthiness of companies, and credit ratings play a real and significant role in our economy. Investors rely on these ratings to determine risks of default of companies, both large and small, as well as governmental entities. Currently, these ratings are often the determining factor as to whether companies and, hence, jobs will expand, or whether local governments are able to finance major municipal improvement projects.

The current process fails to provide a reasonably clear path for potential new rating agencies; and this bill addresses the fundamental, long-standing and widely recognized problems related to the operation and function of credit rating agencies.

Applicants seeking to become rating agencies will be required to make disclosures on rating performance, how they assist folks that they come in contact with; procedures and methodologies used to determine ratings, that is transparency; policies and procedures to prevent the misuse of nonpublic information, security; organizational structure; a code of ethics; a long list of subscribers and issuers; conflicts of interest; and the type of ratings that the applicant intends to use. In other words, accountability.

This reforms the current opaque process of the SEC approval of certain rating agencies as "nationally recognized" rating organizations. It doesn't favor a particular credit rating agency business model and thus encourages quantitative firms and subscriber-based models to compete with the qualitative issuer-paid structures of the current dominant firms.

Mr. Speaker, these are all extremely important advances and improvements for our entire economy, and I encourage the adoption of S. 3850.

Mr. OXLEY. Mr. Speaker, I recognize the chairman of the Capital Markets Insurance Subcommittee, the gentleman from Louisiana (Mr. BAKER), for 2 minutes.

Mr. BAKER. Mr. Speaker, I congratulate the chairman on his good work on what is truly an important piece of reform legislation in the world of finance. This has immeasurable impact on any number of businesses and individuals' financial interests.

I certainly want to continue to compliment Mr. FITZPATRICK on his good work with H.R. 2990, a previously passed House bill, which in essence is incorporated into the version sent back to us from the Senate with the good additions provided by Senator SARBANES. So this has been a bipartisan and bicameral effort which I think presents itself before the House today and also provides for exemplary reforms.

Credit rating agencies are unique entities. Currently, there is no mechanism by which a corporation may become a credit rating agency. There is little oversight once one is designated; and if they fail to meet their fiduciary duties, there is not clear methodology by which one would be decommissioned.

The underlying bill makes strategic and important changes with regard to these provisions establishing a registration process through the SEC. The additions which Mr. SARBANES suggested be included in the legislation are important, providing additional accounting and financial screens through which a corporation must pass in order to achieve this designation.

There is also another important reform not yet mentioned in the debate, and that goes to the previous practice of rating agencies engaging in unsolicited ratings. It is not a bad business model: You simply pick out the company you wish to charge, you rate them, and send them the bill for services later. It presents a corporation with a very difficult dilemma in that, under our securities law, if a corporation chooses to enter the public markets and issue debt, you must have two favorable ratings from credit rating agencies.

For these reasons, this bill eliminates those unsolicited ratings, provides stability in the overall rating process, and I believe will serve our capital markets well in good fashion going forward.

I again compliment Chairman OXLEY and Mr. FITZPATRICK for their leadership and good work.

Mr. KANJORSKI. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, in closing, I want to pay special tribute to our friend from Pennsylvania (Mr. FITZPATRICK). It is rare in this House that a freshman has been able to pass major legislation as we have before us today, and it is a real tribute to his leadership and hard work and the cooperation on both sides of the aisle that we were able to get this bipartisan and bicameral bill finished.

We had a most impressive and informative field hearing in the City of Brotherly Love last November, and it really did set the template and the opportunity for the committee to move forward with this legislation.

It is particularly poignant because it is a natural after passage of Sarbanes-Oxley, and I know Senator SARBANES and I both appreciate the work and the leadership that Mr. FITZPATRICK has provided for us and for Chairman BAKER to move that legislation through his subcommittee.

I want to thank all involved, including the staffers that Mr. FITZPATRICK mentioned. This has been a labor of love, and it will be one that will have enormous implications for our capital markets down the road.

Mr. Speaker, I yield back the balance of my time.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, I would like to extend and revise my remarks made on September 27th regarding S. 3850, the Credit Rating Agency Reform Act of 2006. I submit the attached statement by Brian Carroll in Vol. 232 Number 186 of the Legal Intelligencer.

[From the Legal Intelligencer, Sept. 26, 2005]

ENRON SCANDALS SPUR PROPOSED CREDIT RATING LEGISLATION

(By Brian Carroll)

The regulatory legacy of Enron, WorldCom and other major accounting frauds remains a work in process. Credit rating agencies, such as Moody's Investor Services Inc., Fitch Inc. and the Standard and Poor's Division of the McGraw-Hill Companies Inc. (S&P), issued favorable credit ratings of WorldCom bonds just three months before it declared bankruptcy and, more disturbing, Moody's and S&P favorably opined on Enron bonds four days before its bankruptcy. The unexpected collapse of these issuers cost investors billions of dollars. This raised the question:

Why did credit rating agencies issue favorable bond ratings that did not appear to accurately reflect the likelihood of these bankruptcies?

While the Sarbanes-Oxley Act of 2002 fundamentally recast the statutory responsibilities of chief executive and financial officers, audit committees and auditors, it took a different tack when it came to credit rating agencies: Section 702(b) mandated that the Securities and Exchange Commission study the role of credit rating agencies in securities markets. While acknowledging this study, Bucks County Congressman Michael G. Fitzpatrick, R–8th District, has introduced the Credit Rating Agency Duopoly Relief Act of 2005, aimed at increasing competition among credit rating agencies while extending SEC oversight authority. This article reviews the role of credit rating agencies and compares the SEC's approach to credit rating agency regulation with Fitzpatrick's proposed legislation.

CREDIT RATING FIAT

Some credit rating agencies have enjoyed an enviable position. Demand for certain agency services is statutorily guaranteed—no less than dozens of federal, state and foreign government statutes, including securities, banking, higher education finance, and housing and community development statutes, mandate creditworthiness ratings by credit rating agencies that qualify as a 'nationally recognized statistical rating organization' (NRSRO). Innumerable private contracts, such as loan and merger agreements, and more than 20 SEC rules require use of NRSRO services.

NRSRO credit ratings have significant consequences. For example, Rule 2a–7 under the Investment Company Act of 1940 sets a minimum credit rating benchmark for certain money market fund investments. An issuer's failure to meet that benchmark renders the security ineligible for money market investment. Many regulations set mandatory threshold credit rating benchmarks. From an issuer perspective, there is generally an inverse relationship between the credit rating an issuer's debt instrument receives and, the rate of interest the issuer will pay on the borrowing. Finally, institutional and individual investors rely on credit ratings in making investment decisions.

The SEC, through its staff, controls the supply of NRSROs by staff determinations of whether to issue what is called a 'No Action' letter, to provide assurance to a credit rating agency that its ratings can be considered those of an NRSRO without the SEC initiating an enforcement action. The SEC staff began issuing No Action letters in 1975, as part of the agency's efforts to clarify the application of its broker-dealer Net Capital Rule. At present, only three NRSROs have staff No Action letters: Moody's, S&P and Fitch Inc., with the first two capturing nearly 80 percent of the market.

Under this process, a credit rating agency requests the SEC staff conduct an informal inquiry to determine whether the agency is qualified. If satisfied, the SEC staff issues a No Action letter to a credit rating agency, effectively designating it an NRSRO. Once the letter is issued, an NRSRO registers as an adviser pursuant to the Investment Advisers Act of 1940 (Advisers Act).

According to the SEC's Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, as required under Section 702(b) of Sarbanes-Oxley, some NRSROs consider their registration as an adviser to be voluntary. Similarly, other NRSROs assert that Advisers Act requirements to retain and produce to the SEC certain books and records are inapplicable because they operate as journalist under the protection of the First Amendment.

Some support for this position is found in Lowe v. SEC, where the U.S. Supreme Court in 1985 ruled that a publisher of investment materials fell within the Advisers Act exclusion for publishers. In 1999's Jefferson County School District No. R–1 v. Moody's Investor's Services Inc, the 10th U.S. Circuit Court of Appeals held that Moody's was not liable for allegedly materially false bond ratings, based in part on finding that Moody's was functioning as a journalist and therefore entitled to First Amendment protections. Further supporting the NRSROs' argument, in 2004's Compuware Corp. v. Moody's Investors Services Inc., the Eastern District of Michigan held that Moody's qualified for protection from discovery requests under New York's Shield Law. Although the case law in this area is less than settled, there is support for this position.

In addition to potential constitutional protections, the SEC has granted NRSROs relief from potential civil and SEC enforcement liability. For example, Rule 436(g)(1) under the Securities Act of 1933 provides that an NRSRO's credit rating appearing in registration statement is not considered part of the statement for purposes of, among others, Section 11 of the Securities Act, a strict liability provision applicable to experts who participate in preparing a security's registration statement. Violations of this section are commonly alleged in shareholder class action suits. In another vein, SEC Regulation Fair Disclosure excludes credit rating agencies from prohibitions on receiving non-public information from issuers. Although this section covers all credit rating agencies, it most commonly would benefit agencies retained by issuers, i.e. NRSROs.

The SEC has wrestled with the issue of how to define an NRSRO. As early as 1994, the SEC issued a concept release requesting comments on a wide range of NRSRO issues, including how they should be defined. In 1997, the SEC issued a proposed rule that would have defined NRSRO, which was not adopted. In January 2003, the SEC submitted its Section 702(b) report to Congress. In April 2003, the SEC issued another concept release calling for comments on, among other things, how to define an NRSRO. In 2005, the SEC issued another proposed rule reviewing the SEC approach to the issue. It is currently pending.

The current proposed rule would define an NRSRO as a credit rating agency that issues publicly available credit ratings (meaning at no cost) and is generally accepted by financial markets as credible and reliable. Some comments on the proposed rule question whether requiring only free public credit ratings would discourage investors, as opposed to the issuer of the security, from paying for credit rating services. More importantly, the SEC recognizes that some view the 'generally accepted' requirement as creating a 'chicken and egg' barrier to entry where an agency has to first obtain NRSRO-like status before meeting the SEC's definition of an NRSRO.

Given the applicable case law, limitations of the Advisers Act and the No Action letter process, the SEC has questionable authority to conduct any follow-up oversight of NRSROs, such as requiring them to maintain certain books and records, conducting examinations or, when appropriate, instituting enforcement actions. On this issue, former SEC director, division of market regulation, and current Commissioner Annette L. Nazareth testified before Congress that without taking a formal position, '[the] Commission believes that to conduct a rigorous program of NRSRO oversight, more explicit regulatory authority from Congress is necessary.'

PROPOSED FEDERAL LEGISLATION

On June 28, Fitzpatrick addressed the House of Representatives in support of his bill by arguing that two NRSROs currently dominate the ratings market, with SEC approval, which creates 'an uncompetitive marketplace, stifles competition from other rating agencies, lowers the quality of ratings and allows conflicts of interest to go unchecked.' Consistent with this rationale, his Credit Rating Agency Duopoly Relief Act of 2005, H.R. 2990, is designed to achieve two primary objectives: decrease regulatory barriers to credit rating agencies qualifying as an SEC approved statistical rating organization, a new designation to replace NRSRO; and increase SEC statutory authority to oversee approved credit rating agencies.

Under H.R. 2990, a credit rating agency must meet only two requirements to be considered a statistical rating organization and eligible to register with the SEC. First, under the new definition of statistical rating organization, an agency must have been in the business of primarily issuing publicly available ratings at least for the most recent three consecutive years. Here, 'publicly available' is defined as certain ratings disseminated via the Internet for free or a fee. This provision permits both issuer and investor financed ratings to qualify.

Second, H.R. 2990 requires that an agency employ either a quantitative or qualitative model in determining its publicly available ratings. This provision permits agencies that rely on purely analytic measures for determining a credit rating, as opposed to interviews with the issuer's senior management. Notably, there is no 'generally accepted by the financial markets' component to this definition, eliminating the 'chicken and egg' barrier.

Fitzpatrick's bill would amend Section 15 of the Exchange Act by creating a public registration procedure for becoming a statistical rating organization. As part of the procedure, an eligible agency must disclose how it handles potential conflicts of interest and misuse of non-public information, as well its methodologies for determining credit ratings. If denied, the agency could appeal the SEC's decision to the circuit courts.

Under H.R. 2990, a registered statistical rating organization must also maintain policies and procedures aimed at preventing conflicts of interest, anticompetitive practices and misuse of nonpublic information. Recent events underscore the importance of these continuing requirements. For example, the report describes one anti-competitive practice known as notching—refusing to rate or lowering the rating of some securities unless the issuer permits the agency to rate other securities. Also, the report notes concerns over agency pressure on issuers to purchase other agency services, presumably to stay in its good graces. Finally, in SEC v. Marano, et al, the SEC alleged that employees of S&P's Financial Rating Services violated Section 10(b) of the Exchange Act and Rule 10b–5 by engaging in insider trading on material nonpublic information obtained through employment at S&P.

Perhaps most important, Fitzpatrick's bill would provide the SEC with statutory authority under the Exchange Act to require statistical rating organizations to maintain certain books and records, conduct examinations and, when appropriate, institute enforcement actions against the SRO itself.

This type of SEC oversight already applies to brokers, dealers, municipal securities dealers, transfer agents and clearing agents under existing provisions of the Exchange Act. Consistent with this requirement to register under the Exchange Act, H.R. 2990 prohibits a statistical rating organization from registering as investment adviser and reliance on existing No Action letters concerning NRSROs.

CONCLUSION

In light of the history of this issue, H.R. 2990 would, if enacted, go a long way toward strengthening the SEC's authority to oversee this key area of our securities regulation scheme while reducing the SEC's role in deciding who is qualified to perform credit ratings. With this legislation, the SEC would be in a better position to challenge industry assertions of constitutional protection. Some of these legal questions may be resolved sooner, for a recent newspaper article reports that New York Attorney General Eliot Spitzer has subpoenaed credit rating documents from Moody's as part of an investigation into insurance industry practices.

Brian Carroll is a CPA and Special Counsel to the U.S. Securities and Exchange Commission in the Philadelphia District Office. The U.S. Securities and Exchange Commission disclaims responsibility for any private publication or statement of any Commission employee or Commissioner. This article expresses the author's view and does not necessarily reflect those of the Commission, the Commissioners or other members of the staff.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the Senate bill, S. 3850.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

□ 1730

MARK-TO-MARKET EXTENSION ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6115) to extend the authority of the Secretary of Housing and Urban Development to restructure mortgages and rental assistance for certain assisted multifamily housing.

The Clerk read as follows:

H.R. 6115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mark-to-Market Extension Act of 2006".

SEC. 2. REAUTHORIZATION.

Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) in subsection (a)(1), by striking "October 1, 2006" and inserting "October 1, 2011"; and

(2) in subsection (b), by striking "October 1, 2006" and inserting "October 1, 2011".

SEC. 3. EXCEPTION RENTS.

Section 514(g)(2)(A) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking "five percent" and inserting "nine percent".

SEC. 4. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT RELIEF.

Section 517(a)(5) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting before the period at the end the following: ": *Provided*, That if such purchaser acquires such project subsequent to the date of recordation of the affordability agreement described in section 514(e)(6), (A) such purchaser must acquire such project on or before the later of (i) five years after the date of recordation of the affordability agreement and (ii) two years after the date of enactment of this title; and (B) the Secretary must have received, and determined acceptable, such purchaser's application for modification, assignment or forgiveness prior to such purchaser's acquisition of the project".

SEC. 5. DEFINITIONS.

Section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new paragraph:

"(20) DISASTER-DAMAGED ELIGIBLE PROJECT.—The term 'disaster-damaged eligible project' means an eligible multifamily housing project—

"(A) that is located in a county that was declared a major disaster area on or after January 1, 2005, by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq);

"(B) whose owner carried casualty and liability insurance covering such project in amounts required by the Secretary;

"(C) that suffered damages not covered by such insurance that the Secretary determines are likely to exceed $5,000 per unit in connection with the natural disaster that was the subject of such designation; and

"(D) whose owner requests restructuring within two years following the date that such damages were incurred.

Disaster-damaged eligible projects shall be eligible without regard to the relationship between rent level for the assisted units and comparable market rents.".

SEC. 6. DISASTER-DAMAGED ELIGIBLE PROJECTS.

(a) MARKET RENT DETERMINATIONS.—Subparagraph (B) of section 514(g)(1) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended to read as follows:

"(B) if those rents cannot be determined—

"(i) with respect to a disaster-damaged eligible project, are equal to 100 percent of the fair market rents for the relevant market area (in effect at the time of such disaster); and

"(ii) with respect to other eligible multifamily housing projects, are equal to 90 percent of the fair market rents for the relevant market area.".

(b) OWNER INVESTMENT.—Section 517(c) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by adding at the end the following new paragraph:

"(3) PROPERTIES DAMAGED BY NATURAL DISASTERS.—With respect to a disaster-damaged eligible project, the owner contribution toward rehabilitation needs shall be determined in accordance with paragraph (2)(C).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 6115, the Mark-to-Market Extension Act of 2006, legislation introduced by my friend and colleague from Ohio, Congresswoman DEBORAH PRYCE. This legislation extends the Multifamily Assisted Housing Restructuring and Affordability Act of 1997 for 5 years beyond its current expiration date of September 30, 2006.

Legislation creating the Mark-to-Market program was enacted in 1997 to reduce the cost to the Federal Government of renewing section 8 contracts. At that time, 4,000 multifamily projects with FHA-insured mortgages were receiving project-based rent subsidies under section 8 of the U.S. Housing Act of 1937. The original Housing Assistance Payment contracts attached to these projects were written for periods ranging from 15 to 40 years. The majority of these projects had units with rents that exceeded those for comparable unassisted units; however, HUD did not have the authority to renew the contract at above-market rents.

Consequently, few of these projects would have remained financially viable when their rental income was reduced to market rates, as owners would not have been able to cover their costs. With the reduced rents, such projects would most likely have gone into default on their mortgages, generating losses to the FHA insurance fund and possibly displacing many tenants in those projects.

Under the current law, if the Mark-to-Market program expires, HUD will be required to renew Housing Assistance Payment Contracts at market levels, but the authority to restructure mortgage debt will no longer be available for projects that have yet to enter the Mark-to-Market program. Without that authority, many projects would not generate sufficient cash flow to support their mortgage after rents are reduced to market levels.

CBO estimates that the cost of restructuring is less expensive than the cost of default by about $500,000 per project, on average. Consequently, CBO estimates that enacting H.R. 6115 will reduce direct spending by $188 million over 5 years principally by avoiding defaults on FHA-insured multifamily mortgages that otherwise would occur under current law.

H.R. 6115 will ensure that HUD continues to have the tools necessary to restructure mortgages and lower rents, thereby reducing the Fed's cost of oversubsidized section 8 properties.

I want to commend Congresswoman PRYCE for her work on this important legislation. And I urge the adoption of H.R. 6115, the Mark-to-Market Extension Act of 2006.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6115, the Mark-to-Market Extension Act of 2006.

I want to thank the gentlewoman from Ohio, DEBORAH PRYCE, for sponsoring this bill, along with other cosponsors of the bill, including Mr. GERLACH of Pennsylvania; Mr. TIBERI of Ohio; and, of course, Ranking Member FRANK. The distinguished chairman of the Committee on Financial Services, Mr. OXLEY, must also be commended for moving this important bill to the floor. As the ranking member of the Subcommittee on Housing and Community Affairs, I am pleased to be an original cosponsor of this bill, and I would like to thank all of the members of the subcommittee who supported it.

H.R. 6115, the Mark-to-Market Extension Act of 2006, will reauthorize the Mark-to-Market program. The program is set to expire on September 30, 2006. Of course, we can ill afford to have any housing program eliminated by our failure to act, particularly since the Mark-to-Market program ensures that our multifamily rental housing stock remains on the market.

When Congress enacted the Multifamily Assisted Housing Reform and Affordability Act of 1997, it was designed to, number one, eliminate above-market rents at low- and moderate-income multifamily properties with FHA-insured mortgages and project-based section 8 assistance; and, number two, preserve affordable rental housing in markets where it is needed.

The Mark-to-Market program was created to address these program goals, and it relies basically on several tools: debt restructuring, full or partial payment of claims, deferment of mortgage payments, credit enhancements, and increased FHA mortgage insurance.

There is ample evidence that the Mark-to-Market program is critical to preserving multifamily housing and to cost savings. According to HUD, as of March 2006, the Mark-to-Market program has been used to preserve approximately 220,000 affordable rental apartments at savings of $1.9 billion. And, in fact, the Congressional Budget Office concluded 5 years ago that the cost of restructuring debt for many multifamily housing projects is less expensive that the cost of default by an estimated $1 million per project.

Because more than 1,000 projects could be assisted under the Mark-to-Market program, we will save many multifamily affordable housing units over the next 5 years. I am certainly not interested in seeing any of the multifamily rental units that are located in my district or in the State of California, projects that are in the pipeline in California, go into default because the Mark-to-Market program is allowed to expire. This tool is too valuable to preserving the affordable housing stock across the country to allow it to expire. When I think about it, we were very close to losing several major housing programs had our Subcommittee on Housing and the full committee not taken action on this and other programs.

Again, this bill not only demonstrates just how serious many members of the Committee on Financial Services have been on reaching consensus on programs that are important to fighting the affordable housing crisis in this country, but the bill recognizes low- and moderate-income housing needs in many of our communities.

Yes, H.R. 6115 is being considered by this House at a critical juncture because the Mark-to-Market program takes into account the serious shortage of the affordable multifamily rental housing in America. The Mark-to-Market program applies to FHA-insured multifamily projects with project-based assistance under the section 8 program. Rents for these projects are in excess of the rents for comparable rental units in the area. While many of these projects had been developed with rents which were above market, when the 20-year section 8 contracts began to expire back in the 1990s, the contracts were not renewed at above-market rents. This forced many projects into default because the owners of the projects could not operate or meet mortgage payments at market rents.

Restructuring the FHA-insured mortgage, which lowers debt service to a level that is sustainable at market rent, as well as mechanisms to rehabilitate and to replenish reserves, are what makes the Mark-to-Market program worthy of extension. Under the Mark-to-Market program, owners of multifamily projects that have been restructured are required to accept section 8 renewal offers and to keep rents affordable regardless of whether section 8 assistance is available. The critical requirement must be met for the next 30 years.

In addition, the committee included new provisions to the Mark-to-Market program that will enable Mark-to-Market mechanisms to be extended to damaged properties in disaster areas. The committee concluded that by including these properties, many of which are located in the gulf region where 170,000 units in New Orleans were lost, that the question of eligibility would be eliminated, making M-M tools quickly available to the rebuilding efforts. The bill also allows for continued debt relief upon the transfer of a Mark-to-Market project to any qualified nonprofit purchasers.

With regard to the use of exception rent, the committee recognized that the existing 5 percent cap on rents greater than 100 percent of the median is projected to be reached this year, requiring the committee to raise the rent ceiling to 9 percent of the Mark-to-Market portfolio.

For all of the above reasons, this is one of the most constructive housing bills reported by the Committee on Financial Services this year.

Mr. Speaker, we cannot let the Mark-to-Market program expire, and I certainly urge my colleagues to support the bill.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman for yielding.

I just wanted to note the good work that we have been able to do in our Subcommittee on Housing. There are some differences between the parties, and I have to say that we on our side regret that we were not able to get into the increased production, but that disagreement, and it is an important one, being what it is, hasn't kept us from working together in a number of other areas, including some efforts to preserve.

And the leadership that the gentlewoman has shown, and the chairman of the full committee has worked there, and I must say the former chairman, the gentleman from Ohio, who is not with us now but good work should be recognized no matter what circumstance has followed, in working together, we have managed to do, I think, a good job in the housing area. And the gentlewoman from California has been an excellent ranking member. This is another good piece of it, and I am very glad that we were able to do this today.

Ms. WATERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, just in closing, let me salute our good friend from California, who has had a passionate interest in housing ever since she got here and has worked extremely well as the ranking member of the subcommittee with the chairman and with both the full committee chairmen, myself and the gentleman from Ohio. We have surprised a lot of people with what we have been able to produce.

They say politics is the art of the possible, and I think we have proven it time and time again. This is commonsense legislation that is good for all concerned, and I just want to salute her dedication to that effort.

Ms. PRYCE of Ohio. Mr. Speaker, I would first like to thank Chairman OXLEY, for this effort and for his great leadership of our Committee for the last 6 years. Six very challenging years in which fiscal policy really mattered. A time when security, reliability, transparency, made a difference. Ms. WATERS, and Ranking Member FRANK and their staffs for their hard work on this legislation. Clinton Jones, Cindy Chetti, and Tallman Johnson on the Majority staff have been invaluable.

We are here today to extend a program that works: A program that saves taxpayers money, reduces rents on tenants, and ensures the long-term viability of affordable housing properties.

The numbers speak louder than words—In just 7 years, Mark-to-Market has resulted in nearly $2 billion in net savings to taxpayers, reduced rent costs at over 2,700 properties by an estimated $216 million per year, and completed debt-restructuring on over 1,400 properties.

Central Ohio has been the beneficiary of many of these projects, including the Ohio Capital Corporation for Housing's purchase of 12 HUD-insured properties in urban Columbus, and the continued development of a home for disabled individuals near the Ohio State University, the Center for Creative Living.

This bill also includes an amendment I drafted in Committee, which provides relief for properties in rural and dense urban areas and non-profit purchasers, and erases any question of the eligibility of properties damaged by Hurricanes Katrina, Rita, Wilma or other natural disasters.

Our action today shows our commitment to acting before this program sunsets.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 6115.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2856) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes, as amended.

The Clerk read as follows:

S. 2856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Regulatory Relief Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BROKER RELIEF

Sec. 101. **[Rulemaking]** *Joint rulemaking* required for revised definition of broker in the Securities Exchange Act of 1934.

TITLE II—MONETARY POLICY PROVISIONS

Sec. 201. Authorization for the Federal reserve to pay interest on reserves.
Sec. 202. Increased flexibility for the Federal Reserve Board to establish reserve requirements.
Sec. 203. Effective date.

TITLE III—NATIONAL BANK PROVISIONS

Sec. 301. Voting in shareholder elections.
Sec. 302. Simplifying dividend calculations for national banks.
Sec. 303. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.
Sec. 304. Repeal of obsolete provision in the Revised Statutes.
Sec. 305. Enhancing the authority for banks to make community development investments.

TITLE IV—SAVINGS ASSOCIATION PROVISIONS

Sec. 401. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.
Sec. 402. Repeal of overlapping rules governing purchased mortgage servicing rights.
Sec. 403. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
Sec. 404. Repeal of limitation on loans to one borrower.

TITLE V—CREDIT UNION PROVISIONS

Sec. 501. Leases of land on Federal facilities for credit unions.
Sec. 502. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
Sec. 503. Check cashing and money transfer services offered within the field of membership.
Sec. 504. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.
Sec. 505. Amendments relating to nonfederally insured credit unions.

TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

Sec. 601. Reporting requirements relating to insider lending.
Sec. 602. Investments by insured savings associations in bank service companies authorized.
Sec. 603. Authorization for member bank to use pass-through reserve accounts.
Sec. 604. Streamlining reports of condition.
Sec. 605. Expansion of eligibility for 18-month examination schedule for community banks.
Sec. 606. Streamlining depository institution merger application requirements.
Sec. 607. Nonwaiver of privileges.
Sec. 608. Clarification of application requirements for optional conversion for Federal savings associations.
Sec. 609. Exemption from disclosure of privacy policy for accounting firms.
Sec. 610. Inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
Sec. 611. Modification to cross marketing restrictions.

TITLE VII—BANKING AGENCY PROVISIONS

Sec. 701. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
Sec. 702. Enhancing the safety and soundness of insured depository institutions.
Sec. 703. Cross guarantee authority.
Sec. 704. Golden parachute authority and nonbank holding companies.
Sec. 705. Amendments relating to change in bank control.
Sec. 706. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
Sec. 707. Interagency data sharing.
Sec. 708. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
Sec. 709. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
Sec. 710. Prohibition on participation by convicted individuals.
Sec. 711. Coordination of State examination authority.
Sec. 712. Deputy Director; succession authority for Director of the Office of Thrift Supervision.
Sec. 713. Office of Thrift Supervision representation on Basel Committee on Banking Supervision.
Sec. 714. Federal Financial Institutions Examination Council.
Sec. 715. Technical amendments relating to insured institutions.
Sec. 716. Clarification of enforcement authority.
Sec. 717. Federal banking agency authority to enforce deposit insurance conditions.
Sec. 718. Receiver or conservator consent requirement.
Sec. 719. Acquisition of FICO scores.
Sec. 720. Elimination of criminal indictments against receiverships.
Sec. 721. Resolution of deposit insurance disputes.
Sec. 722. Recordkeeping.
Sec. 723. Preservation of records.
Sec. 724. Technical amendments to information sharing provision in the Federal Deposit Insurance Act.
Sec. 725. Technical and conforming amendments relating to banks operating under the Code of Law for the District of Columbia.
Sec. 726. Technical corrections to the Federal Credit Union Act.
Sec. 727. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.
Sec. 728. Development of model privacy forms.

TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

Sec. 801. Exception for certain bad check enforcement programs.

Sec. 802. Other amendments.

TITLE IX—CASH MANAGEMENT MODERNIZATION

Sec. 901. Collateral modernization.

TITLE X—STUDIES AND REPORTS

Sec. 1001. Study and report by the Comptroller General on the currency transaction report filing system.

Sec. 1002. Study and report on institution diversity and consolidation.

TITLE I—BROKER RELIEF

SEC. 101. *JOINT* RULEMAKING REQUIRED FOR REVISED DEFINITION OF BROKER IN THE SECURITIES EXCHANGE ACT OF 1934.

(a) FINAL RULES REQUIRED.—

(1) AMENDMENT TO SECURITIES EXCHANGE ACT.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

"(F) [RULEMAKING] *JOINT RULEMAKING REQUIRED*.—The Commission *and the Board of Governors of the Federal Reserve System shall* [, by rule,] *jointly adopt a single set of rules or regulations to* implement the exceptions in subparagraph (B).".

(2) TIMING.—Not later than 180 days after the date of *the* enactment of this Act, the Securities and Exchange Commission (in this section referred to as the "Commission") [shall issue proposed rules] *and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall jointly issue a proposed single set of rules or regulations* to define the term "broker" in accordance with section 3(a)(4) of the Securities Exchange Act of 1934, as amended by this subsection.

(3) RULEMAKING SUPERSEDES PREVIOUS RULEMAKING.—A final [rule issued] *single set of rules or regulations jointly adopted* in accordance with this section shall supersede any other proposed or final rule issued by the Commission *on or after the date of enactment of section 201 of the Gramm-Leach-Bliley Act* with regard to the exceptions to the definition of a broker under section 3(a)(4)(B) of the Securities Exchange Act of 1934 [, on or after the date of enactment of section 201 of the Gramm-Leach-Bliley Act]. No such other rule, whether or not issued in final form, shall have any force or effect on or after that date of enactment.

(b) CONSULTATION.—Prior to [issuing the final rule] *jointly adopting the single set of final rules or regulations* required by this section, the Commission *and the Board* shall consult with and seek the concurrence of the Federal banking agencies concerning the content of such rulemaking in implementing section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by this section and section 201 of the Gramm-Leach-Bliley Act.

[(c) AGENCY OBJECTIONS TO COMMISSION RULE.—

(1) FILING OF PETITION FOR REVIEW.—

(A) IN GENERAL.—Any Federal banking agency may obtain review of any final rule issued under this section in the United States Court of Appeals for the District of Columbia Circuit by filing in such court, not later than 60 days after the date of publication of the final rule, a written petition requesting that the rule be set aside.

(B) EXPEDITED PROCESS.—Any proceeding to challenge such a rule commenced under subparagraph (A) shall be expedited by the Court of Appeals.

(2) TRANSMITTAL OF PETITION AND RECORD.—

(A) SUBMISSION TO CLERK.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the Court to an officer or employee of the Commission designated for that purpose.

(B) FILING OF PETITION.—Upon receipt of a petition under subparagraph (A), the Commission shall file with the court the rule under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of a petition under paragraph (1), the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the rule at issue.

(4) STANDARD OF REVIEW.—The court shall determine to affirm and enforce or set aside a rule of the Commission under this subsection, based on the determination of the court as to whether the rule is consistent with the purposes and language of section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Gramm-Leach-Bliley Act, and appropriate in light of the history, purpose, and extent of the rule under the Federal securities laws and the Federal banking laws, giving deference neither to the views of the Commission nor of the Federal banking agencies.

(5) JUDICIAL STAY.—The filing of a petition by a Federal banking agency under paragraph (1) shall operate as a judicial stay, until the date on which the determination of the court is final (including any appeal of such determination).]

[d] *(c)* DEFINITION.—For purposes of this section, the term "Federal banking agencies" means [the Board of Governors of the Federal Reserve System,] the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation.

TITLE II—MONETARY POLICY PROVISIONS

SEC. 201. AUTHORIZATION FOR THE FEDERAL RESERVE TO PAY INTEREST ON RESERVES.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following:

"(12) EARNINGS ON BALANCES.—

"(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

"(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).".

(b) CONFORMING AMENDMENT.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

SEC. 202. INCREASED FLEXIBILITY FOR THE FEDERAL RESERVE BOARD TO ESTABLISH RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking "the ratio of 3 per centum" and inserting "a ratio of not greater than 3 percent (and which may be zero)."; and

(2) in clause (ii), by striking "and not less than 8 per centum," and inserting "(and which may be zero)."

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall take effect October 1, 2011.

TITLE III—NATIONAL BANK PROVISIONS

SEC. 301. VOTING IN SHAREHOLDER ELECTIONS.

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking "or to cumulate" and inserting "or, if so provided by the articles of association of the national bank, to cumulate"; and

(2) by striking the comma after "his shares shall equal".

SEC. 302. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

"SEC. 5199. NATIONAL BANK DIVIDENDS.

"(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

"(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter three of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5199 and inserting the following:

"5199. National bank dividends.".

SEC. 303. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.

Section 8(e)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4)) is amended by striking the 5th sentence.

SEC. 304. REPEAL OF OBSOLETE PROVISION IN THE REVISED STATUTES.

Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended to read as follows:

"SEC. 5143. REDUCTION OF CAPITAL.

"(a) In General.—Subject to the approval of the Comptroller of the Currency, a national banking association may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital.

"(b) Shareholder Distributions Authorized.—As part of its capital reduction plan approved in accordance with subsection (a), and with the affirmative vote of shareholders owning at least two thirds of the shares of each class of its stock outstanding (each voting as a class), a national banking association may distribute cash or other assets to its shareholders.".

SEC. 305. ENHANCING THE AUTHORITY FOR BANKS TO MAKE COMMUNITY DEVELOPMENT INVESTMENTS.

(a) National Banks.—The paragraph designated as the "Eleventh." of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended to read as follows:

"Eleventh. To make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs). An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 15 percent of the association's capital stock actually paid in and unimpaired and 15 percent of the association's unimpaired surplus fund. The foregoing standards and limitations apply to investments under this paragraph made by a national bank directly and by its subsidiaries.".

(b) Conforming Amendments for State Member Banks.—The 23rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended to read as follows:

"(23) A State member bank may make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law. A State member bank shall not make any such investment if the investment would expose the State member bank to unlimited liability. The Board shall limit a State member bank's investment in any 1 project and a State member bank's aggregate investments under this paragraph. The aggregate amount of investments of any State member bank under this paragraph may not exceed an amount equal to the sum of 5 percent of the State member bank's capital stock actually paid in and unimpaired and 5 percent of the State member bank's unimpaired surplus, unless the Board determines, by order, that a higher amount will pose no significant risk to the affected deposit insurance fund; and the State member bank is adequately capitalized. In no case shall the aggregate amount of investments of any State member bank under this paragraph exceed an amount equal to the sum of 15 percent of the State member bank's capital stock actually paid in and unimpaired and 15 percent of the State member bank's unimpaired surplus. The foregoing standards and limitations apply to investments under this paragraph made by a State member bank directly and by its subsidiaries.".

TITLE IV—SAVINGS ASSOCIATION PROVISIONS

SEC. 401. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934 AND THE INVESTMENT ADVISERS ACT OF 1940.

(a) Securities Exchange Act of 1934.—

(1) Definition of bank.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) is amended—

(A) in subparagraph (A), by inserting "or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act" after "a banking institution organized under the laws of the United States"; and

(B) in subparagraph (C)—

(i) by inserting "or savings association, as defined in section 2(4) of the Home Owners' Loan Act" after "banking institution"; and

(ii) by inserting "or savings associations" after "having supervision over banks".

(2) Inclusion of OTS under the definition of appropriate regulatory agency for certain purposes.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding company; and";

(B) in subparagraph (B)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and";

(C) in subparagraph (C)—

(i) in clause (ii), by striking "(i) or (iii)" and inserting "(i), (iii), or (iv)";

(ii) in clause (iii), by striking "and" at the end;

(iii) by redesignating clause (iv) as clause (v); and

(iv) by inserting after clause (iii) the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and";

(D) in subparagraph (D)—

(i) in clause (ii), by striking "and" at the end;

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

"(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(E) in subparagraph (F)—

(i) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively; and

(ii) by inserting after clause (i) the following:

"(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(F) by moving subparagraph (H) and inserting such subparagraph immediately after subparagraph (G); and

(G) by adding at the end of the undesignated matter at the end the following: "As used in this paragraph, the term 'savings and loan holding company' has the same meaning as in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).".

(3) Conforming exemption to reporting requirement.—Section 23(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(1)) is amended by inserting "other than the Office of Thrift Supervision," before "shall each".

(b) Investment Advisers Act of 1940.—

(1) Definition of bank.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act" after "a banking institution organized under the laws of the United States"; and

(B) in subparagraph (C)—

(i) by inserting ", savings association, as defined in section 2(4) of the Home Owners' Loan Act," after "banking institution"; and

(ii) by inserting "or savings associations" after "having supervision over banks".

(2) Conforming amendments. Section 210A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10a) is amended in each of subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b), by striking "bank holding company" each place that term appears and inserting "bank holding company or savings and loan holding company".

(c) Conforming Amendment to the Investment Company Act of 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by inserting after "1956)" the following: "or any one savings and loan holding company, together with its affiliates and subsidiaries (as such terms are defined in section 10 of the Home Owners' Loan Act).".

SEC. 402. REPEAL OF OVERLAPPING RULES GOVERNING PURCHASED MORTGAGE SERVICING RIGHTS.

Section 5(t) of the Home Owners' Loan Act (12 U.S.C. 1464(t)) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) [Repealed]."; and

(2) in paragraph (9)(A), by striking "intangible assets, plus" and all that follows through the period at the end and inserting "intangible assets.".

SEC. 403. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.

Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(x) Home State Citizenship.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.".

SEC. 404. REPEAL OF LIMITATION ON LOANS TO ONE BORROWER.

Section 5(u)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking "for any" and inserting "For any"; and

(B) by striking "; or" and inserting a period; and

(2) in clause (ii)—

(A) by striking "to develop domestic" and inserting "To develop domestic";

(B) by striking subclause (I); and

(C) by redesignating subclauses (II) through (V) as subclauses (I) through (IV), respectively.

TITLE V—CREDIT UNION PROVISIONS

SEC. 501. LEASES OF LAND ON FEDERAL FACILITIES FOR CREDIT UNIONS.

(a) In General.—Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended—

(1) by striking "Upon application by any credit union" and inserting "Notwithstanding any other provision of law, upon application by any credit union";

(2) by inserting "on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or" after "officer or agency of the United States charged with the allotment of space";

(3) by inserting "lease land or" after "such officer or agency may in his or its discretion"; and

(4) by inserting "or the facility built on the lease land" after "credit union to be served by the allotment of space".

(b) Clerical Amendment.—The section heading for section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by inserting "**OR FEDERAL LAND**" after "**BUILDINGS**".

SEC. 502. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.

Section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended in the matter preceding subparagraph (A), by striking "to make loans, the maturities of which shall not exceed twelve years" and inserting "to make loans, the maturities of which shall not exceed 15 years,".

SEC. 503. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.

Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

"(12) in accordance with regulations prescribed by the Board—

"(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

"(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;".

SEC. 504. CLARIFICATION OF DEFINITION OF NET WORTH UNDER CERTAIN CIRCUMSTANCES FOR PURPOSES OF PROMPT CORRECTIVE ACTION.

Section 216(o)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amended—

(1) by inserting "the" before "retained earnings balance"; and

(2) by inserting ", together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined" before the semicolon at the end.

SEC. 505. AMENDMENTS RELATING TO NONFEDERALLY INSURED CREDIT UNIONS.

(a) In General.—Subsection (a) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is amended by adding at the end the following new paragraph:

"(3) Enforcement by appropriate State supervisor.—Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.".

(b) Amendment Relating to Disclosures Required, Periodic Statements, and Account Records.—Section 43(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(1)) is amended by striking "or similar instrument evidencing a deposit" and inserting "or share certificate.".

(c) Amendments Relating to Disclosures Required, Advertising, Premises.—Section 43(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2)) is amended to read as follows:

"(2) Advertising; premises.—

"(A) In general.—Include clearly and conspicuously in all advertising, except as provided in subparagraph (B); and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

"(B) Exceptions.—The following need not include a notice that the institution is not federally insured:

"(i) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.

"(ii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.".

(d) Amendments Relating to Acknowledgment of Disclosure.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) Acknowledgment of disclosure.—

"(A) New depositors obtained other than through a conversion or merger.—With respect to any depositor who was not a depositor at the depository institution before the effective date of the Financial Services Regulatory Relief Act of 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) New depositors obtained through a conversion or merger.—With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after the effective date of the Financial Services Regulatory Relief Act of 2006, receive any deposit for the account of such depositor only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

"(C) Current depositors.—Receive any deposit after the effective date of the Financial Services Regulatory Relief Act of 2006 for the account of any depositor who was a depositor on that date only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (E) which are applicable as of the date of the deposit.

"(D) Alternative provision of notice to new depositors obtained through a conversion or merger.—

"(i) In general.—Transmit to each depositor who has not signed a written acknowledgement described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(E) Alternative provision of notice to current depositors.—

"(i) In general.—Transmit to each depositor who was a depositor before the effective date of the Financial Services Regulatory Relief Act of 2006, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) Manner and timing of notice.—

"(I) First notice.—Make the transmission described in clause (i) via mail not later than three months after the effective date of the Financial Services Regulatory Relief Act of 2006.

"(II) Second notice.—Make a second transmission described in clause (i) via mail not less than 30 days and not more than three months after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.".

(e) Amendments Relating to Manner and Content of Disclosure.—Section 43(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)) is amended to read as follows:

"(c) Manner and Content of Disclosure.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section, which shall be presented in such format and in such type size and manner as to be simple and easy to understand.".

(f) Repeal of Provision Prohibiting Nondepository Institutions from Accepting Deposits.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(g) Repeal of FTC Authority to Enforce Independent Audit Requirement; Concurrent State Enforcement.—Subsection (f) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

"(f) Enforcement.—

"(1) Limited FTC enforcement authority.—Compliance with the requirements of subsections (b), (c) and (e), and any regulation prescribed or order issued under any such subsection, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(2) Broad state enforcement authority.—

"(A) In general.—Subject to subparagraph (C), an appropriate State supervisor of a depository institution lacking Federal deposit insurance may examine and enforce compliance with the requirements of this section, and any regulation prescribed under this section.

"(B) State powers.—For purposes of bringing any action to enforce compliance with this section, no provision of this section shall be construed as preventing an appropriate State supervisor of a depository institution lacking Federal deposit insurance from exercising any powers conferred on such official by the laws of such State.

"(C) Limitation on state action while federal action pending.—If the Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisor may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this section that is alleged in that complaint.".

TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

SEC. 601. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

(a) Reporting Requirements Regarding Loans to Executive Officers of Member Banks.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by striking paragraphs (6) and (9); and

(2) by redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.

(b) Reporting Requirements Regarding Loans From Correspondent Banks to Executive Officers and Shareholders of Insured Banks.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

SEC. 602. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.

(a) In General.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking "insured bank" each place that term appears and inserting "insured depository institution".

(b) Technical and Conforming Amendments.—

(1) Bank service company act definitions.—Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended—

(A) in paragraph (4)—

(i) by inserting ", except when such term appears in connection with the term 'insured depository institution'," after "means"; and

(ii) by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision";

(B) by striking paragraph (5) and inserting the following:

"(5) Insured depository institution.—The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act;";

(C) by striking "and" at the end of paragraph (7);

(D) by striking the period at the end of paragraph (8) and inserting "; and";

(E) by adding at the end the following:

"(9) the terms 'State depository institution', 'Federal depository institution', 'State savings association' and 'Federal savings association' have the same meanings as in section 3 of the Federal Deposit Insurance Act.";

(F) in paragraph (2), in subparagraphs (A)(ii) and (B)(ii), by striking "insured banks" each place that term appears and inserting "insured depository institutions"; and

(G) in paragraph (8)—

(i) by striking "insured bank" and inserting "insured depository institution";

(ii) by striking "insured banks" each place that term appears and inserting "insured depository institutions"; and

(iii) by striking "the bank's" and inserting "the depository institution's".

(2) Amount of investment.—Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting "or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act" after "relating to banks".

(3) Location of services.—Section 4 of the Bank Service Company Act (12 U.S.C. 1864) is amended—

(A) in subsection (b), by inserting "as permissible under subsection (c), (d), or (e) or" after "Except";

(B) in subsection (c), by inserting "or State savings association" after "State bank" each place that term appears;

(C) in subsection (d), by inserting "or Federal savings association" after "national bank" each place that term appears;

(D) by striking subsection (e) and inserting the following:

"(e) Performance Where State Bank and National Bank Are Shareholders or Members.—A bank service company may perform—

"(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

"(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services."; and

(E) in subsection (f), by inserting "or savings associations" after "location of banks".

(4) Prior approval of investments.—Section 5 of the Bank Service Company Act (12 U.S.C. 1865) is amended—

(A) in subsection (a)—

(i) by striking "insured bank" and inserting "insured depository institution"; and

(ii) by striking "bank's"; and

(iii) by inserting before the period "for the insured depository institution";

(B) in subsection (b)—

(i) by striking "insured bank" and inserting "insured depository institution";

(ii) by inserting "authorized only" after "performs any service"; and

(iii) by inserting "authorized only" after "perform any activity"; and

(C) in subsection (c)—

(i) by striking "the bank or banks" and inserting "any insured depository institution"; and

(ii) by striking "capability of the bank" and inserting "capability of the insured depository institution".

(5) Regulation and examination.—Section 7 of the Bank Service Company Act (12 U.S.C. 1867) is amended—

(A) in subsection (b), by striking "insured bank" and inserting "insured depository institution"; and

(B) in subsection (c)—

(i) by striking "a bank" each place that term appears and inserting "a depository institution"; and

(ii) by striking "the bank" each place that term appears and inserting "the depository institution".

SEC. 603. AUTHORIZATION FOR MEMBER BANK TO USE PASS-THROUGH RESERVE ACCOUNTS.

Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

SEC. 604. STREAMLINING REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

"(11) Streamlining reports of condition.—

"(A) Review of information and schedules.—Before the end of the 1-year period beginning on the date of enactment of the Financial Services Regulatory Relief Act of 2006 and before the end of each 5-year period thereafter, each Federal banking agency shall, in conjunction with the other relevant Federal banking agencies, review the information and schedules that are required to be filed by an insured depository institution in a report of condition required under paragraph (3).

"(B) Reduction or elimination of information found to be unnecessary.—After completing the review required by subparagraph (A), a Federal banking agency, in conjunction with the other relevant Federal banking agencies, shall reduce or eliminate any requirement to file information or schedules under paragraph (3) (other than information or schedules that are otherwise required by law) if the agency determines that the continued collection of such information or schedules is no longer necessary or appropriate.".

SEC. 605. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAMINATION SCHEDULE FOR COMMUNITY BANKS.

Section 10(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)(A)) is amended by striking "$250,000,000" and inserting "$500,000,000".

SEC. 606. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.

(a) In General.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended to read as follows:

"(4) Reports on competitive factors.—

"(A) Request for report.—In the interests of uniform standards and subject to subparagraph (B), before acting on any application for approval of a merger transaction, the responsible agency shall—

"(i) request a report on the competitive factors involved from the Attorney General of the United States; and

"(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency).

"(B) Furnishing of report.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

"(i) not later than 30 calendar days after the date on which the Attorney General received the request; or

"(ii) not later than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.

"(C) Exceptions.—A responsible agency may not be required to request a report under subparagraph (A) if—

"(i) the responsible agency finds that it must act immediately in order to prevent the probable failure of 1 of the insured depository institutions involved in the merger transaction; or

"(ii) the merger transaction involves solely an insured depository institution and 1 or more of the affiliates of such depository institution.".

(b) Technical and Conforming Amendments.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence, by striking "banks or savings associations involved and reports on the competitive factors have" and inserting "insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of its affiliates, and the report on the competitive factors has"; and

(2) by striking the penultimate sentence and inserting the following: "If the agency has advised the Attorney General under paragraph (4)(B)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.".

SEC. 607. NONWAIVER OF PRIVILEGES.

(a) Insured Depository Institutions.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"(x) Privileges Not Affected by Disclosure to Banking Agency or Supervisor.—

"(1) In general.—The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

"(2) Rule of construction.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection."

(b) Insured Credit Unions.—Section 205 of the Federal Credit Union Act (12 U.S.C.1785) is amended by adding at the end the following:

"(j) Privileges Not Affected by Disclosure to Banking Agency or Supervisor.—

"(1) In general.—The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

"(2) Rule of construction.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.".

SEC. 608. CLARIFICATION OF APPLICATION REQUIREMENTS FOR OPTIONAL CONVERSION FOR FEDERAL SAVINGS ASSOCIATIONS.

(a) Home Owners' Loan Act.—Section 5(i)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(i)(5)) is amended to read as follows:

"(5) Conversion to national or State bank.—

"(A) In general.—Any Federal savings association chartered and in operation before the date of enactment of the Gramm-Leach-Bliley Act, with branches in operation before such date of enactment in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before such date of enactment in 1 or more States subject to subparagraph (B).

"(B) Conditions of conversion.—The authority in subparagraph (A) shall apply only if each resulting national or State bank—

"(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

"(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act.

"(C) No merger application under FDIA required.—No application under section 18(c) of the Federal Deposit Insurance Act shall be required for a conversion under this paragraph.

"(D) Definitions.—For purposes of this paragraph, the terms 'State bank' and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

(b) Federal Deposit Insurance Act.—Section 4(c) of the Federal Deposit Insurance Act (12 U.S.C. 1814(c)) is amended—

(1) by inserting "of this Act and section 5(i)(5) of the Home Owners' Loan Act" after "Subject to section 5(d)"; and

(2) in paragraph (2), after "insured State," by inserting "or Federal".

SEC. 609. EXEMPTION FROM DISCLOSURE OF PRIVACY POLICY FOR ACCOUNTANTS.

(a) In General.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

"(d) Exemption for Certified Public Accountants.—

"(1) In general.—The disclosure requirements of subsection (a) do not apply to any person, to the extent that the person is—

"(A) a certified public accountant;

"(B) certified or licensed for such purpose by a State; and

"(C) subject to any provision of law, rule, or regulation issued by a legislative or regulatory body of the State, including rules of professional conduct or ethics, that prohibits disclosure of nonpublic personal information without the knowing and expressed consent of the consumer.

"(2) Limitation.—Nothing in this subsection shall be construed to exempt or otherwise exclude any financial institution that is affiliated or becomes affiliated with a certified public accountant described in paragraph (1) from any provision of this section.

"(3) Definitions.—For purposes of this subsection, the term 'State' means any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.".

(b) Clerical Amendments.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) in subsection (a), by striking "Such disclosures" and inserting the following:

"(b) Regulations.—Disclosures required by subsection (a)".

SEC. 610. INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking "$20,000,000" and inserting "$50,000,000".

SEC. 611. MODIFICATION TO CROSS MARKETING RESTRICTIONS.

Section 4(n)(5)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(n)(5)(B)) is amended by striking "subsection (k)(4)(I)" and inserting "subparagraph (H) or (I) of subsection (k)(4)".

TITLE VII—BANKING AGENCY PROVISIONS

SEC. 701. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.

(a) National Banks.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by amending the section heading to read as follows:

"SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.

"(a) In General.—The Comptroller of the Currency"; and

(2) by adding at the end the following:

"(b) Judicial Review.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.".

(b) Insured Depository Institutions.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(7)) is amended to read as follows:

"(7) JUDICIAL REVIEW.—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, not later than 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to conservators or receivers appointed on or after the date of enactment of this Act.

SEC. 702. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.

(a) CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. [49] *50*. ENFORCEMENT OF AGREEMENTS.

"(a) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), the appropriate Federal banking agency for a depository institution may enforce, under section 8, the terms of—

"(1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or

"(2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

"(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.".

(b) PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—Section 18(u)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)(1)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (A), by adding "and" at the end.

(c) CONFORMING AMENDMENTS.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (3), by striking "This subsection and subsections (c) through (s) and subsection (u) of this section" and inserting "This subsection, subsections (c) through (s) and subsection (u) of this section, and section [49] *50* of this Act"; and

(2) in paragraph (4), by striking "This subsection and subsections (c) through (s) and subsection (u) of this section" and inserting "This subsection, subsections (c) through (s) and subsection (u) of this section, and section [49] *50* of this Act".

SEC. 703. CROSS GUARANTEE AUTHORITY.

Section 5(e)(9)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

"(A) such institutions are controlled by the same company; or".

SEC. 704. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.

Section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking "or depository institution holding company" and inserting "or covered company";

(2) in paragraph (2), by striking subparagraph (B), and inserting the following:

"(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

"(i) the insolvency of the depository institution or covered company;

"(ii) the appointment of a conservator or receiver for the depository institution; or

"(iii) the troubled condition of the depository institution (as defined in the regulations prescribed pursuant to section 32(f)).";

(3) in paragraph (2)(F), by striking "depository institution holding company" and inserting "covered company,";

(4) in paragraph (3) in the matter preceding subparagraph (A), by striking "depository institution holding company" and inserting "covered company";

(5) in paragraph (3)(A), by striking "holding company" and inserting "covered company";

(6) in paragraph (4)(A)—

(A) by striking "depository institution holding company" each place that term appears and inserting "covered company"; and

(B) by striking "holding company" each place that term appears (other than in connection with the term referred to in subparagraph (A)) and inserting "covered company";

(7) in paragraph (5)(A), by striking "depository institution holding company" and inserting "covered company";

(8) in paragraph (5), by adding at the end the following:

"(D) COVERED COMPANY.—The term 'covered company' means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution."; and

(9) in paragraph (6)—

(A) by striking "depository institution holding company" and inserting "covered company,"; and

(B) by striking "or holding company" and inserting "or covered company".

SEC. 705. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (1)(D)—

(A) by striking "is needed to investigate" and inserting "is needed—

"(i) to investigate";

(B) by striking "United States Code." and inserting "United States Code; or"; and

(C) by adding at the end the following:

"(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution."; and

(2) in paragraph (7)(C), by striking "the financial condition of any acquiring person" and inserting "either the financial condition of any acquiring person or the future prospects of the institution".

SEC. 706. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting before the period at the end ", unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act".

SEC. 707. INTERAGENCY DATA SHARING.

(a) FEDERAL BANKING AGENCIES.—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following:

"(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the discretion of the agency, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

"(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

"(ii) any officer, director, or receiver of such depository institution or entity; and

"(iii) any other person that the Federal banking agency determines to be appropriate.".

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end the following:

"(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the discretion of the Board, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

"(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

"(B) any officer, director, or receiver of such credit union or entity; and

"(C) any other person that the Board determines to be appropriate.".

SEC. 708. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.

(a) INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "is charged in any information, indictment, or complaint, with the commission of or participation in" and inserting "is the subject of any information, indictment, or complaint, involving the commission of or participation in";

(ii) by striking "may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution." and insert "posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),"; and

(iii) by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(B) in subparagraph (B)(i), by striking "the depository institution" and inserting "any depository institution that the subject of the notice is affiliated with at the time the notice is issued";

(C) in subparagraph (C)(i)—

(i) by striking "may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution," and insert "posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),"; and

(ii) by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(D) in subparagraph (C)(ii), by striking "affairs of the depository institution" and inserting "affairs of any depository institution";

(E) in subparagraph (D)(i), by striking "the depository institution" and inserting "any depository institution that the subject of the order is affiliated with at the time the order is issued"; and

(F) by adding at the end the following:

"(E) RELEVANT DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'relevant depository institution' means any depository institution of which the party is or was an institution-affiliated party at the time at which—

"(i) the information, indictment, or complaint described in subparagraph (A) was issued; or

"(ii) the notice is issued under subparagraph (A) or the order is issued under subparagraph (C)(i).".

(2) CLERICAL AMENDMENT.—The subsection heading for section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—".

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking "the credit union" each place that term appears and inserting "any credit union";

(B) in subparagraph (B)(i), by inserting "of which the subject of the order is, or most recently was, an institution-affiliated party" before the period at the end;

(C) in subparagraph (C)—

(i) by striking "the credit union" each place such term appears and inserting "any credit union"; and

(ii) by striking "the credit union's" and inserting "any credit union's";

(D) in subparagraph (D)(i), by striking "upon such credit union" and inserting "upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party"; and

(E) by adding at the end the following:

"(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

"(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

"(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.".

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking "(i)" at the beginning and inserting the following:

"(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—".

SEC. 709. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following:

"(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency may not be compelled to disclose information received from aforeign regulatory or supervisory authority if—

"(A) the Federal banking agency determines that the foreign regulatory or supervisory authority has, in good faith, determined and represented in writing to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

"(B) the relevant Federal banking agency obtained such information pursuant to—

"(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

"(ii) a memorandum of understanding or other similar arrangement between the Federal banking agency and the foreign regulatory or supervisory authority.

"(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

"(3) SAVINGS, PROVISION.—No provision of this section shall be construed as—

"(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

"(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

"(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term 'Federal banking agency' means the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.".

[SEC. 710. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUALS.

[(a) EXTENSION OF AUTOMATIC PROHIBITION.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following:

["(d) BANK HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place that term appears in such subsections.

["(e) SAVINGS AND LOAN HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any savings and loan holding company and any subsidiary (other than a savings association) of a savings and loan holding company as if such savings and loan holding company or subsidiary were an insured depository institution, except that subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place that term appears in such subsections.".

[(b) ENHANCED DISCRETION TO REMOVE CONVICTED INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

[(1) by striking "or" at the end of clause (ii);

[(2) by striking the comma at the end of clause (iii) and inserting "; or"; and

[(3) by adding at the end the following:

["(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company has been convicted of any criminal offense involving dishonesty or a breach of trust, or a criminal violation of section 1956, 1957, or 1960 of title 18 United States Code, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,".]

SEC. 710. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) EXTENSION OF AUTOMATIC PROHIBITION.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following new subsections:

"(d) BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place that term appears in such subsections.

"(2) AUTHORITY OF BOARD.—The Board of Governors of the Federal Reserve System may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.

"(e) SAVINGS AND LOAN HOLDING COMPANIES.—

"(1) IN GENERAL.—Subsections (a) and (b) shall apply to any savings and loan holding company as if such savings and loan holding company were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place that term appears in such subsections.

"(2) AUTHORITY OF DIRECTOR.—The Director of the Office of Thrift Supervision may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.".

(b) ENHANCED DISCRETION TO REMOVE CONVICTED INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the comma at the end of clause (iii) and inserting "; or"; and

"(3) by adding at the end the following new clause:

"(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company or of a subsidiary (other than a savings association) of a savings and loan holding company has been convicted of any criminal offense involving dishonesty or a breach of trust or a criminal offense under section 1956, 1957, or 1960 of title 18, United States Code, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,".

SEC. 711. COORDINATION OF STATE EXAMINATION AUTHORITY.

Section 10(h) of the Federal Deposit Insurance Act (12 U.S.C. 1820(h)) is amended to read as follows:

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

"(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

"(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

"(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

"(2) HOST STATE EXAMINATION.—

"(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44, or that was established in such State pursuant to section 5155(g) of the Revised Statutes of the United States, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

"(i) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j), including those that govern community reinvestment, fair lending, and consumer protection; and

"(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

"(B) NOTICE OF DETERMINATION.—

"(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

"(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

"(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j), including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(4) COOPERATIVE AGREEMENT.—

"(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(B) DEFINITION.—For purposes of this subsection, the term 'cooperative agreement' means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory supervision of State banks, and includes nationwide or multi-State cooperative agreements and cooperative agreements solely between the home State and host State.

"(C) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j).

"(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

"(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(7) DEFINITIONS.—For purpose of this section, the following definitions shall apply:

"(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

"(B) STATE SUPERVISORY FEES.—The term 'State supervisory fees' means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

"(C) TROUBLED CONDITION.—Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in 'troubled condition' if the bank—

"(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

"(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

"(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

"(D) FINAL DETERMINATION.—For purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.".

SEC. 712. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR.—Section 3(c)(5) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

"(5) DEPUTY DIRECTOR.—

"(A) IN GENERAL.—The Secretary of the Treasury shall appoint a Deputy Director, and may appoint not more than 3 additional Deputy Directors of the Office.

"(B) FIRST DEPUTY DIRECTOR.—If the Secretary of the Treasury appoints more than 1 Deputy Director of the Office, the Secretary shall designate one such appointee as the First Deputy Director.

"(C) DUTIES.—Each Deputy Director appointed under this paragraph shall take an oath of office and perform such duties as the Director shall direct.

"(D) COMPENSATION AND BENEFITS.—The Director shall fix the compensation and benefits for each Deputy Director in accordance with this Act.".

(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIRECTOR.—Section 3(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(3)) is amended—

(1) by striking "**VACANCY**.—A vacancy in the position of Director" and inserting "**VACANCY**.—

"(A) IN GENERAL.—A vacancy in the position of Director"; and

(2) by adding at the end the following:

"(B) ACTING DIRECTOR.—

"(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the absence or disability of the Director, the Deputy Director shall serve as Acting Director.

"(ii) SUCCESSION IN CASE OF 2 OR MORE DEPUTY DIRECTORS.—If there are 2 or more Deputy Directors serving at the time a vacancy in the position of Director occurs or the absence or disability of the Director commences, the First Deputy Director shall serve as Acting Director under clause (i) followed by such other Deputy Directors under any order of succession the Director may establish.

"(iii) AUTHORITY OF ACTING DIRECTOR.—Any Deputy Director, while serving as Acting Director under this subparagraph, shall be vested with all authority, duties, and privileges of the Director under this Act and any other provision of Federal law.".

SEC. 713. OFFICE OF THRIFT SUPERVISION REPRESENTATION ON BASEL COMMITTEE ON BANKING SUPERVISION.

(a) IN GENERAL.—Section 912 of the International Lending Supervision Act of 1983 (12 U.S.C. 3911) is amended—

(1) in the section heading, by inserting at the end the following: "**AND THE OFFICE OF THRIFT SUPERVISION**";

(2) by striking "As one of the three" and inserting the following:

"(a) IN GENERAL.—As one of the 4"; and

(3) by adding at the end the following:

"(b) As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.".

(b) CONFORMING AMENDMENTS.—Section 910(a) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909(a)) is amended—

(1) in paragraph (2), by striking "insured bank" and inserting "insured depository institution"; and

(2) in paragraph (3), by striking "an 'insured bank', as such term is used in section 3(h)" and inserting "an 'insured depository institution', as such term is defined in section 3(c)(2)".

SEC. 714. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(1) in paragraph (4), by striking "Thrift" and all that follows through the end of the paragraph and inserting "Thrift Supervision,";

(2) in paragraph (5) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(6) the Chairman of the State Liaison Committee.".

(b) CHAIRPERSON OF LIAISON COMMITTEE.—Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended by adding at the end the following: "Members of the Liaison Committee shall elect a chairperson from among the members serving on the committee.".

SEC. 715. TECHNICAL AMENDMENTS RELATING TO INSURED INSTITUTIONS.

(a) TECHNICAL AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting "or order" after "notice" each place that term appears.

(b) TECHNICAL AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 206(k)(3) of the Federal Credit Union Act (12 U.S.C. 1786(k)(3)) is amended by inserting "or order" after "notice" each place that term appears.

SEC. 716. CLARIFICATION OF ENFORCEMENT AUTHORITY.

(a) ACTIONS ON APPLICATIONS, NOTICES, AND OTHER REQUESTS; CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "the granting of any application or other request by the depository institution" and inserting "any action on any application, notice, or other request by the depository institution or institution-affiliated party,";

(2) in subsection (e)(1)(A)(i)(III), by striking "the grant of any application or other request by such depository institution" and inserting "any action on any application, notice, or request by such depository institution or institution-affiliated party"; and

(3) in subsection (i)(2)(A)(iii), by striking "the grant of any application or other request by such depository institution" and inserting "any action on any application, notice, or other request by the depository institution or institution-affiliated party".

(b) CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) in subsection (b)(1), in the first sentence, by striking "the granting of any application or other request by the credit union" and inserting "any action on any application, notice, or other request by the credit union or institution-affiliated party,";

(2) in subsection (g)(1)(A)(i)(III), by striking "the grant of any application or other request by such credit union" and inserting "any action on any application, notice, or request by such credit union or institution-affiliated party"; and

(3) in subsection (k)(2)(A)(iii), by striking "the grant of any application or other request by such credit union" and inserting "any action on any application, notice, or other request by the credit union or institution-affiliated party".

SEC. 717. FEDERAL BANKING AGENCY AUTHORITY TO ENFORCE DEPOSIT INSURANCE CONDITIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the 1st sentence—

(A) by striking "in writing by the agency" and inserting "in writing by a Federal banking agency"; and

(B) by striking "the agency may issue and serve" and inserting "the appropriate Federal banking agency for the depository institution may issue and serve";

(2) in subsection (e)(1)—

(A) in subparagraph (A)(i)(III), by striking "in writing by the appropriate Federal banking agency" and inserting "in writing by a Federal banking agency"; and

(B) in the undesignated matter at the end, by striking "the agency may serve upon such party" and inserting "the appropriate Federal banking agency for the depository institution may serve upon such party"; and

(3) in subsection (i)(2)(A)(iii), by striking "in writing by the appropriate Federal banking agency" and inserting "in writing by a Federal banking agency".

SEC. 718. RECEIVER OR CONSERVATOR CONSENT REQUIREMENT.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by adding at the end the following:

"(C) CONSENT REQUIREMENT.—

"(i) IN GENERAL.—Except as otherwise provided by this section or section 15, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the depository institution is a party, or to obtain possession of or exercise control over any property of the institution or affect any contractual rights of the institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable.

"(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a depository institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contract.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 207(c)(12) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)) is amended by adding the following:

"(C) CONSENT REQUIREMENT.—

"(i) IN GENERAL.—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the credit union is a party, or to obtain possession of or exercise control over any property of the credit union or affect any contractual rights of the credit union, without the consent of the conservator or liquidating agent, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the liquidating agent, as applicable.

"(ii) CERTAIN EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a credit union bond, or to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or shall be construed as permitting the conservator or liquidating agent to fail to comply with otherwise enforceable provisions of such contract.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.".

SEC. 719. ACQUISITION OF FICO SCORES.

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended by adding at the end the following:

"(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.".

SEC. 720. ELIMINATION OF CRIMINAL INDICTMENTS AGAINST RECEIVERSHIPS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 15(b) of the Federal Deposit Insurance Act (12 U.S.C. 1825(b)) is amended by inserting immediately after paragraph (3) the following:

"(4) EXEMPTION FROM CRIMINAL PROSECUTION.—The Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver.".

(b) INSURED CREDIT UNIONS.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by adding at the end the following:

"(K) EXEMPTION FROM CRIMINAL PROSECUTION.—The Administration shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by a credit union, or persons acting on behalf of a credit union, prior to the appointment of the Administration as liquidating agent.".

SEC. 721. RESOLUTION OF DEPOSIT INSURANCE DISPUTES.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking paragraphs (3) through (5) and inserting the following:

"(3) RESOLUTION OF DISPUTES.—A determination by the Corporation regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Corporation may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit.

"(4) REVIEW OF CORPORATION DETERMINATION.—A final determination made by the Corporation regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the depository institution is located.

"(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.".

(b) INSURED CREDIT UNIONS.—Section 207(d) of the Federal Credit Union Act (12 U.S.C. 1787(d)) is amended by striking paragraphs (3) through (5) and inserting the following:

"(3) RESOLUTION OF DISPUTES.—A determination by the Administration regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Board may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit. A final determination made by the Board regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the credit union is located.

"(4) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.".

SEC. 722. RECORDKEEPING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

(1) by striking "After the end of the 6-year period" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period"; and

(2) by adding at the end the following:

"(ii) OLD RECORDS.—Notwithstanding clause (i), the Corporation may destroy records of an insured depository institution which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such depository institution in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).".

(b) INSURED CREDIT UNIONS.—Section 207(b)(15)(D) of the Federal Credit Union Act (12 U.S.C. 1787(b)(15)(D)) is amended—

(1) by striking "After the end of the 6-year period" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period"; and

(2) by adding at the end the following:

"(ii) OLD RECORDS.—Notwithstanding clause (i) the Board may destroy records of an insured credit union which are at least 10 years old as of the date on which the Board is appointed as liquidating agent of such credit union in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).".

SEC. 723. PRESERVATION OF RECORDS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

"(f) PRESERVATION OF AGENCY RECORDS.—

"(1) IN GENERAL.—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

"(A) photographed or microphotographed or otherwise reproduced upon film; or

"(B) preserved in any electronic medium or format which is capable of—

"(i) being read or scanned by computer; and

"(ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

"(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

"(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.".

(b) INSURED CREDIT UNIONS.—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended by adding at the end the following:

"(9) PRESERVATION OF RECORDS.—

"(A) IN GENERAL.—The Board may cause any and all records, papers, or documents kept by the Administration or in the possession or custody of the Administration to be—

"(i) photographed or microphotographed or otherwise reproduced upon film; or

"(ii) preserved in any electronic medium or format which is capable of—

"(I) being read or scanned by computer; and

"(II) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

"(B) TREATMENT AS ORIGINAL RECORDS.—Any photographs, micrographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

"(C) AUTHORITY OF THE ADMINISTRATION.—Any photographs, microphotographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be preserved in such manner as the Administration shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Administration may direct.".

SEC. 724. TECHNICAL AMENDMENTS TO INFORMATION SHARING PROVISION IN THE FEDERAL DEPOSIT INSURANCE ACT.

Section 11(t) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)) is amended—

(1) in paragraph (1), by inserting ", in any capacity," after "A covered agency"; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking "appropriate";

(B) by striking clause (ii); and

(C) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively.

SEC. 725. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BANKS OPERATING UNDER THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

(a) FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) in the second undesignated paragraph of the first section (12 U.S.C. 221), by adding at the end the following: "For purposes of this Act, a State bank includes any bank which is operating under the Code of Law for the District of Columbia."; and

(2) in the first sentence of the first undesignated paragraph of section 9 (12 U.S.C. 321), by striking "incorporated by special law of any State, or" and inserting "incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or".

(b) BANK CONSERVATION ACT.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by striking "means (1) any national" and inserting "means any national"; and

(2) by striking ", and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency".

(c) DEPOSITORY INSTITUTION DEREGULATION AND MONETARY CONTROL ACT OF 1980.—Part C of title VII of the Depository Institution Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216 et seq.) is amended—

(1) in paragraph (1) of section 731 (12 U.S.C. 216(1)), by striking "and closed banks in the District of Columbia"; and

(2) in paragraph (2) of section 732 (12 U.S.C. 216a(2)), by striking "or closed banks in the District of Columbia".

(d) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)(B)) is amended by striking "(except a national bank)".

(e) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—Section 7(1) of the National

Bank Consolidation and Merger Act (12 U.S.C. 215b(1)) is amended by striking "(except a national banking association located in the District of Columbia)".

(f) ACT OF AUGUST 17, 1950.—Section 1(a) of the Act entitled "An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes" and approved August 17, 1950 (12 U.S.C. 214(a)) is amended by striking "(except a national banking association)".

(g) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(1) in subparagraph (A), by striking ", banks operating under the code of law for the District of Columbia,"; and

(2) in subparagraph (B), by striking "and banks operating under the code of law for the District of Columbia".

SEC. 726. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

(1) In section 101(3), strike "and" after the semicolon.

(2) In section 101(5), strike the terms "account account" and "account accounts" each place any such term appears and insert "account".

(3) In section 107(5)(E), strike the period at the end and insert a semicolon.

(4) In each of paragraphs (6) and (7) of section 107, strike the period at the end and insert a semicolon.

(5) In section 107(7)(D), strike "the Federal Savings and Loan Insurance Corporation or".

(6) In section 107(7)(E), strike "the Federal Home Loan Bank Board," and insert "the Federal Housing Finance Board,".

(7) In section 107(9), strike "subchapter III" and insert "title III".

(8) In section 107(13), strike "and" after the semicolon at the end.

(9) In section 109(c)(2)(A)(i), strike "(12 U.S.C. 4703(16))".

(10) In section 120(h), strike "the Act approved July 30, 1947 (6 U.S.C., secs. 6–13)," and insert "chapter 93 of title 31, United States Code,".

(11) In section 201(b)(5), strike "section 116 of".

(12) In section 202(h)(3), strike "section 207(c)(1)" and insert "section 207(k)(1)".

(13) In section 204(b), strike "such others powers" and insert "such other powers".

(14) In section 206(e)(3)(D), strike "and" after the semicolon at the end.

(15) In section 206(f)(1), strike "subsection (e)(3)(B)" and insert "subsection (e)(3)".

(16) In section 206(g)(7)(D), strike "and subsection (1)".

(17) In section 206(t)(2)(B), insert "regulations" after "as defined in".

(18) In section 206(t)(2)(C), strike "material affect" and insert "material effect".

(19) In section 206(t)(4)(A)(ii)(II), strike "or" after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike "regulator agency" and insert "regulatory agency".

(21) In section 207(c)(5)(B)(i)(I), insert "and" after the semicolon at the end.

(22) In the heading for subparagraph (A) of section 207(d)(3), strike "TO" and insert "WITH".

(23) In section 207(f)(3)(A), strike "category or claimants" and insert "category of claimants".

(24) In section 209(a)(8), strike the period at the end and insert a semicolon.

(25) In section 216(n), insert "any action" before "that is required".

(26) In section 304(b)(3), strike "the affairs or such credit union" and insert "the affairs of such credit union".

(27) In section 310, strike "section 102(e)" and insert "section 102(d)".

SEC. 727. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following:

"(m) [Repealed]".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking "(G), (H), (I), or (J) of section 2(c)(2)" and inserting "(G), or (H) of section 2(c)(2)".

SEC. 728. DEVELOPMENT OF MODEL PRIVACY FORM.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803), as amended by section 609, is amended by adding at the end the following:

"(e) MODEL FORMS.—

"(1) IN GENERAL.—The agencies referred to in section 504(a)(1) shall jointly develop a model form which may be used, at the option of the financial institution, for the provision of disclosures under this section.

"(2) FORMAT.—A model form developed under paragraph (1) shall—

"(A) be comprehensible to consumers, with a clear format and design;

"(B) provide for clear and conspicuous disclosures;

"(C) enable consumers easily to identify the sharing practices of a financial institution and to compare privacy practices among financial institutions; and

"(D) be succinct, and use an easily readable type font.

"(3) TIMING.—A model form required to be developed by this subsection shall be issued in proposed form for public comment not later than 180 days after the date of enactment of this subsection.

"(4) SAFE HARBOR.—Any financial institution that elects to provide the model form developed by the agencies under this subsection shall be deemed to be in compliance with the disclosures required under this section.".

TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

SEC. 801. EXCEPTION FOR CERTAIN BAD CHECK ENFORCEMENT PROGRAMS.

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following:

"§818. Exception for certain bad check enforcement programs operated by private entities

"(a) IN GENERAL.—

"(1) TREATMENT OF CERTAIN PRIVATE ENTITIES.—Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 803(6), with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

"(2) CONDITIONS OF APPLICABILITY.—Paragraph (1) shall apply if—

"(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

"(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

"(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)—

"(i) complies with the penal laws of the State;

"(ii) conforms with the terms of the contract and directives of the State or district attorney;

"(iii) does not exercise independent prosecutorial discretion;

"(iv) contacts any alleged offender referred to in subparagraph (A) for purposes of participating in a program referred to in such paragraph—

"(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and

"(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

"(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

"(I) the alleged offender may dispute the validity of any alleged bad check violation;

"(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the alleged offender may file a crime report with the appropriate law enforcement agency; and

"(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and

"(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

"(b) CERTAIN CHECKS EXCLUDED.—A check is described in this subsection if the check involves, or is subsequently found to involve—

"(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;

"(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

"(3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;

"(4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;

"(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or

"(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn, or delivered.

"(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) STATE OR DISTRICT ATTORNEY.—The term 'State or district attorney' means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1, United States Code), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth's attorneys, solicitors, county attorneys, and state's attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

"(2) CHECK.—The term 'check' has the same meaning as in section 3(6) of the Check Clearing for the 21st Century Act.

"(3) BAD CHECK VIOLATION.—The term 'bad check violation' means a violation of the applicable State criminal law relating to the writing of dishonored checks.".

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

"818. Exception for certain bad check enforcement programs operated by private entities.".

SEC. 802. OTHER AMENDMENTS.

(a) LEGAL PLEADINGS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding at the end the following new subsection:

"(d) LEGAL PLEADINGS.—A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).".

(b) NOTICE PROVISIONS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

"(e) NOTICE PROVISIONS.—The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by the Internal Revenue Code of 1986, title V of Gramm-Leach-Bliley Act, or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.".

(c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(b)) is amended by adding at the end the following new sentences: "Collection activities and communications that do not otherwise violate this title may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.".

TITLE IX—CASH MANAGEMENT MODERNIZATION

SEC. 901. COLLATERAL MODERNIZATION.

(a) IN GENERAL.—Section 9301(2) of title 31, United States Code, is amended to read as follows:

"(2) 'eligible obligation' means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.".

(b) USE OF ELIGIBLE OBLIGATIONS INSTEAD OF SURETY BONDS.—Section 9303(a)(2) of title 31, United States Code, is amended to read as follows:

"(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and".

(c) TECHNICAL AMENDMENTS.—Section 9303 of title 31, United States Code, is amended—

(1) in the section heading, by striking **"Government obligations"** and inserting **"eligible obligations"**;

(2) in subsection (f), by striking "Government obligations" and inserting "eligible obligations";

(3) by striking "a Government obligation" each place that term appears and inserting "an eligible obligation"; and

(4) by striking "Government obligation" each place that term appears and inserting "eligible obligation".

TITLE X—STUDIES AND REPORTS

SEC. 1001. STUDY AND REPORT BY THE COMPTROLLER GENERAL ON THE CURRENCY TRANSACTION REPORT FILING SYSTEM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the volume of currency transaction reports filed with the Secretary of the Treasury under section 5313(a) of title 31, United States Code.

(b) PURPOSE.—The purpose of the study required under subsection (a) shall be—

(1) to evaluate, on the basis of actual filing data, patterns of currency transaction reports filed by depository institutions of all sizes and locations; and

(2) to identify whether and the extent to which the filing rules for currency transaction reports described in section 5313(a) of title 31, United States Code—

(A) are burdensome; and

(B) can or should be modified to reduce such burdens without harming the usefulness of such filing rules to Federal, State, and local anti-terrorism, law enforcement, and regulatory operations.

(c) PERIOD COVERED.—The study required under subsection (a) shall cover the period beginning at least 3 calendar years prior to the date of enactment of this section.

(d) CONTENT.—The study required under subsection (a) shall include a detailed evaluation of—

(1) the extent to which depository institutions are availing themselves of the exemption system for the filing of currency transaction reports set forth in section 103.22(d) of title 31, Code of Federal Regulations, as in effect during the study period (in this section referred to as the "exemption system"), including specifically, for the study period—

(A) the number of currency transaction reports filed (out of the total annual numbers) involving companies that are listed on the New York Stock Exchange or the NASDAQ National Market;

(B) the number of currency transaction reports filed by the 100 largest depository institutions in the United States by asset size, and thereafter in tiers of 100, by asset size;

(C) the number of currency transaction reports filed by the 200 smallest depository institutions in the United States, including the number of such currency transaction reports involving companies listed on the New York Stock Exchange or the NASDAQ National Market; and

(D) the number of currency transaction reports that would have been filed during the filing period if the exemption system had been used by all depository institutions in the United States;

(2) what types of depository institutions are using the exemption system, and the extent to which such exemption system is used;

(3) difficulties that limit the willingness or ability of depository institutions to reduce their currency transaction reports reporting burden by making use of the exemption system, including considerations of cost, especially in the case of small depository institutions;

(4) the extent to which bank examination difficulties have limited the use of the exemption system, especially with respect to

(A) the exemption of privately-held companies permitted under such exemption system; and

(B) whether, on a sample basis, the reaction of bank examiners to implementation of such exemption system is justified or inhibits its use of such exemption system without an offsetting compliance benefit;

(5) ways to improve the use of the exemption system by depository institutions, including making such exemption system mandatory in order to reduce the volume of currency transaction reports unnecessarily filed; and

(6) the usefulness of currency transaction reports filed to law enforcement agencies, taking into account—

(A) advances in information technology;

(B) the impact, including possible loss of investigative data, that various changes in the exemption system would have on the usefulness of such currency transaction reports; and

(C) changes that could be made to the exemption system without affecting the usefulness of currency transaction reports.

(e) ASSISTANCE.—The Secretary of the Treasury shall provide such information processing and other assistance, including from the Commissioner of the Internal Revenue Service and the Director of the Financial Crimes Enforcement Network, to the Comptroller General in analyzing currency transaction report filings for the study period described in subsection (c), as is necessary to provide the information required by subsection (a).

(f) VIEWS.—The study required under subsection (a) shall, if appropriate, include a discussion of the views of a representative sample of Federal, State, and local law enforcement and regulatory officials and officials of depository institutions of all sizes.

(g) RECOMMENDATIONS.—The study required under subsection (a) shall, if appropriate, include recommendations for changes to the exemption system that would reflect a reduction in unnecessary cost to depository institutions, assuming reasonably full implementation of such exemption system, without reducing the usefulness of the currency transaction report filing system to anti-terrorism, law enforcement, and regulatory operations.

(h) REPORT.—Not later than 15 months after the date of enactment of this section, the Comptroller General shall submit a report on the study required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 1002. STUDY AND REPORT ON INSTITUTION DIVERSITY AND CONSOLIDATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding—

(1) the vast diversity in the size and complexity of institutions in the banking and financial services sector, including the differences in capital, market share, geographical limitations, product offerings, and general activities;

(2) the differences in powers among the depository institution charters, including—

(A) identification of the historical trends in the evolution of depository institution charters;

(B) an analysis of the impact of charter differences to the overall safety and soundness of the banking industry, and the effectiveness of the applicable depository institution regulator; and

(C) an analysis of the impact that the availability of options for depository institution charters on the development of the banking industry;

(3) the impact that differences of size and overall complexity among financial institutions makes with respect to regulatory oversight, efficiency, safety and soundness, and charter options for financial institutions; and

(4) the aggregate cost and breakdown associated with regulatory compliance for banks, savings associations, credit unions, or any other financial institution, including potential disproportionate impact that the cost of compliance may pose on smaller institutions, given the percentage of personnel that the institution must dedicate solely to compliance.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall consider the efficacy and efficiency of the consolidation of financial regulators, as well as charter simplification and homogenization.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider regulatory relief legislation for the financial services industry and its regulatory agencies.

The Financial Services Committee has been working on this legislation for 5 years now, and I am pleased to announce that we have reached agreement with the Senate on this important legislation. The bill before us today should be taken up by the Senate later this week and on the President's desk shortly thereafter.

On March 8, 2006, the House began the effort in this Congress by passing H.R. 3505, the Financial Services Regulatory Relief Act of 2005, by a vote of 415–2. On May 25, 2006, the Senate passed its version of this legislation, S. 2856, by voice vote.

S. 2856 includes only about one-half of H.R. 3505's provisions and five sections that were not part of the bill coming from the House. Two of the five provisions added by the Senate were contained in H.R. 1224, which passed the House on May 24, 2005, by a 424–1 vote. These provisions authorize the Fed to pay interest on reserve balances and giving the Fed greater flexibility to set the ratio of reserve deposits a depository institution must maintain against transaction accounts.

The other provision added by the Senate in S. 2856, one, allows the Treasury Department to determine the types of securities that may be pledged in lieu of security bonds; two, requires the Government Accountability Office to study and report to Congress on currency transaction reports filed with the Treasury Department and on the costs of regulatory compliance.

□ 1745

And, three, direct the SEC and banking agencies to jointly issue regulations implementing a section of the Graham-Leach-Bliley Act.

Today, I am recommending that the House accept the Senate version of this legislation with six amendments that have been agreed to by the minority in this Chamber and by both sides of the aisle in the Senate.

Two amendments make acceptable changes to sections concerning a prohibition on employment of convicted individuals in banking organizations and regarding consumer notices under the Fair Debt Collection Practices Act.

A third amendment mandates that the SEC and the Fed jointly adopt rules concerning banks' brokerage activities exempt from SEC oversight in accordance with the intent of the Graham-Leach-Bliley Act and deletes the provision in the Senate bill which would have permitted the Federal banking regulators to seek an expedited judicial review of any SEC rule making in this area.

The fourth amendment concerns a budget offset related to the payment of interest on Fed reserve balances.

The fifth increases the amount of unimpaired capital and surplus that a national bank may invest to promote the public welfare.

Finally, the sixth amendment updates the Federal Deposit Insurance Act to provide clarity and certainty for depository institutions lacking Federal deposit insurance as it relates to disclosure and advertising.

Mr. Speaker, the financial services industry is laboring under an enormous regulatory burden. While many of the regulations are necessary to protect consumers and meet other worthy public policy objectives, a number are clearly burdensome. For this reason, shortly after I assumed the chairmanship of the committee, I asked the financial regulators and industry trade groups to give us their best advice on how we could ease regulatory requirements faced by insurer depositors. The goal was to free depository institutions from such regulations so they can better serve their customers and communities.

It was clear then, as it is now, that there also needs to be a counterbalance to the significant compliance responsibilities placed on depository institutions by the USA PATRIOT Act, as well as other Government efforts to counter terrorist financing.

Excessive regulation affects all sectors of the financial services industry but presents the greatest burden for smaller institutions. For small banks that continue to serve their historic role as a financial lifeline for local communities, they must be free to operate in a regulatory environment that does not unduly constrain them.

The bill contains a broad range of constructive provisions that, taken as a whole, will allow banks, thrifts and credit unions to devote more resources to the business of providing financial services and less to compliance with outdated and unneeded regulations.

I want to congratulate Mr. HENSARLING and Mr. MOORE, who introduced the bill last year, and Mr. BACHUS, the chairman of the Financial Institutions Subcommittee, which held numerous hearings on this important issue.

Mrs. CAPITO also deserves recognition for her longstanding support of regulatory relief legislation and actually sponsoring the first legislation in the last Congress before she moved to the Rules Committee.

Mr. Speaker, the financial services industry spends a great deal of money every year complying with outdated and ineffective regulation. That is money that could instead be loaned for new homes, new cars, and new projects, fueling job growth in local communities. The sooner we enact this legislation, the sooner we will provide needed relief to depository institutions and increased financial opportunities for both consumers and businesses.

Mr. Speaker, I urge Members to support passage of S. 2856, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the description given by my colleague from Ohio.

I am a liberal. I believe that regulation is important if we are going to have the kind of society that preserves the quality of life. And, as a believer in regulation, I feel obligated to make sure that we do not have more regulation than is required and that we should not have inefficient regulation.

I was very pleased to participate in this bipartisan effort to strip away unneeded regulation and to reform regulation that has a role to make sure that it does the job right.

I regret the fact that our colleagues in the Senate did not fully accept what we offered, but this is a compromise. We want to get something done. This represents our best effort to send them something that they will accept, and I am glad to do that.

Mr. Speaker, at this point, I would like to engage the Chairman in a colloquy or two.

Mr. Chairman, in this bill, the amendment to section 305 seems to change the community development investment standard for banks. Will this invalidate or otherwise affect any investments or written commitments that banks may have made under the law that is now in effect?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I appreciate the ranking member's concern. I want to assure you that this amendment is prospective only and applies only to new investments made by banks and not to investments or written commitments already in place.

There is nothing in this amendment that is intended to require banks that have made investments that comply with the law that was in effect prior to the enactment of the Financial Services Regulatory Relief Act of 2006 to undo or divest themselves of these investments or renege on their written commitments to invest in community development.

Mr. FRANK of Massachusetts. Thank you.

I would point out that here we are working closely with those who are in the business of making loans for affordable housing. Those are the ones who have particularly been interested in these kind of changes. We were glad to do it.

Let me also note, Mr. Chairman, that section 405 of the original bill, which is now section 702, which leads me to wonder why we ever mentioned section 405 in the first place, but we are now talking about section 702. It was included at the request of the regulatory agencies to clarify that written conditions and applications and written agreements with institution-affiliated parties are enforceable in order to protect the safety and soundness of insured depository institutions.

Institution-affiliated parties, a wonderful phrase that trips off the tongue, institution-affiliated parties can include bank directors, officers and principal shareholders. Some concerns have been expressed that the regulatory agencies may use this language inappropriately to require personal guarantees from bank directors and officers.

Mr. Chairman, would you clarify what section 702 is intended to do?

Mr. OXLEY. Mr. Speaker, before I do, I want to make clear that we, and it is pretty obvious that we have not rehearsed this in advance.

Mr. FRANK of Massachusetts. My spontaneity is always rehearsed, Mr. Chairman.

Mr. OXLEY. Yes. I thank the gentleman for giving me an opportunity to do so.

In adopting this provision, it is our intention that the regulatory agencies utilize section 702 with care and precision. Specifically, it is not intended to be used routinely in corporate applications, notices or requests to impose financial or other conditions on bank directors or officers that contain a personal guarantee against loss by the institution.

For example, it is not intended to be used by the regulatory agencies to routinely require directors or officers of insured depository institutions to enter into capital maintenance agreements with the agencies as a condition of granting a charter or providing deposit insurance.

It is also not intended to be used by the regulators to routinely require bank directors or officers to maintain the capital of a troubled insured depository institution without the directors or officers agreement.

While we believe it is important that banking agencies are able to enforce agreements that protect the deposit insurance fund, we also believe that our national banking policies should encourage the participation of highly qualified people on the boards of those institutions.

It would be counterproductive to create an environment where the threat of personal liability may cause bank directors to resign or keep well-qualified people from becoming directors in the first place. We will continue to monitor closely how this provision is applied by the regulatory agencies to ensure that this does not happen.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the chairman. He is the chairman. That is why he has to say more than me.

But I would like to add that it is my understanding that the regulatory agencies, specifically the Officer in Control of the Currency, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision, agree with the interpretation the gentleman has just given, as does the Senate.

Mr. OXLEY. Yes, that is my understanding as well.

I will insert into the RECORD a letter dated August 5, 2006, from the OCC, FDIC, the Fed, and OTS. This letter clarifies the regulators' intentions for the provision. It also reaffirms their intent to enforce the language precisely and to not routinely impose financial or other conditions on bank directors or officers that contain a personal guarantee against loss by the institution seeking to change a charter or providing deposit insurance.

I believe this addresses concerns raised by the gentleman from Massachusetts, and the committee will continue our oversight role in implementation of this provision.

OFFICE OF THE COMPTROLLER
OF THE CURRENCY,
August 7, 2006.

Hon. MIKE CRAPO,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAPO: This responds to your letter dated July 28, 2006, concerning section 102 of S. 2856, "The Financial Services Regulatory Relief Act of 2006."

We agree completely that banking policies should welcome the participation of qualified individuals on the boards of directors of insured depository institutions. We believe that enactment of this section would be fully consistent with that goal and that the provision should be implemented in that spirit, if enacted.

Section 102 is intended to enable the appropriate Federal banking agency to enforce conditions imposed in writing in connection with any action on an application, notice or other request, and written agreements between a Federal banking agency and a depository institution or an institution-affiliated party, in accordance with the terms of the condition or agreement, without the necessity of showing unjust enrichment or reckless disregard for the law, applicable regulations, or prior order of the appropriate Federal banking agency. The language is intended to address the effect of court decisions in a few cases that questioned the authority of the banking agencies to enforce such conditions or agreements without first establishing that the institution-affiliated party was unjustly enriched or engaged in reckless disregard for the law or previous agency orders.

It is our intention to utilize this provision with care and precision. Specifically, we do not intend to use it routinely in connection with corporate applications, notices or requests to impose financial or other conditions on bank directors or officers that contain a personal guarantee against loss by the institution. In particular, it is not our intention to use it routinely to require directors or officers of insured depository institutions to enter into capital maintenance agreements with the agencies as a condition of granting a charter or providing deposit insurance. Nor is it our intention to use it routinely to require bank directors or officers to maintain the capital of a troubled insured depository institution without the director's or officer's agreement.

We hope this addresses your concerns.

Sincerely,

John C. Dugan, Comptroller of the Currency; John M. Reich, Director, Office of Thrift Supervision; Ben S. Bernanke, Chairman Board of Governors of the Federal Reserve System; Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I have had many opportunities to speak extensively in subcommittee, committee, and on this House floor for the need that we have for regulatory relief for financial institutions, so I will refrain from doing that today.

Prior to coming to Congress, I was in private business. They teach you in private business that once you conclude a deal, quit talking.

We seem to have finally concluded a deal with the other body. However, I am no longer in business, I am in Congress, so I cannot quite take the whole of the advice. So, instead of quitting talking, I will at least attempt to be brief.

As the chairman noted, people long before me have worked on this piece of legislation; and it appears that it will soon culminate in success.

I certainly want to thank Chairman OXLEY for his leadership on the committee. I want to thank his trusting need to carry this legislation. I want to thank him for creating a place in Congress where good things can be done for America on a bipartisan basis; and, unfortunately, Mr. Speaker, there are not that many places where that is done.

I want to thank Subcommittee Chairman BACHUS, the gentleman from Alabama, for his counsel and help in moving this important piece of legislation through his subcommittee.

I want to thank the gentleman from Massachusetts, the ranking member, for his help, his counsel, his reaching out to work on a bipartisan basis; and, finally, the gentleman from Kansas (Mr. MOORE). We worked together to bring this to the floor.

Mr. Speaker, I also want to thank several members of my own legislative staff. I am now, unfortunately, on my third legislative assistant working on this staff. Two of them prefer the rigors of graduate school to trying to see this particular piece of legislation to fruition. But I do want to thank Gerry O'Shea, Jamie Notman, and now Steven Sepp for their invaluable work, as well as the full committee staff of the Financial Services Committee for all they have done.

Mr. Speaker, it has been noted, not only is this an important piece of legislation, I do want to celebrate it, but I first want to get out of the way some of my disappointments. I am disappointed that the other body did not see the wisdom in BSA relief that was included in our version of this bill. Hopefully, one day they will see the overlapping problems we have with the suspicious activity reports, the cash transaction reports, know your customer. Vital programs, but one that creates a large burden for our financial institutions.

I am sorry that the other body did not see the wisdom in doing something about the Graham-Leach-Bliley privacy notifications, where financial institutions have already notified their customers and do not change their policy.

Finally, regardless of the merits as a stand-alone issue on the stale reserves at the Fed, I am also disappointed that the other body has really created a challenge on the budgetary side in including that provision in the title.

Notwithstanding that, I feel a little bit like somebody who helped bring a child into the world, raised the child, sent them to the big city, and I am having trouble recognizing them, but, at the end of the day, Mr. Speaker, I know that that is still my child. And so I enthusiastically urge the adoption of S. 2856 by this body.

We must from time to time weed the garden. We have an obligation to make sure that every regulation does not exist in perpetuity. Markets change, people change, conditions change.

We are one of the richest, freest nations on the face of the planet, and part of the reason is because of capitalism. You cannot have capitalism without capital. One of the main responsibilities our committee has is to ensure that we have a vibrant capital market; and certainly our credit unions, our community banks that serve our smaller institutions, inner city, play a very vital role in those capital markets. They have been burdened.

For example, over the last decade, we have lost almost a third of our community banks. And when you speak to people at these financial institutions, there are a number of reasons for the mergers, for the consolidations, but many of them will tell you that the cost of the Federal regulatory burden is the number one reason why so many of them have gone out of business.

□ 1800

They play such a vital role in our rural communities.

So, Mr. Speaker, it is just incumbent upon us because excessive regulation, redundant regulation, costly regulation, not only does it harm these financial institutions, but at the end of the day, it makes the accessibility and the cost of credit more difficult. It means that average Americans, maybe they will not have that opportunity to buy that first home, to make that first down payment; maybe they will not have the opportunity to buy that second car that is necessary for a spouse to take a second job; maybe they will not have that opportunity to send a child to the college they want to send them to; maybe they will not have that opportunity to start a new small business, to create jobs and hope and opportunity.

But, Mr. Speaker, we are making great strides today, and because of that, I know that we will help these American families help realize their version of the American Dream with a little bit of reason in weeding this regulatory garden and making sure that they can have better lives.

So, again, I appreciate the opportunity that the chairman has given me and certainly his leadership will be severely missed but never forgotten.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I come to the floor tonight just to be brief on two points: first to thank the chairman for his outstanding leadership in the Financial Services Committee over the years in general and specifically tonight with regard to your work on regulatory relief; and also to the gentleman from Texas who just spoke for all of his work to bring this to fruition as we have tonight.

The underlying bill here goes, as has been pointed out, to reduce the overall burden on financial institutions in general and make some technical corrections that need to be made. One of the points I want to touch upon is how it impacts on the Federal Debt Collectors Practices Act. In the underlying bill, there were two provisions that I had back in the 108th Congress that I am pleased have been included in the legislation here today.

The first of these provisions clarifies that a formal pleading in any civil action will not be considered communications now as defined by the FDCPA, and the second provision now clarifies the right of a collector to pursue an account during the first 30 days, so long as the debt collector's pursuits do not overshadow or otherwise confuse the consumer debtors.

By doing these two things, what we are doing is removing ambiguities in the FDCPA, and that increases compliance with the act and improves protections and overall helps consumers.

Additionally, the debt collection industry will be helped as well. It does that by improving guidance to them as an industry so that they can better conform to business practices to the letter of the law, additionally by curbing waste and time and money in the system, and finally, by avoiding litigation, all in the end good to the consumer, good to the industry, good for the American public.

I thank the gentleman from Texas and the chairman as well for getting it all done.

Mr. OXLEY. Mr. Speaker, I have no further speakers, just to wrap up and say this has been a concerted effort. It has taken 5 years. While I guess all of us are frustrated in one way or another with the other body at times and this bill particularly, at the end of the day we did a good job and got what we could, and we will save some other things for a later day.

But JEB HENSARLING and all of the folks who worked on this legislation, I want to thank them for their cooperation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POE). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the Senate bill, S. 2856, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

HOPE VI REAUTHORIZATION ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5347) to reauthorize the HOPE VI program for revitalization of public housing projects, as amended.

The Clerk read as follows:

H.R. 5347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HOPE VI Reauthorization Act of 2006".

SEC. 2. EXTENSION OF PROGRAM.

Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) in paragraph (1) of subsection (m), by striking the matter that follows "section" and inserting the following: "such sums as may be necessary for fiscal year 2007."; and

(2) in subsection (o), by striking "September 30, 2006" and inserting "September 30, 2007".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 5347, the HOPE VI Reauthorization Act of 2006, introduced by the gentleman from Connecticut (Mr. SHAYS). This important piece of legislation would simply reauthorize the HOPE VI program for one more year and would continue to provide a resource to revitalize severely distressed public housing units.

Since 1993, this program has been an important part of the transformation of public housing by encouraging public housing authorities to seek new partnerships with private entities to create mixed-finance and mixed-income affordable housing that is developed and operated very differently from traditional public housing.

HOPE VI epitomizes public-private partnerships for funding redevelopment projects. Mixed-finance development projects have allowed the government to raise millions of dollars from the private sector for redevelopment projects using Federal funds as bait. For every governmental dollar, these partnerships can yield $3 or $4 additional in private investment.

Despite the obvious advantages of HOPE VI, the program has needed improvement. In 2003, in a previous reauthorization of HOPE VI, the Financial Services Committee added reforms by requiring the HUD to select grantees, among other criteria, on their capacity to bring planning and ultimately development to fruition within a more expedited time frame.

In addition, the committee was concerned that the HOPE VI program was biased toward larger urban areas. Thus, the committee required that at least 5 percent of the HOPE VI funds be awarded to smaller communities, particularly rural areas, where public housing authorities are not present, to assist in the redevelopment of town areas for affordable housing. Now known as the Main Street Project, many rural communities are able to access these vital redevelopment funds.

The HOPE VI program has been a valuable program in addressing many of this country's housing needs by revitalizing communities rather than simply building public housing. This House has repeatedly spoken on this program by continuing to fund HOPE VI in the relevant appropriations bills year after year.

I would like to thank good friend CHRIS SHAYS for his leadership on this important affordable housing program. By reauthorizing HOPE VI, this bill will continue the reforms established in 2003 to ensure that smaller communities have access to important revitalization dollars and will continue to make HOPE VI a cost-effective and efficient program for the American taxpayer.

Mr. Speaker, I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield to myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5347, the HOPE VI Reauthorization Act of 2006. I am one of the original cosponsors of the legislation, and I want to take time to congratulate the distinguished chairman, Mr. OXLEY; Ranking Member FRANK; Mr. WATT; and Mr. SHAYS for sponsoring this important legislation.

The members of the Subcommittee on Housing and Community Affairs, of which I am ranking member, have worked tirelessly to overcome obstacles to extend HOPE VI. Indeed, there is a strong possibility that the HOPE VI program would have expired at the end of this fiscal year without the strong leadership displayed on this bill.

HOPE VI is a valuable program, but not a perfect program. Some of the criticisms include displacement of tenants, delays in development of projects, and a built-in bias toward large urban areas. As with any major Federal program, there are lessons to be learned, and in the case of HOPE VI, many of the challenges that have been identified were addressed in prior reauthorization bills. We also must understand that these concerns must be understood within the context of the different communities that have utilized the HOPE VI program. This might explain why HUD has evaluated HOPE VI grantees on a case-by-case basis, rather than on the basis of formal program requirements.

One major issue compounding HOPE VI is the fact that in many communities the supply of available and affordable housing is not adequate to accommodate those who become displaced. Secondly, the development process related to HOPE VI is far more complicated than what was envisioned by the architects of the program, and many delays are attributed to the needs of the many stakeholders in the community, including tenants.

According to the 2003 GAO report entitled "HOPE VI Resident Issues and Changes in Neighborhoods Surrounding Grant Sites," the Tucson, Arizona, Housing Authority submitted a revitalization plan for a site to the Tucson City Council for approval only after the residents had voted to approve it. This type of deliberative democratic process adds time to the development approval process, whether it is a HOPE VI project or not.

Thirdly, some fear that there is a bias to urban areas under the HOPE VI program requirements. In my view, that is not really a fair criticism because this is merely a program outcome. I see no reason why we would not want to make sure that HUD targets nonurban areas as we move forward to determine HOPE VI works. I have said on numerous occasions that the housing needs of the urban communities are not drastically different than the housing needs of nonurban communities.

Both GAO and CRS provide important findings on the HOPE VI program.

As of June 2004, 56,221 households had been relocated by HOPE VI revitalization grantees. Of these households, 48 percent were moved to public housing, 32 percent were given section 8 vouchers, 6 percent evicted, 19 percent moved to revitalized units, and 13 percent made other housing choices.

The neighborhoods in which 1996 HOPE VI sites are located generally have experienced improvements in indicators such as education, income and housing.

And mortgage lending activity increased in HOPE VI neighborhoods compared to other neighborhoods.

These strong findings are, in part, why I support the HOPE VI reauthorization bill. The bill has strong bipartisan support, and HOPE VI would be reauthorized through 2007, although we had originally intended for the bill to be extended through 2011. Importantly, the factors used to assess grant applications for the programs include need, capacity, quality and leveraging. So perhaps as we move forward, it is more appropriate for the detractors of the program to measure the track record of the HOPE VI program's use of these new criteria and not base the success of the program on individual project outcomes.

By some estimates, HOPE VI has leveraged between $5 billion and $8 billion of private investment in communities across the Nation. The demand for HOPE VI grants in communities throughout the country continues to exceed the available resources. HUD receives three applications for every HOPE VI award made.

The need to revitalize distressed public housing is precisely the reason that HOPE VI was conceived. Communities throughout this country with old, decaying and abandoned public housing stock often located on prime land needed to seek ways to improve the quality of life in their communities. HOPE VI provided one answer to addressing these conditions in its early stages; and with improvement in the way the program will be operated in the future, even greater progress will be made in meeting needs.

Absent the bipartisan support that HOPE VI enjoys today, the elimination of the program was a near certainty. By changing the criteria to evaluate grantee applications, including evaluation of the capacity of the grantees to undertake HOPE VI projects, support for the program should broaden. HOPE VI is an extremely competitive program that reflects success. Communities should be able to include this Federal resource in their revitalization planning efforts immediately and in the future.

I would urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield such time as he may consume to the able gentleman from Connecticut (Mr. SHAYS), the author of this legislation.

Mr. SHAYS. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, this is a bipartisan bill that, as amended, reauthorizes the HOPE VI program through 2007. Reauthorizing the HOPE VI for an additional year will have an important impact on the lives of low-income people and will also pay tremendous dividends in towns and cities across America.

I am grateful to have worked on this legislation with my colleagues JIM LEACH, MAXINE WATERS, ARTUR DAVIS who has worked very hard on this, MEL WATT as well, CHARLIE DENT, and appreciate the assistance and guidance they have provided.

□ 1815

I also appreciate the support of Chairman OXLEY and Ranking Member FRANK in moving this bill forward. I have tremendous admiration for my chairman and ranking member and the work that they have done throughout a number of years. With their assistance, this legislation passed the Financial Services Committee by voice vote.

HOPE VI epitomizes public-private partnerships for funding redevelopment projects. Mixed-finance agreements have allowed the government to raise millions of dollars from the private sector for redevelopment properties using Federal funds as leverage. For every government dollar granted, these partnerships can yield an additional $3 or $4.

Let me give an example of an incredible HOPE VI project that has been completed in Stamford, Connecticut. A $26 million HOPE VI grant leveraged an additional $80 million in State, local, and private funds. The HOPE VI transformed Southfield Village, a dim, crime-ridden, and dilapidated housing project into Southwood Square, a beautiful place to live and raise your children.

It is also a mixed-income community, where low-income families and those paying market rent live side-by-side. I am talking about people who make more than $100,000. Their children play together, and they have the opportunity to grow and learn from one another.

As a result of this Federal assistance, Southwood Square is now a safe place for children to play. Its residents receive job training on site. Others are going to work, and working parents have access to child care facilities. Instead of the BMW belonging to drug dealers, they belong to employees who work for the many businesses in the community. Just as importantly, residents are involved in their community.

I wish Members could see the transformation that has taken place there. Another HOPE VI project at Fairfield Court in Stamford is now beginning and promises to be just as successful as Southwood Square.

The lesson here is, when the Federal Government demonstrates its interest in improving the housing needs of low-income families, the community responds in a big way.

I urge all my colleagues to support this legislation and again thank Chairman OXLEY and Ranking Member FRANK for their cooperation in bringing this legislation before us, as well as the lead cosponsors on both sides of the aisle for their support. This was a team effort, and that is why passage tonight is so satisfying.

Ms. WATERS. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. I thank the gentlewoman for yielding.

Let me say just one thing at the outset, Mr. Speaker. Prior to the conception of the HOPE VI program, we tended to believe that public housing was a condition that was not alterable, it was not changeable; and, similarly, we believed that it would look pretty much as it did when a public housing unit was conceived.

The signal event that happened when this program was passed in the late 1980s was that, all of a sudden, we recognized that a public housing unit, like any other piece of property in America, can be transformed. It can be made esthetically attractive. It can be made a unit that will attract residents from different income levels. It can be made a place that is not just a shelter, that is not just four walls, but that is a home.

I have to think that that recognition about the capacity to physically change communities has had a carryover impact on the lives of the people who live there.

So put aside all the statistics that we have talked about, put aside the information that we have discussed today about the leveraging of investments and the leveraging of dollars in the communities. This is ultimately about a new stake and a new confidence in places in America that have historically been neglected.

Let me thank a few people. I certainly want to thank the outstanding Chair of this committee, as he leaves the House and moves into the private sector, for being such a consistent voice in support not just of this program but all kinds of other good housing programs for the United States.

Obviously, I want to thank the ranking member for being so diligent on this issue. I want to thank two of my colleagues who are here, Mr. WATT of North Carolina and Ms. WATERS of California, who yielded time.

A lot of us support HOPE VI, but what has distinguished MAXINE WATERS and MEL WATT is that for a period of their whole 14 years in the House they have constantly said, yes, we can make it better, yes, we can fix it, but let us not do away with it. And when the critics and the detractors have questioned this program, the two of them have been enormously vigilant.

Let me certainly thank Mr. SHAYS for his work, and let me recognize someone whose name has not been called, who is also departing the House, Ms. HARRIS of Florida.

Twice we have had to bring amendments to the floor of the House to sustain funding for this program. Twice we have had to ask the House to second-guess the administration, to make a dollar commitment to this program. Two years ago, we got 59 Republicans to cross party lines. This year we topped that. We got 64 Republicans to cross party lines. And a lot of that was a function of Ms. HARRIS' work.

So I want to end on this note. We all agree, or so many of us in this Chamber agree about the value of this program. I hope there are two people in the United States who will take heed of that, the President of the United States and the Secretary of Housing and Urban Development. Because for 4 years now they have given us budgets that would do away with HOPE VI. For 2 years, this House has accurately and correctly second-guessed them and put the money back in. And today this House will make another statement by reauthorizing this program.

This works when the two branches of government that the people select, the executive and the legislative, actually listen to each other. This business works better when the executive branch every now and then takes heed of what we do here.

There are two more budgets, Ms. WATERS, that will be issued from the Bush administration before the President takes leave to Crawford. I hope that both of those budgets are much more reflective of MIKE OXLEY and CHRIS SHAYS and KATHERINE HARRIS, as well as the numerous people on this side of the aisle who believe in the utility of this program.

So this is an important statement for families who live in these units, and it is a statement of our values as well.

Mr. OXLEY. Mr. Speaker, I now yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I rise today to speak in strong support of the HOPE VI Reauthorization Act of 2006, H.R. 5347.

This program does play a vital role in the redevelopment of severely dilapidated public housing units and promotes self-sufficiency among the residents of the community. HOPE VI projects forge new relationships and partnerships between local businesses and development agencies, garnering growth and investment in poverty stricken neighborhoods.

In May, 2005, the Allentown Housing Authority, located in my district, received $20 million from this program for the redevelopment and revitalization of the Hanover Acres and Riverview Terrace public housing facilities. Once complete, the project will provide 322 new housing units and a community center for families, as well as adult education services, youth programs, child care, and homeownership and money management education programs for residents.

Because of this investment, families will have increased opportunities for education, job skills, training, and job placement. This HOPE VI project is not only crucial to Hanover Acres but ultimately a catalyst for the revitalization of the entire community and neighborhood.

The HOPE VI program has already facilitated the redevelopment of 80,000 housing units across the Nation. However, there are approximately 60,000 units still in desperate need of revitalization. Each revitalization project we undertake across the country will undoubtedly provide crucial economic stability for countless children and families through housing, community centers, and educational services.

I believe it is crucial that we continue to provide the means for revitalization of our most distressed neighborhoods and the opportunity for families and children to prosper in secure surroundings. I ask that my colleagues vote in favor of the HOPE VI Reauthorization Act.

Ms. WATERS. Mr. Speaker, I yield 5 minutes to the Chair of the Congressional Black Caucus, the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank the gentlewoman from California for yielding time.

I rise in support of H.R. 5347. It is necessary to extend this program, and we are extending it for 1 year, the reauthorization, and that is the best we can do. You may sense frustration in that statement, because there is a sense of frustration. I have been at this HOPE VI for a long time now, and I think we need to go back and trace a little bit of the history of how we got here.

HOPE VI is not a Democratic program. It was introduced under a Republican administration. It was the brainchild of Jack Kemp when he was Secretary of Housing and Urban Development. And the idea was that we were not going to make any progress on dealing with community issues as long as we had these tremendous numbers, thousands of people in dense public housing communities in various places throughout the country, and that the only way we could approach the problem effectively was to disperse poverty and create communities with mixed incomes, low-income people, middle-income people, and high- income people. And so HOPE VI was about community revitalization.

All of the complaints I have heard about it over the years make it sound like people don't understand how difficult it is to do community revitalization. Because every time somebody says, well, they didn't finish a project in a year. I say to them, you can do construction in a year, you cannot do community revitalization in a year. It takes time to revitalize a community.

Now, why am I so passionate about this? We have seen five communities in the city of Charlotte, North Carolina, completely transformed as a result of HOPE VI. We have seen one community in Greensboro, North Carolina, in my congressional district, completely transformed as a result of HOPE VI. We have seen two communities completely transformed in the Winston Salem part of my congressional district as a result of HOPE VI. We bring a little bit of Federal money, private people come to the table, and you end up with a mixed community in terms of income, racially and otherwise.

And I can tell you, if you come into downtown Charlotte now, you will see a completely different story than you saw 10, 12, 15 years ago. You will see a beautiful community where a concentration of low-income public housing used to be. Now if anybody tells me that is not success, I say I do not know what success is. That was exactly what the program was designed to do.

And I don't understand how this President, on so many issues, including this one, will take a successful program and all of a sudden say this program doesn't work.

Now, coincidentally, most of the money is going into Democratic districts. That is really what the debate, the subtext of a lot of this debate, has been about. We knew where the public housing projects were. They were in most of our congressional districts. We set out to try to do something about those, and we have done something about those using HOPE VI. It has been the single most successful community revitalization and housing program probably that our Nation has ever seen, contrasted with the whole idea of warehousing poor people in concentrations of low-income communities.

So I am passionate about this. I am delighted we are extending this program for a year. But, at the same time, we need to recognize there is not but $99 million even in the appropriations bill that hasn't been passed and finalized. And every time we have had to fight this battle to reauthorize the program we have lost funding for the program, so it gets less and less and less effective at accomplishing its mission.

So I congratulate my friends for extending the program, and I ask for their support, all of our support, for extending a program that is a no-brainer. We ought to all be supporting this program.

Mr. MEEK of Florida. Mr. Speaker, I rise in strong support of H.R. 5347 the HOPE VI Reauthorization Act of 2006.

Public housing is a necessity in communities throughout this country. With the stock of affordable housing declining nationwide because of the rising cost of land, materials and labor, many families cannot afford to buy or even rent homes.

A study in Broward County alone showed the county needs 15,000 new affordable units a year to keep pace with demand. A Miami-Dade study, based on the 2000 U.S. Census, found the county needs to construct an additional 81,400 housing units for very low- and middle-income residents between 2000 and 2015.

At the same time, the number of Americans living in poverty has risen for 4 straight years in a row. Today, about 37 million Americans live at or below the poverty level. The hardest hit are women and children, over 12 million children live in poverty.

For many of these people, public housing is often the only option available to them. We know this is true because the sad truth is that public housing stocks are often in terrible condition. I have visited public housing units in my district with peeling paint, broken floor boards and windows, dilapidated appliances and defective wiring. This kind of neglect is not unique; the are many such housing units.

Mr. Speaker, that is why the HOPE VI program is so important. H.R. 5347, the HOPE VI Reauthorization Act of 2006, will continue for an additional 5 years the program begun in 1990 to demolish run-down housing projects and to replace them with attractive, safe, fully functioning and affordable housing in mixed income communities.

Even as we reauthorize the HOPE VI program and recognize its potential to revitalize neighborhoods and communities and provide quality housing to people who need it, we must also acknowledge the need to make sure that HOPE VI does not destroy neighborhoods in the name of revitalizing them and that we extract from HOPE VI dollars the maximum amount of housing for local residents.

Because successful HOPE VI grants require such a high percentage of local funding, they are a good way to stretch scarce Federal housing dollars. I urge my colleagues to support this bill.

Ms. LEE. Mr. Speaker, I rise in strong support of H.R. 5347, the Hope VI Reauthorization Act of 2006.

Congress created the bipartisan HOPE VI program in 1992 to restore distressed housing and build new, safe, and cohesive communities. To date HOPE VI has awarded over $5 billion to revitalize 193 public housing developments.

In my district alone, we have three HOPE VI projects: Mandela Gateway, Lions Creek Crossing, and Chestnut Linden Court.

The HOPE VI program works because its requirement for community buy-in is a responsive, flexible, and accessible redevelopment tool that effectively addresses the multi-billion dollar backlog in public housing capital needs.

But despite the accomplishments of HOPE VI, the administration continues to try and kill it. That just doesn't make any sense.

In passing H.R. 5347 today, we send a message to the administration, to housing authorities, and to the business community that HOPE VI is here to stay.

But we can't stop with Hope VI re-authorization.

We must also fully fund our housing authority's capital and operating needs, Section 8 vouchers, and special-needs tenants like the elderly, the handicapped, and those living with HIV/AIDS.

Together these initiatives can help re-focus our attention on those who are most in need.

☐ 1830

Ms. WATERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5347, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5637, by the yeas and nays;

H.R. 6115, by the yeas and nays;

S. 2856, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

NONADMITTED AND REINSURANCE REFORM ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5637, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5637, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 492]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)

Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Boehlert
Case
Castle
Cleaver
Davis (FL)
Davis, Tom.
Evans
Israel
Kolbe
Lewis (CA)
Lewis (GA)
Meehan
Ney
Sabo
Strickland

☐ 1857

Mr. WILSON of South Carolina, Ms. WOOLSEY, Mr. KUCINICH and Mr. BECERRA changed their vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MARK-TO-MARKET EXTENSION ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6115.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 6115, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 1, not voting 15, as follows:

[Roll No. 493]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Weller

NOT VOTING—15

Case
Castle
Cleaver
Davis (FL)
Davis, Tom
Evans
Kolbe
Lewis (CA)
Lewis (GA)
McKinney
Meehan
Murtha
Ney
Sabo
Strickland

☐ 1906

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2856, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the Senate bill, S. 2856, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 494]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel
E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
Rodgers
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-
McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
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Visclosky
Walden (OR)
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Wamp
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Case
Castle
Cleaver
Davis (FL)
Davis, Tom
Evans
Kolbe
Lewis (CA)
Lewis (GA)
McKinney
Meehan
Murtha
Ney
Sabo
Strickland

□ 1915

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLEAVER. Mr. Speaker, I was unable to personally cast votes today because I was attending a memorial service for Sergeant First Class (SFC) Michael Fuga.

Had I been present for rollcall vote 487, a motion to adjourn, I would have voted "nay";

For rollcall 488, a motion ordering the Previous Question on the Rule for consideration of H.R. 6166, the Military Commissions Act, I would have voted "nay".

For rollcall 489, on agreeing to the H. Res. 1042, the Rule for consideration of H.R. 6166, I would have voted "nay";

For rollcall 490, the Skelton motion to recommit H.R. 6166 to establish a process for expedited judicial review and require a reauthorization of the Act after December 31, 2009 or three year sunset, I would have voted yea;

For rollcall 491, on passage of H.R. 6166, the Military Commissions Act, I would have voted nay;

For rollcall 492, on passage of H.R. 5637, the Nonadmitted and Reinsurance Reform Act of 2006, I would have voted yea;

For rollcall 493, on passage of H.R. 6115, the Mark-to-Market Extension Act of 2006, I would have voted yea;

For rollcall 494, on passage of S. 2856, the Financial Services Regulatory Relief Act of 2006, I would have voted yea.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, because of my attending the funeral of Officer Rodney Joseph Johnson, a Houston Police Department officer who lost his life in the line of duty, I missed the following votes:

Adjournment resolution, rollcall vote 487, if I had been present, I would have voted "no"; the previous question, rollcall vote No. 488, if I had been present, I would have voted "no"; H. Res. 1042, the rule regarding the military commissions resolution, rollcall vote 489, if I had been present, I would have voted "no"; on the motion to recommit, the Skelton motion that would establish a process for expedited judicial review and require reauthorization of the act after December 31, 2009, rollcall vote 490, I would have voted "aye"; rollcall vote 491, final passage of H.R. 6166, the Military Commissions Act, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

FHA MULTIFAMILY LOAN LIMIT ADJUSTMENT ACT OF 2006

Mr. GARY G. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5503) to amend the National Housing Act to increase the mortgage amount limits applicable to FHA mortgage insurance for multifamily housing located in high-cost areas.

The Clerk read as follows:

H.R. 5503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA Multifamily Loan Limit Adjustment Act of 2006".

SEC. 2. MULTIFAMILY HOUSING MORTGAGE LIMITS IN HIGH COST AREAS.

The National Housing Act is amended—

(1) in sections 207(c)(3), 213(b)(2)(B)(i), 221(d)(3)(ii)(II), 221(d)(4)(ii)(II), 231(c)(2)(B), and 234(e)(3)(B) (12 U.S.C. 1713(c)(3), 1715e(b)(2)(B)(i), 1715l(d)(3)(ii)(II), 1715l(d)(4)(ii)(II), 1715v(c)(2)(B), and 1715y(e)(3)(B))—

(A) by striking "140 percent" each place such term appears and inserting "170 percent"; and

(B) by striking "170 percent in high cost areas" each time place such term appears and inserting "215 percent in high cost areas"; and

(2) in section 220(d)(3)(B)(iii)(III) (12 U.S.C. 1715k(d)(3)(B)(iii)(III)) by striking "206A" and all that follows through "project-by-project basis" and inserting the following: "206A of this Act) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GARY G. MILLER) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. GARY G. MILLER of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore (Mrs. MCMORRIS RODGERS). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GARY G. MILLER of California. Madam Speaker, I yield myself such time as I may consume.

This legislation is critical to increasing the availability of affordable rental housing in this country.

I would like to thank my good friend BARNEY FRANK. He has worked with me to introduce this important bill. And I really want to thank the Financial Services Committee chairman, MIKE OXLEY. He has worked diligently through this process to get the process completed in committee so that the bill could be heard tonight.

When it comes to high-cost markets where land and construction costs are significantly higher than other areas of the country, there is no question that the FHA multifamily mortgage insurance limits are not keeping pace. The slowdown in affordable rental housing production has resulted in a significant gap between the demand and supply of affordable rental housing. This is a problem we have come together to solve tonight.

Through its numerous multifamily housing programs, HUD is a primary partner in the development of affordable rental housing. FHA provides mortgage insurance to HUD-approved lenders to facilitate the construction, substantial rehabilitation, purchase, and refinancing of multifamily housing projects and health care facilities. Mortgage insurance covers a lender if a borrower defaults on the insured loan. The FHA multifamily program is particularly important in serving the housing needs of low- and moderate-income families.

In our most expensive cities, it is very difficult for these families to find affordable rental housing in the communities where they work. Today, many public servants throughout this country, police officers, firefighters, and teachers, are not able to live in the communities in which they serve. Some commute an hour or more to get to work every day. What happens if there is a natural disaster? How will the first responders get to those in need in time if they live an hour or more away from where they work?

If Congress does not act to promote the development of affordable rental units, the housing situation in high-cost areas will continue to worsen and the housing needs for those who serve our communities and keep them safe will continue to be overlooked. Developers are simply unable to provide affordable housing units in high-cost areas because the current statutory limits for FHA mortgage insurance are unrealistically low. While Congress increased the limits of 2003, construction costs have accelerated to such heights in high-cost areas that the limits need to be increased again in order to allow affordable, low- and moderate-income rental units to be built in places like California and New York and cities such as Boston.

While FHA multifamily loan limits were increased in 2003, there were only a total of six FHA-insured multifamily loans for new construction or substantial rehabilitation approved in California in fiscal years 2004 and 2005 because of the loan limit. For the same time frame in the State of New York, only eight multifamily projects were approved by FHA. In Massachusetts only five projects were approved, and in New Jersey not a single new construction or rehabilitation project was approved through FHA.

This bill establishes a mechanism for addressing the need for new construction or substantial rehabilitation of rental units in extremely high-cost areas throughout this country. Under this bill, the multifamily loan limits in high-cost areas would increase to 170 percent above the base limit. The Secretary of HUD would have the discretion to increase the limits to 215 percent on a case-by-case or project-by-project basis.

It is important to point out that there is no private sector alternative to this program. The market served by FHA multifamily insurance does not overlap the competitive private interests. The FHA multifamily mortgage insurance program has worked with private sector partners to expand the supply of rental housing for over 65 years. This public/private partnership has leveraged more than $100 billion of private sector investment to provide rental housing for working families and elderly throughout this country.

In addition, the FHA program and this increase pays for itself. In fact, the program actually has a positive budgetary impact. That means this project actually makes money for the Federal Government.

For example, according to CBO, in 2002 FHA insured about $5 billion in loans for multifamily projects. The budgetary impact of these guarantees was accorded as discretionary savings of about $20 million. That means that the Federal Government made $20 million just by insuring these loans. CBO estimates that this bill would bring in $15 million in 2007 and $75 million between the 2007–2011 period. That means in those years alone, the Federal Government will make $75 million just by working on these programs.

Further, let me point out that if we do not pass legislation to promote the availability of affordable rental housing, our waiting lists for public housing will continue to grow. Despite drastic funding increases in section 8, waiting lists continue to grow across this Nation. In some cities, such as those in Southern California, families who sign up on a waiting list today will not receive an apartment for another 10 years.

This bill is a step in the direction of reducing dependency on government programs by providing a move-up market for affordable rental units.

In closing, it is important to note that we are not giving grants. We are not doing something that is going to lose money for any congressional district, because this bill does not take away money from low-cost areas. This bill, basically with the FHA mortgage insurance program, provides a critically needed financing source for affordable rental housing. It is important that this program be usable in areas that are experiencing a severe shortage of affordable units and rising development costs.

I want to conclude by saying this is not a giveaway program. This is a program that is an assistance to the private sector and a program that actually makes money for the private sector and through the government.

Madam Speaker, I reserve the balance of my time.

Ms. WATERS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 5503, the FHA Multifamily Loan

Limit Adjustment Act. And I want to thank the sponsor of the bill, the gentleman from California (Mr. GARY G. MILLER). I also want to thank the ranking member of the Committee on Financial Services, Mr. FRANK, a sponsor of the bill; and our distinguished chairman, Mr. OXLEY, for moving this legislation to the floor.

This is yet another example of the progress that we as members of the Committee on Financial Services have made on housing matters. In committee we have passed many housing bills that are waiting consideration by the House, and I am privileged to have supported this bill and other legislation because it begins to address the affordable housing crisis that we confront in America.

This bill is important to maintaining, as well as to increasing, the Nation's rental and affordable housing stock. FHA multifamily insurance products will remain available to assist projects for families with incomes from 80 percent to 150 percent of the median income. These are the people who really need our help. The bill will increase the loan limits for FHA-insured multifamily products in high-cost areas, where the FHA loan limits are no longer relevant in places like my district of Los Angeles, California. It is estimated to cost $146,240 per unit to build a 42-unit two-bedroom development in Los Angeles or approximately $6,142,069. In New York City and San Francisco, these projects are even more expensive, anywhere from $167,000 to $180,000 per unit.

This has had devastating effects on the construction of affordable housing projects in my district and elsewhere in the country, particularly as land and construction costs skyrocketed over the past few years.

In 2005 FHA insured a total of six multifamily projects in California. New York fared no better, as only eight projects were built in the same year. Of course, I am not surprised by this trend. But it must be reversed because of the large numbers of persons seeking affordable rental housing in this country, many of whom are working families with children, the elderly, and the disabled.

We all know that the affordable housing crisis has been exacerbated nationally since nearly 170,000 units of housing were lost last year in New Orleans alone as a result of the hurricanes that struck the gulf region. People of New Orleans and elsewhere in the gulf region are desperate for housing, which makes this legislation even more important. Very little, if any, multifamily rental housing has been constructed since the storms. Madam Speaker, I hope this bill reverses this situation.

H.R. 5503 will allow HUD to increase multifamily loan limits in expensive areas to 170 percent above the base limit, while giving the Secretary of HUD the discretion to increase the limit to 215 percent on a case-by-case basis. Because there are approximately 100 areas in the country that would be characterized as high-cost areas, this bill recognizes the reality of multifamily housing construction in this country. It just disappeared. Without these changes to the loan limits, it will remain impossible for developers, both for-profit and nonprofit, to develop any affordable housing units. The current loan limits can actually be attributed in part to the shortage of affordable housing units, particularly in high-cost areas of the country.

Now, as most of you know, there are no real alternatives in the private market to FHA mortgage insurance that assist families at 80 to 150 percent of the area median income. This is compounded by the fact that section 8 units are not available in these markets. The waiting lists for section 8 have not disappeared, and in Los Angeles there are more than 100,000 persons waiting for section 8 assistance. Other areas of the country, such as New York, Seattle and Philadelphia, are in the same predicament as Los Angeles.

Of course, this phenomenon is not limited to large urban areas. It is already affecting other areas of the country as populations grow and residents seek housing outside of the cities. Nearly 3.7 million people live in the City of Los Angeles, but 9.5 million live in the Los Angeles County area. From my vantage point, there is a real housing crisis across America.

On its face, this does not appear to be as important a measure as some other housing bills that this House has considered to date. But I contend that this is one of the most important housing bills that we will consider before the end of this session.

I, therefore, urge my colleagues to support this bill. It is a foolproof means of averting a national crisis in affordable housing.

Madam Speaker, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Madam Speaker, I have no further requests for time, and I reserve the balance of my time.

Ms. WATERS. Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Madam Speaker, this is a day I have waited for for a long time, and I really want to commend the author, the ranking member, Ms. WATERS, and all of the committee for bringing this bill before us.

I come from a county where the median price of a single-family home is almost $800,000, where 800-foot condos sell for about $500,000. As you might imagine, the FHA program simply does not work and hasn't for a long time.

Recently, there was an analysis done in California. Factoring in housing costs, California has one of the poorest populations of the 50 States, and this measure is going to help tremendously for normal working families to have an opportunity to get that piece of the American Dream. And I really am very pleased that it is here today. I think I have asked Mr. FRANK on a weekly basis when this is going to be done, and I really commend you for moving this forward and I understand there is a significant chance the Senate will do so as well. It is very important.

I thank the gentlewoman for yielding.

□ 1930

Ms. WATERS. Madam Speaker, I will insert in the RECORD a letter in support of H.R. 5503 sent to Members of the House by five housing and real estate associations.

Madam Speaker, in closing, and before I yield back my time, I would just like to say I do not know if I will have the opportunity to be on the floor with many of my colleagues from our committee before the close of the session.

But I first want to say how appreciative I am to the chairman of our committee, Mr. OXLEY, for the leadership that he has provided, for his sense of fairness, and for his sense of what it takes to get both sides of the aisle working together. He has done a magnificent and tremendous job.

Madam Speaker, I also want to thank someone who is not here. It is unfortunate, because I have worked closely with Mr. NEY, and he has done a wonderful job in helping to move these housing bills to the point that we see them today.

I would like to thank all of the other members of the committee just in case we do not have an opportunity to be on the floor again on any more of those bills.

JULY 25, 2006.

DEAR REPRESENTATIVE: On behalf of the membership of our associations who represent the home buying, home building, and home financing industries, we are writing in support of H.R. 5503, FHA Multifamily Loan Limit Adjustment Act of 2006, legislation to increase the Federal Housing Administration (FHA) multifamily loan limits in high-cost areas. Over the past several years, Congress and the Administration have taken steps to update the FHA multifamily loan limits. However, despite these efforts, the current maximum FHA multifamily mortgage limits are inadequate and continue to constrain new construction and rehabilitation in many urban and suburban areas, where construction costs are significantly higher than in the rest of the country.

The FHA's multifamily mortgage insurance programs enable qualified borrowers to obtain long-term, fixed-rate financing for a variety of multifamily properties that are affordable to low- and moderate-income families. This public/private partnership has resulted in a successful program providing housing for a portion of the population not usually served by private industry alone. In addition to serving a valuable purpose, recent analysis by HUD and OMB indicate that virtually all of the FHA multifamily insurance programs operate on a break-even basis or raise revenue for the government.

Without higher FHA multifamily loan limits in high-cost markets, critical housing needs will go unmet. Those who will be most affected will include low- and moderate-income families, including important community service providers such as teachers, firefighters, and police officers. By increasing the maximum loan limit for FHA's multifamily programs, these programs can help provide the housing opportunities necessary for the economic and social well being of our nation. We applaud efforts to increase the availability of affordable housing in our nation's high-cost areas.

Institute of Real Estate Management.
Mortgage Bankers Association.
National Association of Home Builders.
National Association of Mortgage Brokers.
National Association of Realtors.

Madam Speaker, I yield back the balance of my time.

Mr. GARY G. MILLER of California. Madam Speaker, I yield myself the balance of our time.

Madam Speaker. I want to once again thank my good friend, BARNEY FRANK. He worked with me in introducing this legislation. We worked it through the system. It is before us today.

I would also like to thank a very good chairman of the Financial Services Committee, MIKE OXLEY. He had a vision when he took over the committee. He worked diligently to accomplish that vision. I wish him the best in his retirement. I know we are going to miss him next year when the committee starts again.

Ms. LEE. Madam Speaker, I rise in strong support of H.R. 5503, the FHA Multifamily Loan Limit Adjustment Act of 2006.

This bipartisan bill will allow the FHA program to keep up with the skyrocketing boom in housing prices—particularly in areas like my district in California, where the average price of a home is nearly $600,000.

The FHA program has provided homeownership opportunities to millions of Americans who have been deemed high-risk or struggled to save down payment costs.

Many residents in high-cost states like California are unable to tap into FHA's homeownership programs.

In 2005, FHA only insured 5,000 loans in California because housing cost were too high for the FHA's low loan limit.

Madam Speaker, there are hundreds, if not thousands, of eligible renters ho want to be homeowners. We must work with HUD to ensure that they are not locked out of the housing market.

I applaud Congressman MILLER, Congresswoman WATERS, Ranking Member FRANK and all the members who have worked together to make this bill and the dream of homeownership a reality.

I ask my colleagues to support H.R. 5503.

Mr. GARY G. MILLER of California. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GARY G. MILLER) that the House suspend the rules and pass the bill, H.R. 5503.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HEDGE FUND STUDY ACT

Mr. GARRETT of New Jersey. Madam Speaker. I move to suspend the rules and pass the bill (H.R. 6079) to require the President's Working Group on Financial Markets to conduct a study on the hedge fund industry, as amended.

The Clerk read as follows:

H.R. 6079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hedge Fund Study Act".

SEC. 2. STUDY AND REPORT ON HEDGE FUND INDUSTRY.

(a) STUDY.—The President's Working Group on Financial Markets shall conduct a study of the hedge fund industry. The study shall include an analysis of—

(1) the changing nature of hedge funds and what characteristics define a hedge fund;

(2) the growth of hedge funds within financial markets;

(3) the growth of pension funds investing in hedge funds;

(4) whether hedge fund investors are able to protect themselves adequately from the risk associated with their investments;

(5) whether hedge fund leverage is effectively constrained;

(6) the potential risks hedge fund pose to financial markets or to investors;

(7) various international approaches to the regulation of hedge funds; and

(8) the benefits of the hedge fund industry to the economy and the markets.

(b) REPORT AND RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the President's Working Group on Financial Markets shall submit a report on its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include recommendations, including—

(1) any proposed legislation relating to appropriate disclosure requirements for hedge funds;

(2) the type of information hedge funds should disclose to regulators and to the public;

(3) any efforts the hedge fund industry or regulators of financial institutions should undertake to improve practices or provide examples of successful industry initiatives; and

(4) any oversight responsibilities that members of the President's Working Group should have over the hedge fund industry, and the degree and scope of such oversight.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. GARRETT) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. GARRETT of New Jersey. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARRETT of New Jersey. Madam Speaker. I yield myself such time as I may consume.

Madam Speaker, before I begin. I would first like to wish my friend and colleague and the chief sponsor of this legislation, Congressman MIKE CASTLE, a very speedy recovery. Our thoughts and prayers are with him and his family, and we hope to see him back here on the floor soon.

I also, Madam Speaker, wish to take this time to thank both Chairman OXLEY and Chairman BAKER for their support of this study and the ongoing efforts to address the evolving hedge fund industry.

Madam Speaker, I come to the floor tonight to support H.R. 6079. the Hedge Fund Study Act, introduced by my colleague, MIKE CASTLE. This legislation will better enable this House to examine the role of hedge funds in our economy through a thoughtful study and report by the President's Working Group on Financial Markets, the PWG.

The hedge fund industry represents a vital sector of the American economy, as evidenced by its market growth and capital development. Hedge funds are now a $1.2 trillion industry; and they can be a high-risk, high-stake investment. While they are usually targeted to wealthy investors, hedge funds are increasingly tied to pension plans and, consequently, to the financial earnings of millions of middle-class Americans. For that reason, I think it is necessary that we further explore hedge funds and the potential impact and benefits that they offer to the financial markets and investors as well.

Specifically. H.R. 6079 will help Congress learn more about this vibrant industry. The study will examine hedge fund growth and the potential risks as well as the benefits of the hedge fund industry to the economy and the markets.

The hedge fund industry has such a significant impact on the markets and was last reviewed by the PWG study on this topic way back in 1999. But the growth of the hedge fund industry over the past 7 years makes this legislation timely. I would call your attention to the improvements of the hedge fund industry risk management function. improvements that were recommended in that study in 1999.

Counterparties and financial institutions have taken affirmative steps over the past 6 years now to mitigate exposures to risk through innovative financial products and the allocation of greater resources toward a dedicated risk management role.

Additionally, the hedge fund industry has in the past demonstrated its willingness on its own to resolve market challenges. For example, through a self-imposed obligation, derivative market participants, including hedge funds, directed their efforts toward eliminating a credit derivatives paperwork backlog that in past years was caused by explosive growth within those markets. The industry has now successfully reported that it has made substantial progress in increasing operational efficiencies and operational risks.

Again, at this time, I support this legislation; and I also should point out that I would like to thank Congressman CHRIS SHAYS from Connecticut for his expertise in this area, as many of the hedge funds that we speak of here tonight are near in his district. I compliment the Congressman and his efforts to getting this bill through this House.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am in substantial agreement with my colleague from New Jersey, but, first, and most of all, in expressing our best wishes to our colleague, the gentleman from Delaware, who has been such a constructive Member and whom we hope to see back with us very soon.

Secondly, I think the gentleman has accurately portrayed the situation. About a month or so ago, the Circuit Court of Appeals ruled that the SEC had twisted a statute further out of shape than is permissible to get some jurisdiction over hedge funds.

I think the Circuit Court made the correct legal interpretation. The SEC had been reaching, and I think the decision was a correct one. I then, however, filed a bill to change the statute, not because I or I think anyone else is able to be sure right now exactly what we should do about hedge funds, but because I would agree with the gentleman from New Jersey, this is an important, relatively new phenomenon. It has a major impact in our economy.

At the rate at which they are growing, it may be we will reach the point in which there is more money in hedge funds than there is money; and that at least ought to call up some attention. I simply did not think we should adjourn for the year with some people thinking that we have now decided that the appropriate action is nothing at all. That may in the end be a decision, but I do not think it is one that we have yet had a chance to look at.

So there were various ways that we were looking at this. I had a bill, the gentleman from Louisiana, the chairman of the subcommittee, had a bill. The gentleman from Delaware, a very thoughtful Member, suggested this as an approach. It has the advantage, I think of saying, look, we believe there is something that has to be looked at.

The gentleman from New Jersey correctly mentioned one of the things that has a number of people particularly concerned, which is the increasing interface between hedge funds and pension funds. That is something that we want to look at. So I think that we have an appropriate vehicle today, legislatively, to say this is something we want to look at. We will come back next year and deal with it further. I think this is the appropriate way to do it.

Madam Speaker, I yield back the balance of my time.

Mr. GARRETT of New Jersey. Madam Speaker, I would just point out with regard to that court case, an interesting thing with regard to that court case was the fact that the court, in part, reached a decision as it did because it said, I am not quoting it, but, in essence, that they could not define exactly what a hedge fund was.

So perhaps with the benefit of this study that we can be able to rein that in and to address that issue as well.

Mr. FRANK of Massachusetts. Madam Speaker, will the gentleman yield?

Mr. GARRETT of New Jersey. I yield to the gentleman from Massachusetts.

Mr. FRANK of New Jersey. Madam Speaker, I would say yes to the gentleman, that this is a case when we could all agree, apparently, that a little judicial activism was a good thing.

Mr. GARRETT of New Jersey. Madam Speaker, reclaiming my time. I would like to make one final point on this. I mentioned during my earlier remarks the improvements that the industry has made on its own in this year.

And I should also point out, I think Mr. CASTLE would appreciate the fact, that the Managed Funds Association, which is the funds of the association of the hedge funds, in essence, are in support of this legislation as well. They have indicated the hedge funds are currently subject to numerous regulations already relating to advertising and broad reporting requirements. ERISA and other securities. But they do as well see the benefit to look at both sides of the equation from a balanced approach, both the risk and the potential difficulties as well.

So I just wanted to add that to the record as well.

Mr. SHAYS. Madam Speaker, I rise in support of the Hedge Fund Study Act and appreciate the work of our colleague, MIKE CASTLE, to craft this legislation and bring it to the floor.

Madam Speaker, the hedge fund industry plays a critical and special role in our capital markets and is enormously important to helping institutional investors diversify their investment portfolios and meet their future funding needs.

While the numbers fluctuate some, there are believed to be close to 8,000 hedge funds that manage approximately $1 trillion in assets. Connecticut's Fourth Congressional District, which I'm grateful to represent, is home to several hundred of the most successful hedge funds.

Over the past few years, the industry has received increasing attention from the media, Congress and the Securities and Exchange Commission (SEC). I happen to believe that strong oversight of our financial markets is critical to our Nation's economic well-being. While hedge funds, which have knowledgeable and sophisticated investors, do not require the same level of scrutiny as is paid to the mutual fund industry, it seems to me more transparency and better government and regulator understanding of the industry will ultimately benefit investors and managers alike.

In my judgment, this act is a sensible approach to the issues raised by the growth and importance of hedge funds to the capital markets. We should require the Presidential Working Group on Financial Markets to study and make recommendations in a final report regarding efforts of both the industry and its regulators to improve practices.

Again, I appreciate this legislation coming to the House floor and urge its passage.

Mr. CASTLE. Madam Speaker, I rise today in support of my bill H.R. 6079, the "Hedge Fund Study Act." I want to thank both Chairman, OXLEY, and Chairman BAKER for the Financial Services Committee's support for this study and efforts to address the evolving hedge fund industry.

This legislation will require the President's Working Group on Financial Markets to study the growing marketplace and make recommendations regarding hedge fund disclosure. It is a good first step towards determining what type of disclosure hedge funds should provide to regulators and will establish some standards for increased transparency in our financial system that is important for market discipline and investor confidence.

Hedge funds are now a $1.2 trillion industry and can be high-risk, high stake investments. While usually targeted to wealthy investors, hedge funds are seeing an increase in ties to pension plans and consequently, the financial earnings of millions of Americans. For that purpose, I think it is necessary that regulators explore hedge funds and the potential risks they pose to financial markets and investors.

This study will come at a good time, as there is much recent discussion over the Securities and Exchange Commission's ruling that required hedge fund advisors to register with the SEC and undergo routine inspections. This ruling was rejected by the U.S. Circuit Court of Appeals for the District of Columbia and thrown out partly because the court called hedge funds notoriously difficult to define. A contemporary study of the hedge fund industry would allow legislators to better understand risks born by our economic structures. Moreover, it will allow legislators to best protect the American economy from any unnecessary financial risks.

Although the President's Working Group was created originally to address issues related to the 1987 stock market crash, it now serves as a forum through which the participating agencies exchange information on and coordinate regulatory policy regarding U.S. financial markets more generally. The chairman of the Working Group is the Secretary of the Treasury, and the other members are the chairmen of the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

The United States is a global leader in the financial services industry. For this reason it is important for regulators to contemplate our strong international position during their consideration of hedge fund disclosure. I commend our committee for acknowledging this important issue and the Senate for their recent attention concerning hedge funds. It is essential we understand this rapidly evolving industry and the impact hedge funds have on our national securities markets.

Madam Speaker, this legislation is a good bipartisan bill supported by other members of the Financial Services Committee including Chairman LEACH, Chairman FRANK and Representative GARRETT. I am pleased today that we have brought this much needed bill to the floor. I urge my colleagues on both sides of the aisle to join me in supporting this important and very necessary legislation.

Mr. GARRETT of New Jersey. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 6079, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. BISHOP of Utah (during consideration of H.R. 6079), from the Committee on Rules, submitted a privileged report (Rept. No. 109–690) on the resolution (H. Res. 1045) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. BISHOP of Utah (during consideration of H.R. 6079), from the Committee on Rules, submitted a privileged report (Rept. No. 109–691) on the resolution (H. Res. 1046) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4772, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 2006

Mr. BISHOP of Utah (during consideration of H.R. 6079), from the Committee on Rules, submitted a privileged report (Rept. No. 109–692) on the resolution (H. Res. 1047) providing for consideration of the bill (H.R. 4772) providing for consideration of the bill (H.R. 4772) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FINANCIAL NETTING IMPROVEMENTS ACT OF 2006

Mr. MCHENRY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5585) to improve the netting process for financial contracts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Netting Improvements Act of 2006".

SEC. 2. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "mortgage loan, or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))";

(B) in subclause (IV)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))";

(C) in subclause (IX), by striking "or (VIII)" each place such term appears and inserting "(VIII), (IX), or (X)";

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "mortgage loan, or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))";

(B) in subclause (IV)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))";

(C) in subclause (IX), by striking "or (VIII)" each place such term appears and inserting "(VIII), (IX), or (X)";

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

"(VI) means any extension of credit for the clearance or settlement of securities transactions;

"(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;".

(b) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)(I)) is amended by striking "transaction, reverse repurchase transaction" and inserting "or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv)(I) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)(I)) is amended by striking "transaction, reverse repurchase transaction" and inserting "or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in clause (v))".

(c) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking "or precious metals" and inserting ", precious metals, or other commodity"; and

(ii) by striking "or a weather swap, weather derivative, or weather option" and inserting "weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement";

(B) in subclause (II)—

(i) by inserting "or other derivatives" after "dealings in the swap"; and

(ii) by striking "future, or option" and inserting "future, option, or spot transaction"; and

(C) by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act".

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking "or precious metals" and inserting ", precious metals, or other commodity"; and

(ii) by striking "or a weather swap, weather derivative, or weather option" and inserting "weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement";

(B) in subclause (II)—

(i) by inserting "or other derivatives" after "dealings in the swap"; and

(ii) by striking "future, or option" and inserting "future, option, or spot transaction"; and

(C) by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act".

SEC. 3. CLARIFYING AMENDMENTS RELATING TO DEFINITION OF PERSON.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS DEFINITION OF PERSON.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

"(ix) PERSON.—The term 'person' includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.".

(b) INSURED CREDIT UNIONS DEFINITION OF PERSON.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following:

"(ix) PERSON.—The term 'person' includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.".

SEC. 4. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) in each of subsections (a) and (f), by striking "paragraphs (8)(E), (8)(F), and (10)(B) of" each place such term appears; and

(2) in subsection (a), by inserting "terminated, liquidated, accelerated, and" after "institutions shall be".

(b) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) in each of subsections (a) and (h), by striking "paragraphs (8)(E), (8)(F), and (10)(B) of" each place such term appears; and

(2) in subsection (a), by inserting "terminated, liquidated, accelerated, and" after "organization shall be".

SEC. 5. CONFORMING AMENDMENTS.

(a) CLARIFYING DEFINITIONS.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (22)(A)—

(i) by striking "(domestic or foreign)" after "an entity"; and

(ii) by inserting "(whether or not a 'customer', as defined in section 741)" after "custodian for a customer";

(B) in paragraph (22A)—

(i) by striking "on any day during the previous 15-month period" each place it appears and inserting "at such time or on any day during the 15-month period preceding the date of the filing of the petition"; and

(ii) by inserting "(aggregated across counterparties)" after "principal amount outstanding";

(C) in paragraph (25)(A)—

(i) by inserting ", as defined in section 761" after "commodity contract"; and

(ii) by striking "repurchase transaction, reverse repurchase transaction," and inserting "repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in this section)";

(D) in paragraph (53B)(A)—

(i) in clause (i)—

(I) in subclause (II), by striking "or precious metals" and inserting ", precious metals, or other commodity";

(II) in subclause (VII), by striking "or" at the end;

(III) in subclause (VIII), by striking "weather derivative, or weather option" and inserting "option, future, or forward agreement"; and

(IV) by adding at the end the following:

"(IX) an emissions swap, option, future, or forward agreement; or

"(X) an inflation swap, option, future, or forward agreement;"; and

(ii) in clause (ii)—

(I) in subclause (I), by inserting "or other derivatives" after "dealings in the swap"; and

(II) in subclause (II), by striking "future, or option" and inserting "future, option, or spot transaction"; and

(E) in paragraph (53B)(B), by striking "the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000" and inserting "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act";

(2) in section 362(b)—

(A) by striking paragraphs (6) and (7) and inserting the following:

"(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;

"(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;";

(B) by striking paragraph (17) and inserting the following:

"(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;"; and

(C) by striking paragraph (27) and inserting the following:

"(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and"; and

(3) in section 741(7)(A)—

(A) in clause (i)—

(i) by striking "mortgage loan or" and inserting "mortgage loan,"; and

(ii) by inserting before the semicolon "(whether or not such repurchase or reverse repurchase transaction is a 'repurchase agreement', as defined in section 101)";

(B) in clause (iii)—

(i) by inserting "(including by novation)" after "the guarantee"; and

(ii) by inserting before the semicolon "(whether or not such settlement is in connection with any agreement or transaction referred to in clauses (i) through (xi))";

(C) in clause (viii), by striking "or (vii)" each place it appears and inserting "(vii), (viii), or (ix)";

(D) by redesignating clauses (v) through (ix) as clauses (vii) through (xi), respectively; and

(E) by inserting after clause (iv) the following:

"(v) any extension of credit for the clearance or settlement of securities transactions;

"(vi) any loan transaction coupled with a securities collar transaction, any prepaid forward securities transaction, or any total return swap transaction coupled with a securities sale transaction;".

(b) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "(or for the benefit of)" before "a commodity broker"; and

(B) by inserting "or that is a transfer made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, in connection with a securities contract, as defined in section 741(7), commodity contract, as defined in section 761(4), or forward contract," after "securities clearing agency,";

(2) in subsection (f)—

(A) by striking "that is a margin payment, as defined in section 741 or 761 of this title, or settlement payment, as defined in section 741 of this title,"; and

(B) by inserting "(or for the benefit of)" before "a repo participant";

(3) in subsection (g), by inserting "(or for the benefit of)" before "a swap participant"; and

(4) in subsection (j), by inserting "(or for the benefit of)" after "made by or to".

(c) SIPC Stay.—Section 5(b)(2)(C)(iii) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)(C)(iii)) is amended—

(1) by inserting "a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991)," after "rule or bylaw of"; and

(2) by striking "or a securities clearance agency, a right set forth in a bylaw of a clearing organization or contract market" and inserting "a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act),".

(d) Savings Clause.—Title IX of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109–8, 119 Stat. 146) is amended by adding at the end the following:

"SEC. 912. SAVINGS CLAUSE.

"The meanings of terms used in this title are applicable for the purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

SEC. 6. WALKAWAY CLAUSES.

(a) FDIC-Insured Depository Institutions.—Section 11(e)(8)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(G)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) Limited suspension of certain obligations.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the receiver is appointed until the earlier of—

"(I) the time such party receives notice that such contract has been transferred pursuant to subparagraph (A); or

"(II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver.

"(iii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of such party's status as a nondefaulting party in connection with the insolvency of an insured depository institution that is a party to the contract or the appointment of or the exercise of rights or powers by a conservator or receiver of such depository institution, and not as a result of a party's exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.".

(b) Insured Credit Unions.—Section 207(c)(8)(G) of the Federal Credit Union Act 12 U.S.C. 1787(c)(8)(G)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) Limited suspension of certain obligations.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the liquidating agent is appointed until the earlier of—

"(I) the time such party receives notice that such contract has been transferred pursuant to subparagraph (A); or

"(II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent.

"(iii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of such party's status as a nondefaulting party in connection with the insolvency of an insured credit union or the appointment of or the exercise of rights or powers by a conservator or liquidating agent of such credit union, and not as a result of a party's exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.".

SEC. 7. COMPENSATION OF CHAPTER 7 TRUSTEES; CHAPTER 7 FILING FEES.

(a) Amendments to Title 11 of the United States Code.—

(1) Compensation of chapter 7 trustees.—Section 330(b)(1) of title 11, United States Code, is amended—

(A) by striking "$45" and inserting "$100", and

(B) by inserting before the period at the end the following:

", except that such amount shall be adjusted by the amount (if any) of such filing fee waived under the 2d sentence of section 1930(f)(1) of title 28".

(2) Related amendments.—Section 330(b) of title 11, United States Code, is amended—

(A) by striking "(1)", and

(B) by striking paragraph (2).

(b) Amendments to Title 28 of the United States Code.—

(1) Chapter 7 filing fee.—Section 1930 of title 28 of the United States Code, as amended by section 10101 of Public Law 109–171, is amended—

(A) in subsection (a)(1)(A) by striking "$245" and inserting "$300", and

(B) in subsection (f)(1) by inserting after the 1st sentence the following:

"Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court shall waive $40 of the filing fee required by subsection (a) in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income not less than 150 percent, and not more than 175 percent, of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.".

(2) United states trustee fund.—Section 589a(b)(1)(A) of title 28, United States Code, is amended by striking "40.46 percent of the fees collected under section 1930(a)(1)(A)" and inserting "29.67 percent of the sum of the amount of fees collected under section 1930(a)(1)(A) and the amount of fees waived under the 2d sentence of section 1930(f)(1)".

(c) Related Amendment Regarding Collections and Deposits of Miscellaneous Bankruptcy Fees.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking "28.87 percent of the fees collected under section 1930(a)(1)(A) of that title" and inserting "21.17 percent of the sum of the amount of fees collected under section 1930(a)(1)(A) of that title and the amount of fees waived under the 2d sentence of section 1930(f)(1) of that title".

(d) Conforming Amendment.—Section 10101(a) of Public Law 109–171 is amended by striking paragraph (2).

(e) Effective Date: Application of Amendments.—The amendments made by this section shall take effect 120 days after the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before the date such amendments take effect.

SEC. 8. SCOPE OF APPLICATION.

Subject to section 7(e), the amendments made by this Act shall not apply to any cases commenced under title 11, United States Code, or appointments made under any Federal or State law, before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. McHenry) and the gentlewoman from Florida (Ms. Wasserman Schultz) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. McHENRY. Madam Speaker, I certainly appreciate the opportunity to speak about the Financial Netting Improvement Act of 2006, a piece of legislation that I, along with my colleague from Florida, Debbie Wasserman Schultz, have sponsored and have brought through the committee process to the floor here today.

I first want to commend both the chairman of the Financial Services Committee, Mike Oxley, for his leadership on this important issue, as well as the ranking Democrat, Barney Frank of Massachusetts, for his leadership and support on this issue as well.

It is certainly an interesting opportunity, Madam Speaker, for a freshman Member of the House to be on this floor and sponsoring a piece of legislation with a colleague from across the aisle who is also a freshman.

And it is also personally interesting to me because, on the opening day of Congress, we were described as the Yin and the Yang of the 109th Congress. At that point, I thought it would be an interesting opportunity to sponsor legislation with what USA Today deemed my polar opposite.

While we may be opposites on a number of issues, we do have similar values, and that is the value of good government. We do serve on the Financial Services Committee together as well. And she, as well as I, had the conversation earlier on that it would be exciting for us to sponsor legislation together. This is a wonderful opportunity. I want to thank her for her friendship and help.

Having said those things about her, some of her liberal colleagues may find her suspect. But I would say that she has been a fantastic leader for the other party and a strong legislator here in the House as well as her previous experience in Florida.

The Financial Netting Improvement Act of 2006 makes technical changes to the netting and financial contracts safe harbor provisions of the Federal Deposit Insurance Act, the Federal Credit Union Act, the Federal Deposit Insurance Corporation Improvement Act, and the Bankruptcy Code.

Broadly speaking, these safe harbor provisions allow certain types of creditors to exercise their self-help rights to terminate defined financial market contracts like swap agreements and exercise their offset rights and choose on how to deal with the foreclosure on collateral free from the power of a receiver or bankruptcy trustee that would otherwise impair the exercise of those rights.

Certainly after explaining the bill, it is a technical bill; and, broadly speaking, this is a necessarily technical correction that the other side of the aisle, as well as our side of the aisle, the President's Working Group on Financial Markets and all of the stakeholders have come to agreement on. I look very much forward to the House approving this measure tonight.

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Madam Speaker, I reserve the balance of my time.

Ms. WASSERMAN SCHULTZ. Madam Speaker, I yield myself as much time as I may consume, and first, let me thank Chairman OXLEY and Ranking Member FRANK for their stalwart leadership on this and many other issues that have come before the Financial Services Committee in the 109th Congress. Chairman OXLEY has heard us say many times, but we will truly miss him after he retires. I believe that the combined leadership that he and my good friend, Ranking Member FRANK, have displayed have set the tone for the rest of us on the Financial Services Committee, as well as the staff.

I, too, am pleased to stand here with my good friend and fellow freshman colleague, the gentleman from North Carolina (Mr. MCHENRY). I made the mistake of telling him that I was going to try to have a little bit of fun in the back and forth here, and I think I could best characterize our professional relationship as being the odd couple. So it is a great day that we have the opportunity to come together on this netting legislation.

I can tell you that we want to make sure on our side that Ranking Member FRANK has suggested that we make sure the people understand that even though we have the next generation of Members managing the time on this bill, people should understand we are not high school kids. We are actually real live Members of Congress, you and I, and came here like everybody else.

I am pleased to join Mr. MCHENRY as an original cosponsor of H.R. 5585, and I am very pleased that we were able to come together on legislation because we have talked about that for a long time.

We could not have brought this bill to the floor without the support of the House Judiciary Committee on which I also sit, and I want to especially thank Subcommittee Ranking Member MEL WATT for working with us, also a gentleman from North Carolina, and for agreeing to help us move this bill forward.

As you know, as the gentleman from North Carolina has said, netting is simply the manner in which debts and credits are calculated between parties, and it is a critically important tool to unravel complex financial transactions which have, until now, been denied to our Nation's financial institutions.

This is in spite of broad-based, bipartisan support. In fact, the origin of this legislation is grounded in the collapse of the infamous hedge fund, Long Term Capital Management, after which former Federal Reserve Board Chairman Alan Greenspan implored Congress to pass the netting provision. Netting was also supported by the former Clinton and the current Bush administrations.

The primary goal of our legislation is to minimize systemic risks in situations when the procedure for resolving a single insolvency could trigger other failures elsewhere in the market.

H.R. 5585 protects the rights of market participants to terminate complex financial agreements. It also ensures that the Federal Government, like private entity creditors, will be able to enforce and net out qualified contracts with financial institutions during insolvency proceedings.

Additionally, this bill includes a fee increase provision in order to pay bankruptcy trustees.

I want to thank my good friend and colleague Congressman WATT for working us with. At his request, this bill was modified in two respects, and as a result of those modifications, Madam Speaker, more debtors will be eligible for the fee waiver.

However, the fundamental issue before to us today is support for netting provisions in the bankruptcy settlement of major market participants.

I encourage my colleagues to support this bill, and I ask our colleagues in the Senate to act on this before the end of the 109th Congress. This bill would codify commonsense business practices. These provisions have a long bipartisan legislative history in Congress, which continues today.

It is a privilege to work with Mr. MCHENRY, and there is no reason for us to stall any further. I know you join me in urging the Senate to take action on this bill after we do.

Madam Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. MCHENRY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MCHENRY. Madam Speaker, I am prepared to yield back. I have no further speakers on this side, but before I close, I simply want to commend my colleague from Florida. It has been a delight working with her and resolving some of the more technical issues in this piece of legislation that popped up late in the committee process, but she was very adept at handling those issues, and I want to thank her for her leadership.

Ms. WASSERMAN SCHULTZ. Madam Speaker, I, too, have no further requests for time, and I want to reiterate the comments of my colleague from North Carolina. It has been a pleasure to work with him, and I look forward to this being the first of many opportunities to do that.

Mr. CANNON. Mr. Speaker, the Committee on the Judiciary recognizes that the courts, United States Trustees, and chapter 7 trustees have responsibilities in all chapter 7 cases, including cases where the filing fees are waived under 28 U.S.C. section 1930(f). The bill before the House would amend the act to permit a court to waive an additional $40 of the filing fee designated for payment to the trustee, under specified circumstances. This would be in addition to provisions under current law that permit a court to waive the entire filing fee for qualified low income debtors under specified circumstances. The committee is aware that such waivers could have an impact on the courts, the United States Trustees, and chapter 7 trustees. Accordingly, the courts and U.S. Trustees should closely monitor the impact of such waivers on those entities dependent on fee income and should report to the Congress.

Ms. WASSERMAN SCHULTZ. Madam Speaker, I yield back the balance of my time.

Mr. MCHENRY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. McHENRY) that the House suspend the rules and pass the bill, H.R. 5585, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMUNITY DEVELOPMENT INVESTMENT ENHANCEMENTS ACT OF 2006

Mr. McHENRY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6062) to enhance community development investments by financial institutions, and for other purposes.

The Clerk read as follows:

H.R. 6062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Development Investment Enhancements Act of 2006".

SEC. 2. ENHANCING THE AUTHORITY FOR NATIONAL BANKS TO MAKE COMMUNITY DEVELOPMENT INVESTMENTS.

(a) NATIONAL BANKS.—The last sentence in the paragraph designated as the "Eleventh." of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended—

(1) by striking "10 percent" each place such term appears and inserting "15 percent"; and

(2) by adding at the end the following new sentence: "The preceding standards and limitations apply to each investment under this paragraph made by a national bank directly and by its subsidiaries.".

(b) STATE MEMBER BANKS.—The last sentence of the 23rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended—

(1) by striking "10 percent" each place such term appears and inserting "15 percent"; and

(2) by adding at the end the following new sentence: "The preceding standards and limitations apply to each investment under this paragraph made by a State member bank directly and by its subsidiaries.".

SEC. 3. INVESTMENTS BY FEDERAL SAVINGS ASSOCIATIONS AUTHORIZED TO PROMOTE THE PUBLIC WELFARE.

(a) IN GENERAL.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended by adding at the end the following new subparagraph:

"(D) DIRECT INVESTMENTS TO PROMOTE THE PUBLIC WELFARE.—

"(i) IN GENERAL.—A Federal savings association may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families through the provision of housing, services, and jobs.

"(ii) DIRECT INVESTMENTS OR ACQUISITION OF INTEREST IN OTHER COMPANIES.—Investments under clause (i) may be made directly or by purchasing interests in an entity primarily engaged in making such investments.

"(iii) PROHIBITION ON UNLIMITED LIABILITY.—No investment may be made under this subparagraph which would subject a Federal savings association to unlimited liability to any person.

"(iv) SINGLE INVESTMENT LIMITATION TO BE ESTABLISHED BY DIRECTOR.—Subject to clauses (v) and (vi), the Director shall establish, by order or regulation, limits on—

"(I) the amount any savings association may invest in any 1 project; and

"(II) the aggregate amount of investment of any savings association under this subparagraph.

"(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus, unless—

"(I) the Director determines that the savings association is adequately capitalized; and

"(II) the Director determines, by order, that the aggregate amount of investments in a higher amount than the limit under this clause will pose no significant risk to the affected deposit insurance fund.

"(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 15 percent of the savings association's capital stock actually paid in and unimpaired and 15 percent of the savings association's unimpaired surplus.

"(vii) INVESTMENTS NOT SUBJECT TO OTHER LIMITATION ON QUALITY OF INVESTMENTS.—No obligation a Federal savings association acquires or retains under this subparagraph shall be taken into account for purposes of the limitation contained in section 28(d) of the Federal Deposit Insurance Act on the acquisition and retention of any corporate debt security not of investment grade.

"(viii) APPLICABILITY OF STANDARDS TO EACH INVESTMENT.—The standards and limitations of this subparagraph shall apply to each investment under this subparagraph made by a savings association directly and by its subsidiaries.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5(c)(3)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended to read as follows:

"(A) [Repealed]".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. McHENRY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina.

GENERAL LEAVE

Mr. McHENRY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. McHENRY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today the House will consider H.R. 6062, the Community Development Investment Enhancements Act of 2006.

I first want to commend Chairman OXLEY and Ranking Member FRANK for their leadership on the Financial Services Committee for introducing this legislation.

It is comprised of two major provisions from H.R. 3505, the Financial Services Regulatory Relief Act of 2005, which the House passed last March by a vote of 415–2. H.R. 3505 provides comprehensive regulatory relief to the financial services industry and its regulators. Those two sections were not included in the Senate-passed regulatory relief bill, S. 2856.

H.R. 6062 increases the authority of banks and, for the first time, gives authority to thrifts to invest in projects that benefit low- and moderate-income communities throughout the Nation. Existing authority for banks has already resulted in banks making more than $16 billion worth of investments since the law was enacted in 1992. Those investments provide housing, community services, as well as jobs, and many of them help banks meet their obligations under the Community Reinvestment Act.

The amount of investments that any one bank can make is limited to 5 percent of its capital and surplus, unless the Comptroller of the Currency determines that a higher amount will pose no significant risk to the deposit insurance fund and the bank is adequately capitalized.

However, in no case may OCC permit a bank's aggregate investments to exceed 10 percent. Some banks are approaching the limit. This bill raises the ceiling to 15 percent for banks. Currently, Federal thrift institutions have no such authority, but H.R. 6062 grants thrifts, overseen by the Office of Thrift Supervision, the same authority as banks.

Madam Speaker, I urge my colleagues to support passage of 6062.

Madam Speaker, I retain the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself 2 minutes.

The gentleman from North Carolina has more than adequately explained it. I do just want to comment on the procedure.

A version of this is included in the earlier bill we passed today providing regulatory relief. We have two versions. This is the way it should be. What we did earlier is what the Senate will accept. So it was important for us to show what it should be. The Senate will go apparently part of the way. There have been negotiations and conversations. There were things in there, like including thrifts, that the Senate was not willing to accept; but there will be another legislative session.

It seems to me the better part of wisdom and better part of public policy is to take what we can now, and that is what we have done. I think this will prove to be a good thing and that it will help us make the case for, in fact, doing everything that we wanted to do.

I just at this point, Madam Speaker, include into the RECORD letters in support of the original bill, but also obviously in favor of the other version that we did because that is all we could get through on the other side from the Office of Thrift Supervision and the Comptroller of the Currency.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, September 25, 2006.

Hon. BARNEY FRANK
Ranking Member, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FRANK: I want to thank you for your work on H.R. 6062, the "Community Development Investment Enhancements Act of 2006," and offer my support for your bill. Originally included as Sections 202 and 112 of H.R. 3505, the "Financial Services Regulatory Relief Act of 2005," which passed the full House of Representatives, this legislation is especially important to supporting important community development programs.

In particular, your bill increases the ability of federal thrifts to make investments primarily designed to promote the public welfare of low- and moderate-income communities and families through the provision of housing, services, and jobs. H.R. 6062 accomplishes this by raising the limits on the ability of federal thrifts to invest in entities primarily engaged in making these public welfare investments.

While we are encouraged that the original Regulatory Relief Act, H.R. 3505, may be enacted in the next few weeks, we strongly support passage of H.R. 6062 as a freestanding bill if it is not included in the broader package. Just as it is important to reduce burdens on financial institutions in order to remove unnecessary regulatory obstacles that hinder profitability, innovation, and competition in our financial services industry, it is equally important to remove barriers to the growth and stability of low- and moderate-income communities.

Thank you for your leadership and continued interest is this issue. We applaud your efforts and urge swift action on H.R. 6062. If you have any questions, please do not hesitate to contact me or Kevin Petrasic, Managing Director of External Affairs, at 202–906–6452.

Respectfully yours,
JOHN M. REICH,
Director.

ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, September 18, 2006.

Hon. BARNEY FRANK,
Ranking Member, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FRANK: Thank you for joining with Financial Services Committee Chairman MICHAEL G. OXLEY to introduce H.R. 6062, which would increase the authority of banks and thrifts of all charter types to invest in projects which benefit low- and moderate-income communities. I have previously indicated my strong support for provisions like those in H.R. 6062, and I strongly support this legislation as well.

Changes in national bank investment authority provided by H.R. 6062 have the potential to support as much as $30 billion in aggregate private investment to help revitalize local communities across the nation. The legislation offers a unique opportunity to boost community redevelopment through private sector investments. Commitments by national banks under existing authority have a proven track record of success with over $16 billion of investments in community development in every state in the nation—without the use of *any* taxpayer funds. A list of examples of such investments by national banks is enclosed.

Increasing allowable investments by banks and thrifts from 10% of capital and surplus to 15% will enhance the flow of funds for critically needed community development initiatives that benefit our nation's economically disadvantaged communities and families. I urge prompt passage of H.R. 6062.

Sincerely,
JOHN C. DUGAN,
Comptroller of the Currency.

Enclosure.

EXAMPLES OF BANK INVESTMENTS MADE UNDER THE NATIONAL BANK PUBLIC WELFARE INVESTMENT AUTHORITY (12 USC 24 (ELEVENTH))

Birmingham Community Development Corporation (Birmingham, Alabama) is a certified Community Development Financial Institution that makes loans to and investments in disadvantaged businesses.

Loussac-Sogn Apartments (Anchorage, Alaska) are operated by the Anchorage Neighborhood Housing Services (a member of NeighborWorks® America) and provide single-room occupancy (SRO) housing and support services for low-income individuals.

Arizona MultiBank Community Development Corporation (Phoenix, Arizona) provides financial and technical assistance for affordable housing, small business development, and economic development in Arizona.

Little Rock Housing Redevelopment built Madison Heights III in Little Rock, Arkansas—a 60 unit mixed income affordable housing project using Low Income Housing Tax Credits. The National Equity Fund, an affiliate of Local Initiatives Support Corporation, syndicated the tax credits through the National Equity Fund 2003.

Bay Area Smart Growth Fund (San Francisco, California) is a commercial real estate equity fund created to invest in 46 low- and moderate-income neighborhoods in the greater San Francisco Bay Area. The fund invests in retail, commercial, and industrial development as well as multi- and single-family housing.

Funding Partners for Housing Solutions (Denver, Colorado) is a certified Community Development Financial Institution which helps to provide gap financing for affordable housing development projects serving low- and moderate-income individuals in Colorado.

Community Development Trust financed the Park City Residential Care Home which provides affordable assisted living to 50 low- to moderate-income senior citizens. Development of the facility involved the rehabilitation of an historic building located on the west side of Bridgeport, Connecticut.

Delaware Community Investment Corporation (DCIC) is a multibank community development corporation that provides permanent financing and investment equity for affordable rental housing and commercial facilities. In addition, DCIC provides bridge loans and site acquisition loans for enterprises that provide services to underserved communities.

CF New Markets Advisors (Washington, DC) is a commercial real estate investment fund using New Markets Tax Credits that will provide debt and equity financing to support the development of urban retail, office, industrial, mixed-use, for-sale housing, and community facility projects.

Black Business Investment Fund is a nonprofit CDFI operating in eight Florida cities that specializes in aiding minority business owners in building their management capacity and in accessing capital.

Omni Community Development Corporation (Atlanta, GA) acquires and rehabilitates residential properties in low- and moderate-income areas.

Hale Makana o' Waiale Apartments (Maui, Hawaii)—CRA Fund Advisors purchased municipal bonds financing this rental property that will serve families earning less than 50 percent of area median income.

Tri-County Community Development Corporation (Beardstown, Illinois) is a multibank community development corporation that provides equity and debt financing to small businesses.

Great Lakes Capital Fund invests in Low Income Housing Tax Credit funded affordable housing projects in Indiana, Michigan, and Wisconsin. Building upon its initial support from the Enterprise Foundation and the Enterprise Social Investment Corporation, the Capital Fund has developed a wide array of technical and financial services including: community and project planning, predevelopment financing, construction and permanent loans, youth leadership programs, and equity investments.

Floyd County Progressive Growth Limited Partnership (Charles City, Iowa) developed a commercial industrial park in a state-sponsored Enterprise Zone to attract manufacturing facilities to this rural community.

Goodland Energy Center (Goodland, Kansas) consists of ethanol and biodiesel refineries located in a declining population area that has been plagued by drought and suffered the loss of railroad service and the closing of a sugar beet processing plant. These refineries will employ 65 people and create an additional 35 transportation and service-related jobs. The projects have the added benefit of increasing demand for locally grown corn, milo, and canola.

Houma-Terrebonne Community Development Corporation (Louisiana) is a multibank CDC formed to build or rehabilitate homes that will be sold to low- and moderate-income families.

Coastal Ventures (Wiscasset, Maine) is a financing arm of Coastal Enterprises—a CDFI that provides support in the development of job-creating small businesses, natural resource industries, community facilities, and affordable housing.

Lexington Terrace Townhomes (Baltimore, Maryland) were built on the site of a 670-unit public housing project These 203 affordable rental townhomes utilize Low Income Housing Tax Credits and are helping to revitalize this West Baltimore community.

Parren J. Mitchell Business Center (Baltimore, Maryland) is a commercial office facility in a low-income community co-owned and co-developed by a neighborhood-based community development corporation (CDC) and a national bank-owned CDC.

Massachusetts Housing Investment Corporation (Boston, Massachusetts) provides a broad array of debt and equity financing products to nonprofit and for-profit sponsors of affordable housing and commercial real estate developments located in low-income communities.

Minnesota Investment Network Corporation is a Community Development Financial Institution organized as a community development venture capital fund to provide equity capital and expertise to companies located in Minnesota.

Southeast Mississippi Community Investment Corporation is a nonprofit organization dedicated to job creation, business creation, and expansion and support of non-traditional business loan seekers, as well as the expansion of job opportunities for low- and moderate-income individuals.

Nevada Business League Community Development Corporation (Vernon County, Missouri) invested in the renovation of a commercial building in an industrial park as part of a government sponsored economic development initiative.

Equity Fund of Nebraska provides equity for affordable housing projects located in the State of Nebraska using the Low Income Housing Tax Credit. The fund is a subsidiary of the Midwest Housing Equity Group—nonprofit corporation which raises money to invest in affordable housing throughout the states of Nebraska, Iowa, Oklahoma, and Kansas.

Community Loan Fund of New Jersey provides financing for community services and businesses, including child care, health care, educational facilities, and social enterprises.

Ammonoosuc Green Limited Partnership (Littleton, New Hampshire) is an affordable housing project using Low Income Housing Tax Credits. This project was sponsored by the nonprofit group, Affordable Housing Education and Development (a member of NeighborWorks® America) and is part of this rural community's downtown revitalization initiative.

ACCION New Mexico is a small business micro-loan program which provides financing to small businesses, particularly minority-owned small businesses and businesses located in economically disadvantaged areas.

Rural Housing Action Corporation built Stanton Meadows Townhomes—a 24-unit affordable housing development in Seneca Falls, New York. The project utilized Low Income Housing Tax Credits which were syndicated by the National Equity Fund, an affiliate of Local Initiatives Support Corporation.

Community Affordable Housing Equity Corporation finances the development of affordable multifamily rental housing using Low-Income Housing Tax Credits in the states of North Carolina, South Carolina, West Virginia, Tennessee, Kentucky, Maryland, and Virginia.

Raymond James Native American Tax Credit Fund invests in Low Income Housing Tax Credit-funded affordable housing projects located on or near Native American reservations, sponsored by Native American tribes or their affiliates. (Lapwai, Idaho (Nez Perce); Browning, Montana (Blackfeet Nation); Belcourt, North Dakota (Turtle Mountain); Wagner, South Dakota (Yankton-Sioux Tribe); Keshena, Wisconsin (Menominee Indian Tribe of Wisconsin); Riverton, Wyoming (Northern Arapaho Tribe of the Wind River Indian Reservation); Bellingham, Washington (Lummi Nation); various locations in Oklahoma (Cherokee Nation)).

Longwood Plaza Shopping Center (Cleveland, Ohio) is in a low-income community and was renovated by a nonprofit community development corporation using New Markets Tax Credits.

Oregon Equity Fund provides equity for affordable housing projects located in the State of Oregon using the Low Income Housing Tax Credit.

The Reinvestment Fund (Philadelphia, Pennsylvania) provides financing primarily to community organizations for affordable housing development, community facilities, and working capital.

Omni Development Corporation built Waterview Apartments—a 100-unit affordable housing project for senior citizens in Woonsocket, Rhode Island. The project utilized Low Income Housing Tax Credits which were syndicated by the National Equity Fund, an affiliate of Local Initiatives Support Corporation.

The Texas Mezzanine Fund is a statewide community development financial institution that provides financing for businesses located in distressed areas, minority-owned businesses, and small businesses that create jobs for low and moderate-income people.

Utah Microenterprise Loan Fund is a nonprofit, multibank community development financial institution which provides financing and management support to entrepreneurs in start-up and existing firms that do not have access to traditional funding sources—in particular, those who are socially and economically disadvantaged.

Depot Square Revitalization (Barre, Vermont) used Historic Rehabilitation Tax Credits to renovate a commercial facility on the historic town square in Barre, Vermont. This investment was part of a city-driven initiative to rejuvenate its downtown area.

Madam Speaker, I yield back the balance of my time.

Ms. WATERS. Madam Speaker, I rise in support of H.R. 6062, "the Community Development Enhancements Act of 2006." I want to thank Mr. FRANK for sponsoring this bill, and our distinguished Chairman Mr. OXLEY, who is an original sponsor of the bill. The bill will enhance the community development investments made by financial institutions.

The bill has two major provisions. One provision would increase the amount of investments that a financial institution can make for community development from 10 percent to 15 percent. This increase in the amount that banks can invest in such activities will enable the banks to invest more of its resources in investments that will directly benefit communities and low and moderate income persons.

Another provision directs portions of the investments made by the financial institutions to promote the public welfare. Citing the actual legislation, the financial institutions "may make investments designed primarily to promote the public welfare, including the welfare of low and moderate income communities and families through housing, services and jobs."

The changes mandated by this bill send a clear message to financial institutions that the needs of low and moderate income communities and families are important. More often than not, these groups are overlooked or their needs underestimated. In addition, the bill enables our financial institutions to look at investments on an investment by investment basis rather than in the aggregate.

Madam Speaker, I urge my colleagues to support H.R. 6062, because it will strengthen investment in low and moderate income communities across this Nation. Financial institutions must continue to play a role in strengthening and stabilizing our communities and this bill will facilitate both.

Mr. MCHENRY. Madam Speaker, I urge my colleagues to support this important piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. MCHENRY) that the House suspend the rules and pass the bill, H.R. 6062.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FINANCIAL SERVICES REGULATORY RELIEF AMENDMENTS ACT OF 2006

Mr. MCHENRY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6072) to amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, and for other purposes.

The Clerk read as follows

H.R. 6072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Services Regulatory Relief Amendments Act of 2006".

SEC. 2. AMENDMENTS RELATING TO NONFEDERALLY INSURED CREDIT UNIONS.

(a) IN GENERAL.—Subsection (a) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is amended by adding at the end the following new paragraph:

"(3) ENFORCEMENT BY APPROPRIATE STATE SUPERVISOR.—Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.".

(b) AMENDMENT RELATING TO DISCLOSURES REQUIRED, PERIODIC STATEMENTS AND ACCOUNT RECORDS.—Section 43(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(1)) is amended by striking "or similar instrument evidencing a deposit" and inserting "or share certificate".

(c) AMENDMENTS RELATING TO DISCLOSURES REQUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2)) is amended to read as follows:

"(2) ADVERTISING; PREMISES.—

"(A) IN GENERAL.—Include clearly and conspicuously in all advertising, except as provided in subparagraph (B); and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

"(B) EXCEPTIONS.—The following need not include a notice that the institution is not federally insured:

"(i) Statements or reports of financial condition of the depository institution that are required to be published or posted by State or Federal law or regulation.

"(ii) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.

"(iii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.".

(d) AMENDMENTS RELATING TO ACKNOWLEDGMENT OF DISCLOSURE.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS OBTAINED OTHER THAN THROUGH A CONVERSION OR MERGER.—With respect to any depositor who was not a depositor at the depository institution before the effective date of the Financial Services Regulatory Relief Amendments Act of 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgment that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking Federal insurance after the effective date of the Financial Services Regulatory Relief Amendments Act of 2006, receive any deposit for the account of such depositor only if—

"(i) the depositor has signed a written acknowledgment described in subparagraph (A); or

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

"(C) CURRENT DEPOSITORS.—Receive any deposit after the effective date of the Financial Services Regulatory Relief Amendments Act of 2006 for the account of any depositor who was a depositor on that date only if—

"(i) the depositor has signed a written acknowledgment described in subparagraph (A); or

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the Financial Services Regulatory Relief Amendments Act of 2006, to obtain the acknowledgment.

"(D) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS AND NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—

"(i) IN GENERAL.—Transmit to each depositor who has not signed a written acknowledgment described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.".

(e) REPEAL OF PROVISION PROHIBITING NONDEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOSITS.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(f) REPEAL OF PROVISION CONCERNING NONDEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSITORY INSTITUTIONS AND CLARIFICATION OF DEPOSITORY INSTITUTIONS COVERED BY THE STATUTE.—Subsection (e)(2) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution'—

"(A) includes any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) does not include any national bank, State member bank, or Federal branch.".

(g) REPEAL OF FTC AUTHORITY TO ENFORCE INDEPENDENT AUDIT REQUIREMENT; CONCURRENT STATE ENFORCEMENT.—Subsection (f) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

"(f) ENFORCEMENT.—

"(1) LIMITED FTC ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b) and (c), and any regulation prescribed or order issued under any such subsection, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(2) BROAD STATE ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Subject to subparagraph (C), an appropriate State supervisor of a depository institution lacking Federal deposit insurance may examine and enforce compliance with the requirements of this section, and any regulation prescribed under this section.

"(B) STATE POWERS.—For purposes of bringing any action to enforce compliance with this section, no provision of this section shall be construed as preventing an appropriate State supervisor of a depository institution lacking Federal deposit insurance from exercising any powers conferred on such official by the laws of such State.

"(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisor may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this section that is alleged in that complaint.".

SEC. 3. CLARIFICATION OF SCOPE OF APPLICABLE RATE PROVISION.

Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraphs:

"(3) OTHER LENDERS.—In the case of any other lender doing business in the State described in paragraph (1), the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan, discount, or credit sale made, or upon any note, bill of exchange, financing transaction, or other evidence of debt issued to or acquired by any other lender shall be equal to not more than the greater of the rates described in subparagraph (A) or (B) of paragraph (1).

"(4) OTHER LENDER DEFINED.—For purposes of paragraph (3), the term 'other lender' means any person engaged in the business of selling or financing the sale of personal property (and any services incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

"(A) an insured depository institution; or

"(B) any person or entity engaged in the business of providing a short-term cash advance to any consumer in exchange for—

"(i) a consumer's personal check or share draft, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

"(ii) a consumer authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. McHENRY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina.

GENERAL LEAVE

Mr. McHENRY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. McHENRY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6072, the Financial Services Regulatory Relief Amendments Act of 2006, is similar to the previous legislation passed here in the House by a voice vote.

I want to start by commending Chairman OXLEY and Mr. ROSS, a former member of the Financial Services Committee, for introducing this legislation.

Like our previous legislation we considered a few moments ago here on the House floor, this is one of two provisions from H.R. 3505, the Financial Services Regulatory Relief Act of 2005, which passed this House last March by a 415–2 vote. This, too, makes minor changes to the underlying legislation that we passed previously, I should say.

H.R. 6072 would make minor changes to section 43 of the Federal Deposit Insurance Act. In 1991, Congress directed the Federal Trade Commission to regulate private deposit insurance for credit unions. Federal law allows State-chartered credit unions to have private insurance, if the State legislature has sanctioned the use of private insurance. Eight States currently allow private insurance for credit unions, including the chairman of the Financial Services Committee, his home State of Ohio. For several years, the Appropriations Committee has barred the FTC from enforcing this law. That has changed now, and the FTC is moving forward with regulations. The agency has requested, however, that we make certain changes to the statute to make their enforcement more efficient. Credit unions support this as well because it would end years of uncertainty and lack of guidance from the Federal Government.

I could go on in further description of the bill, but at this time I would be happy to hear from the ranking member of the Financial Services Committee.

Mr. Speaker, I retain the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from North Carolina has explained one of the provisions. There is another provision, and it deals with the preemption of a provision in the article of the Constitution.

Mr. Speaker, if we were talking about a provision that was statutory in the State of Arkansas or elsewhere, I would not be supportive of preemption. I do not think we should do what legislatures can do, but things have found their way into State Constitutions which it can be difficult to deal with it, and it does seem to me that this particular preemption that I understand is fairly widely supported in Arkansas, which would modify but not completely repeal restrictions on interest that can be charged, is a reasonable one. I think it would be allowed for reasonable transactions.

It would not, and is so worded, is not to allow things that are now abusive like payday loans, and this will now go to the other body and the Senators from Arkansas who decided this.

But it does seem to me that responding to this request from our colleagues to deal with something that is inappropriately, in my judgment, wedged in a Constitution because it is something that should be a matter of legislative policy, not constitutional, that it is okay.

Let me say this: if after we were to do this, if the people of that State or any other State wanted to reassert a certain limitation by legislation, I would agree that would be their right. So I do agree that we should not deal with this constitutional problem, but if they were to decide they wanted to do it legislatively, I would then be prepared to modify this.

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Mr. Speaker, I yield back the balance of my time.

Mr. MCHENRY. Mr. Speaker, before I close, I want to thank the FTC and the work of the Financial Services Committee on these provisions within this legislation. I urge my colleagues to support this bill, H.R. 6072

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BURGESS). The question is on the motion offered by the gentleman from North Carolina (Mr. MCHENRY) that the House suspend the rules and pass the bill, H.R. 6072.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THIRD HIGHER EDUCATION EXTENSION ACT OF 2006

Mr. KELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6138) to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes, as amended.

The Clerk read as follows

H.R. 6138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Third Higher Education Extension Act of 2006".

SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005 (P.L. 109-81; 20 U.S.C. 1001 note) is amended by striking "September 30, 2006" and inserting "June 30, 2007".

SEC. 3. ELIGIBLE LENDER TRUSTEE RELATIONSHIPS WITH ELIGIBLE INSTITUTIONS.

(a) AMENDMENT.—Section 435(d) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)) is amended by adding at the end the following new paragraph:

"(7) ELIGIBLE LENDER TRUSTEES.—Notwithstanding any other provision of this subsection, an eligible lender may not make or hold a loan under this part as trustee for an institution of higher education, or for an organization affiliated with an institution of higher education, unless—

"(A) the eligible lender is serving as trustee for that institution or organization as of the date of enactment of the Third Higher Education Extension Act of 2006 under a contract that was originally entered into before the date of enactment of such Act and that continues in effect or is renewed after such date; and

"(B) the institution or organization, and the eligible lender, with respect to its duties as trustee, each comply on and after January 1, 2007, with the requirements of paragraph (2), except that—

"(i) the requirements of clauses (i), (ii), (vi), and (viii) of paragraph (2)(A) shall, subject to clause (ii) of this subparagraph, only apply to the institution (including both an institution for which the lender serves as trustee and an institution affiliated with an organization for which the lender serves as trustee);

"(ii) in the case of an organization affiliated with an institution—

"(I) the requirements of clauses (iii) and (v) of paragraph (2)(A) shall apply to the organization; and

"(II) the requirements of clause (viii) of paragraph (2)(A) shall apply to the institution or the organization (or both), if the institution or organization receives (directly or indirectly) the proceeds described in such clause;

"(iii) the requirements of clauses (iv) and (ix) of paragraph (2)(A) shall not apply to the eligible lender, institution, or organization; and

"(iv) the eligible lender, institution, and organization shall ensure that the loans made or held by the eligible lender as trustee for the institution or organization, as the case may be, are included in a compliance audit in accordance with clause (vii) of paragraph (2)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to any loan under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) disbursed before January 1, 2007.

SEC. 4. HISPANIC-SERVING INSTITUTIONS.

(a) DEFINITION CHANGES.—Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended —

(1) in paragraph (5)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A);

(B) in subparagraph (B) —

(i) by striking "at the time of application,"; and

(ii) by inserting "at the end of the award year immediately preceding the date of application" after "Hispanic students";

(C) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(D) by striking subparagraph (C); and

(2) by striking paragraph (7).

(b) WAIT-OUT PERIOD ELIMINATED.—Section 504(a) of such Act (20 U.S.C. 1101c(a)) is amended to read as follows:

"(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.".

SEC. 5. GUARANTY AGENCY ACCOUNT MAINTENANCE FEES.

Section 458(b) of the Higher Education Act of 1965 (20 U.S.C. 1087h(b)) is amended by striking "shall not exceed" and inserting "shall be calculated on".

SEC. 6. CANCELLATION OF STUDENT LOAN INDEBTEDNESS FOR SURVIVORS OF VICTIMS OF THE SEPTEMBER 11, 2001, ATTACKS.

(a) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE PUBLIC SERVANT.—The term "eligible public servant" means an individual who, as determined in accordance with regulations of the Secretary—

(A) served as a police officer, firefighter, other safety or rescue personnel, or as a member of the Armed Forces; and

(B) died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

(2) ELIGIBLE VICTIM.—The term "eligible victim" means an individual who, as determined in accordance with regulations of the Secretary, died (or dies) or became (or becomes) permanently and totally disabled due to injuries suffered in the terrorist attack on September 11, 2001.

(3) ELIGIBLE PARENT.—The term "eligible parent" means the parent of an eligible victim if—

(A) the parent owes a Federal student loan that is a consolidation loan that was used to repay a PLUS loan incurred on behalf of such eligible victim; or

(B) the parent owes a Federal student loan that is a PLUS loan incurred on behalf of an eligible victim.

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

(5) FEDERAL STUDENT LOAN.—The term "Federal student loan" means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965.

(b) RELIEF FROM INDEBTEDNESS.—

(1) IN GENERAL.—The Secretary shall provide for the discharge or cancellation of—

(A) the Federal student loan indebtedness of the spouse of an eligible public servant, as determined in accordance with regulations of the Secretary, including any consolidation loan that was used jointly by the eligible public servant and his or her spouse to repay the Federal student loans of the spouse and the eligible public servant;

(B) the portion incurred on behalf of the eligible victim (other than an eligible public servant), of a Federal student loan that is a consolidation loan that was used jointly by the eligible victim and his or her spouse, as determined in accordance with regulations of the Secretary, to repay the Federal student loans of the eligible victim and his or her spouse;

(C) the portion of the consolidation loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim; and

(D) the PLUS loan indebtedness of an eligible parent that was incurred on behalf of an eligible victim.

(2) METHOD OF DISCHARGE OR CANCELLATION.—A loan required to be discharged or canceled under paragraph (1) shall be discharged or canceled by the method used under section 437(a), 455(a)(1), or 464(c)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)), whichever is applicable to such loan.

(c) FACILITATION OF CLAIMS.—The Secretary shall—

(1) establish procedures for the filing of applications for discharge or cancellation under this section by regulations that shall be prescribed and published within 90 days after the date of enactment of this Act and without regard to the requirements of section 553 of title 5, United States Code, and section 437 of the General Education Provisions Act (20 U.S.C. 1232); and

(2) take such actions as may be necessary to publicize the availability of discharge or cancellation of Federal student loan indebtedness under this section.

(d) AVAILABILITY OF FUNDS FOR PAYMENTS.—Funds available for the purposes of making payments to lenders in accordance with section 437(a) for the discharge of indebtedness of deceased or disabled individuals shall be available for making payments under section 437(a) to lenders of loans as required by this section.

(e) APPLICABLE TO OUTSTANDING DEBT.—The provisions of this section shall be applied to discharge or cancel only Federal student loans (including consolidation loans) on which amounts were owed on September 11, 2001, except that nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) DEADLINES AND PROCEDURES.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098(a)) shall not apply to any regulations required by this section.

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (P.L. 109–171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. KELLER) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

GENERAL LEAVE

Mr. KELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 6138.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. KELLER. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 6138, the Third Higher Education Extension Act of 2006.

Some of the most important programs in the Higher Education Act, such as Pell Grants and Perkins student loans, are set to expire on September 30, 2006. Pell Grants and Perkins loans are the passports out of poverty for millions of worthy young people, and they deserve to be reauthorized. H.R. 6138 ensures that these provisions will not expire at the end of this fiscal year by extending them for another 9 months, through June 30, 2007.

While the House acted on permanent reauthorization of the Higher Education Act by passing H.R. 609, the College Access and Opportunity Act, in March of this year, the Senate has not yet acted. The Senate should soon act to pass their reauthorization bill so we can negotiate a final bill and have these important higher education reforms signed into law. In the meantime, Mr. Speaker, this extension will allow the important programs of the Higher Education Act to continue past their current September 30, 2006, expiration date.

In addition to extending the programs under the Higher Education Act, H.R. 6138 includes additional provisions to benefit students and institutions. Specifically, it reduces red tape for Hispanic-serving institutions by eliminating the 2-year wait-out period between grant applications. The extension repeals an outdated and burdensome requirement that Hispanic-serving institutions document the percentage of low-income students enrolled at the institution.

H.R. 6138 also eliminates the ability of schools to circumvent the new school-as-lender restrictions by forming an eligible lender-trustee relationship. And, finally, it provides loan forgiveness to spouses and parents of those who died or became disabled in the terrorist attacks of September 11, 2001.

Mr. Speaker, I urge my colleagues to vote "yes" on H.R. 6138 because we must not break our commitment to America's students.

Mr. Speaker, I reserve the balance of my time

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of the Higher Education Extension Act.

First, I would like to recognize that there are items in here that we all agree are important and that will help students, including changes to the Hispanic-serving institutions program and loan forgiveness for 9/11 survivors and their families. These changes will ensure that Hispanic-serving institutions can continue to serve their important role in educating minority students and that families who fell victim to the terrible attacks of September 11 will have welcome financial relief.

Unfortunately, however, this extension is a reminder that we have failed to reauthorize the Higher Education Act, and H.R. 609, passed earlier this year, was only another missed opportunity to help students and families. H.R. 609 failed to restore the $12 billion raid on student aid that was included in the Budget Reconciliation Act.

These cuts come at a time when college costs are on the rise. At 4-year public colleges and universities, tuition has skyrocketed by 40 percent between 2001 and 2005. Additionally, this is really the first time that we have asked an entire generation to go deeply into debt in order to get a higher education. The typical student leaves college today with $17,500 in Federal loan debt.

Democrats would also boost the Pell Grant scholarships for students most in need. The value of Pell Grant scholarships are now worth nearly $1,000 less in inflation-adjusted terms than they were 30 years ago. My friends on the other side of the aisle may say that they have increased Pell Grants, but the only reason there is more appropriated for Pell Grants is because there are more and more students that qualify for those grants.

The only way to ensure that students receive meaningful aid through the Pell Grant program is to restore the purchasing power of the Pell Grant and significantly increase the maximum award.

Mr. Speaker, oftentimes I believe we have lost sight of what the Federal role is for higher education. It is to provide access to any and all qualified students to ensure they can get into higher education if they want to. I urge that we work together to provide real relief to students and families and reverse the raid on student aid.

Mr. Speaker, I reserve the balance of my time.

Mr. KELLER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MCKEON), the chairman of the full Education and Workforce Committee and author of the higher education reauthorization bill.

Mr. MCKEON. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 6138, a measure to extend the programs under the Higher Education Act that are set to expire at the end of this month.

I thank the chairman of the 21st Century Competitiveness Subcommittee, Mr. KELLER, for his work on this bill as well as his consistent efforts on behalf of our Nation's college students and their families. I also thank Ranking Member KILDEE for his help on this effort of getting this bill reauthorized.

Earlier this year, when the Deficit Reduction Act was signed into law, we authorized the Act's mandatory spending programs. In this process, we reduced lender subsidies, increased loan limits for students, simplified the financial aid process, and provided additional resources for needy students studying math, science, and critical foreign languages in college. And we managed to achieve all that while making certain that student aid programs operate more efficiently, saving U.S. taxpayers billions of dollars.

The House followed in March by passing the College Access and Opportunity Act. This bill would reauthorize the remaining program under the Act. Unfortunately, the Senate has not yet acted on reauthorization legislation of its own. Therefore, the measure before us simply extends these remaining Higher Education Act programs until June 30, 2007, which will give us time to finish up the bill in the next Congress.

Additionally, H.R. 6138 includes benefits for college students and institutions of higher education. For example, this legislation reduces red tape for Hispanic-serving institutions by eliminating the 2-year wait-out period between grant applications. It repeals an outdated and burdensome requirement that Hispanic-serving institutions document the percentage of low-income students enrolled at the institution.

It continues current law with respect to payments made to Guaranty Agencies so that those agencies can continue working to help students avoid defaulting on their loans.

It eliminates the ability of schools to circumvent the Deficit Reduction Act's new school-as-lender restrictions by forming an eligible lender-trustee relationship.

And it provides loan forgiveness to spouses and parents of those who died or became disabled in the September 11, 2001, attacks on our Nation.

These student benefits, coupled with H.R. 6138's extension of vital higher education programs, are worthy of our strong, bipartisan support. At the same time, I am hopeful that our friends on the other side of the Capitol will renew their commitment to a reauthorization of the Higher Education Act. These extensions, and we are now on the fifth in this Congress alone, ought to become a thing of the past.

Mr. Speaker, yesterday, Secretary of Education Spellings outlined her vision for the future of higher education, following the release of a report from the Commission she formed a year ago to recommend ways to ensure our colleges and universities meet the challenges of the 21st century. As we extend these programs today, we should also commit ourselves to review the recommendations of the Commission and work with Secretary Spellings to expand college access and strengthen the quality of higher education in this country.

As I noted, in March, the House passed a reauthorization that I believe would go a long way toward doing that, even before the report was issued. Our bill would strengthen the Pell Grant program, empower parents and students through sunshine and transparency in college costs and accreditation, improve college access programs, and much more. Now, with the new report in the mix, we have a chance to do so again in the next Congress, potentially with important improvements incorporated between now and then.

I look forward to working with my colleagues on both sides of the aisle and on both sides of the Capitol in completing our work early on in the 110th Congress. In the meantime, however, I urge my colleagues to join me in supporting this extension.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, almost 3 months ago to the day, I stood in this exact spot and spoke on the extension to the Higher Education Act, as I have done for each of the past four extensions, each time hoping it would be the last short-term measure we needed to pass before we finally produce an improved, bipartisan, and long-overdue reauthorization bill that reflects the best interests of America's college students and the families who support them.

I now rise with a different hope, and an even stronger conviction. It is now my hope that the current flawed version of the Higher Education Act reauthorization passed by the House never takes on the force of law and that during the next session of Congress, under a new majority, we can again address the Higher Ed Act and truly make it about increasing access and affordability.

Recently, Secretary Spellings' Commission on the Future of Higher Education released its final report on the status of postsecondary education. That report highlighted the dire need for increased Federal aid in the form of Pell Grants. It is puzzling that the Commission would release its findings on increasing access and affordability after the House has addressed its version of the Higher Ed Act and at the end of this budget cycle when it is too late this year to help students afford a college education.

I can only hope that the Secretary is planning on briefing the Congress on the Commission's findings and that she would respect this body enough to push for legislative remedies, rather than implementing the Commission's recommendations through negotiated rulemaking. Certainly a comprehensive strategy for postsecondary education that will meet the needs of America's future deserves congressional consideration. Otherwise, it would be an abrogation of our oversight responsibility.

Mr. Speaker, I will vote for the extension that we are considering here today, but I do not support the direction and actions of this Congress as it relates to higher education. We must do more to ensure that every qualified student has the chance to go to college. Our future depends on nothing less.

Mr. KELLER. Mr. Speaker, I will continue to reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Speaker, I rise in strong support of the Higher Education extension.

I am pleased to see that it includes bipartisan language that provides student loan forgiveness to the spouses of first responders lost or disabled in the terrorist attacks on September 11, 2001.

This year marks the fifth anniversary of 9/11. I first introduced this bill in October, 2001; and I am pleased to see that we have worked together to finally pass this provision. This is long overdue and will provide welcome financial relief to families most affected by 9/11.

Many of the heroes of 9/11 left behind families who had to contend with the loss of a loved one and tremendous financial obligations.

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The victims who died or were disabled on 9/11 had their loans forgiven, but that is not the case for their spouses. Anyone who loses a spouse faces severe financial challenges. This bill will help those who relied on their spouse's income to pay off students loans. This bill also works with parents who took out loans for their children's education.

Mr. Speaker, I really would like to say thank you to Ranking Member MILLER and his staff for the work they have done, as well as Chairman MCKEON and his staff for the hard work they have done. I truly appreciate working with them and look forward to next year when we work together to pass the higher education bill. I also thank Mr. KILDEE for helping me out on this.

Mr. Speaker, I urge my colleagues to support this important piece of legislation. Again, working on the Education Committee, we have a lot of challenges. We always face a lot of challenges. But in the end I think we will hopefully work together again when we come back in January and pass some good legislation. I think everybody cares about the children of this Nation, and together we will make it even better.

Mr. KELLER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield 5 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, while I intend to cast my vote in support of the Higher Education Act extension, I am extremely concerned about the unintended consequences on students at Nova Southeastern University in my congressional district and many other degree-seeking students that rely on financial assistance.

Nova Southeastern University is the largest independent institution of higher learning in Florida, offering the benefits of education to 25,000 students. Nova Southeastern's student body is unique. Eighty percent are evening and part-time graduate degree-seeking students who participate in the workforce while they are seeking their degree.

Nova ranks first in the Nation in awarding postgraduate degrees to Hispanic students and is among the leaders in awarding advanced degrees to African American students and disadvantaged students who depend on financial assistance to further their education.

Until earlier this year, Nova was also one of the Nation's leading participants in the School as Lenders program. This program allowed Nova to provide hundreds of millions of dollars in low-cost loans to students. Premiums from the sale of these loans provided the university with millions of dollars annually which it used to educate its students. School officials estimate that this year's premiums issued through an Eligible Lender Trustee may be worth as much as $10 million for the school.

But this is not just about one institution in south Florida. The version of H.R. 6138 that the House will vote on and ultimately pass today threatens to eliminate the ability of every school issuing loans through an Eligible Lender Trustee to control these premiums. Ultimately, the students seeking to improve their lives through higher education will bear the brunt of this change.

H.R. 6138 also eliminates the ability of school lenders and Eligible Lender Trustees to issue low-cost PLUS loans to graduate students. The expensive cost of graduate and professional school programs often requires students to withdraw multiple loans. Eliminating an important source of these loans will drive graduate students to seek more expensive loans, with greater fees and risks to the students.

While the overall goals of this legislation are noble and I support the programs that benefit so many, I encourage Members to carefully review the legislation because some of the provisions will hurt students more than help them and in some cases destroy a young person's dream of a higher education and a better future.

I understand and support this legislation but believe that not every aspect of it includes the rosy picture that has been painted here today.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time. I thank Mr. KELLER for his fine work working with us on this extension and look forward to continuing to work with him.

Mr. KELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me address a couple of things. First let me address some of the comments by the gentlewoman from Florida, my friend and colleague, Ms. WASSERMAN SCHULTZ. I appreciate the fact that she is going to vote for the ultimate bill here. Just to address some of the School as Lender issues.

All schools in the School as Lender program may continue to operate as they have been. All schools that have an Eligible Lender Trustee agreement in place may continue to operate, but they must comply with the School as Lender program requirements. It is only fair that schools that make loans to their students under the Federal student loan programs comply with the same rules, whether they provide the loans directly or through a trustee.

No student's loan is in jeopardy, every eligible student will get a loan, and it will now be a low-cost loan because of the fierce competition in the student loan market. In fact, because all schools must use the funds earned on these loans for need-based grants, students are the big winners under these rules. Indeed, Senator TED KENNEDY has written a letter to Secretary Spellings on August 1 demanding that this loophole under the School as Lender provision for those Eligible Lender Trustee agreements be eliminated.

Shame on those schools who don't want to use these funds for need-based grants for their students, but instead on their inflated administrative budgets.

Finally, let me just comment on the work that we have done on Pell Grants. Since I was elected in 2000, I can tell you, I am pretty proud of the record of this Congress, Republicans and Democrats, in terms of increasing Pell Grant funding.

Since 2000, we have increased Pell Grants by 71 percent, from $7.6 billion a year to $13 billion a year. The maximum award since 2000 has gone up from $3,300 per student to $4,050 per student. Since 2000, we have had an increase in enrollment of 36 percent, from 3.9 million students to 5.3 million students. And under the underlying Higher Education Act, we have even strengthened the Pell Grant program further. We have provided for year-round Pell Grants for the first time. We increased the authorization level to $6,000, the highest amount in history. We have also had Pell-Plus initiatives, to say if you are a high achieving low-income student, you will get an extra $1,000 your first 2 years; and in your third and fourth year, if you are a high achieving student who is Pell-eligible and you have a 3.0 GPA and you agree to major in math, science or foreign languages, you will get an additional $4,000 per year. So we have the strongest, most vibrant Pell Grant program in history. It is one that we can all be proud of.

I urge all of my colleagues to vote for this extension because truly Pell Grants and Perkins loans are the passport out of poverty for young people.

Mr. HINOJOSA. Mr. Speaker, I rise to support H.R. 6138, the third extension of the Higher Education Act. Although I would prefer that we would consider a conference report to complete the reauthorozation of the Higher Education Act. I would like to thank the chairman and ranking member for working with me and the Congerssional Hispanic Caucus to include two amendents of critical importance to Hispanic-serving institutions.

One amendment would eliminated the 2-year wait out period that interrupts HSI's ability to benefit from the title V Developing Institutions grants. The second amendment will finally put an end to the so-called "50 Percent Rule" that became an intrusive requirement mandating that Hispanic-serving institutions collect and report to the Department of Education individual information on family income and family size for every Hispanic student on campus in order to demonstrate that 50 percent of the Hispanic student enrollment meets the definiation of low income.

HSIs already are required to demonstrate that they have a high population of needy students as measured by eligibility for need-based student aid. The 50 percent rule added nothing to the targeting of funds to those with greatest need and only created an administrative nightmare that was a disincentive to participation in the title V program.

The 2-year wait out period and the 50 percent rule have been barriers that have been harmful to the HSI program to the detriment of the institutions and the students they serve. It is high time that we remove these barriers and I am pleased that we will not make our community wait until reatuhorization is complete to move forward.

I, along with my colleagues in the Congressional Hispanic Caucus, have been working for over 4 years to remove these barriers.

At the beginnin of this Congress, we introducated H.R. 761, the Next Generation Hispanic Serving Institutions Act. This legislation included both of these amendments for HSIs. Our bill also included provisions to establish a long overdue graduate program for HSIs. With the passage of H.R. 6138, we will be two thirds of the way toward our goal. It is my hope that we can complete the job before the 109th Congess adjourns.

Again, I would like to thank the chairman and ranking member as well as my good friend from New Mexico in the other body for working with us to improve the HSI program. These are very important amendments.

I urge my colleagues to support H.R. 6138.

Mr. WELDON of Pennsylvania. Mr. Speaker, I am concerned by the inclusion of provisions in this bill related to eligible trustee relationships with eligible institutions and the negative implications that these provisions will have on the availability of low-cost Federal loans and need-based grants in Pennsylvania and across the Nation.

I am also concerned that this legislation was not discussed with the affected institutions and is being brought to the floor for a vote less than a week after it was introduced.

Nearly 150 institutions of higher education participate as Federal Family Education Loan—FFEL—program lenders to their graduate and professional students, including many of the leading medical and law schools in the country. The financial benefits offered to students who borrow through their institution are better than what was available to students at the institution prior to the school becoming a lender. These institutions are required to pay the loan origination fees or reduce the interest rates that their borrowers are charged, and many institutions choose to do both.

Over the past 8 years, Widener University in my district has been able to provide nearly $8 million more in grant aid to needy students as a result of its activity as a school lender. Over 90 percent of the students at Widener require financial aid to pursue their studies. In addition, Widener also provided loans at lower costs than Sallie Mae and the big banks and has charged no up-front fees to students borrowing their loans from the university.

The provisions in H.R. 6138 would not allow school lenders to make Graduate PLUS loans to their students after December 31, 2006. The Graduate PLUS loan program has only been available since July 1, 2006, and was designed to replace graduate students' need to borrow higher-cost private loans to cover their remaining need. A number of institutions have sought to meet their borrowers' financing needs though eligible lender trustee arrangements under which a bank originates and holds loans on behalf of a trust established by the institution. The proceeds from the sale and repayment of these loans are used to help students. By continuing to deny school lenders the ability to make Graduate PLUS loans directly and stopping them from making them under trustee arrangements, the bill shifts millions of dollars from funds to help needy students to the profits of the big corporate lenders.

The inability to make Graduate PLUS will result in a loss of over $50 million need based grant aid for students at the 14 school lenders in Pennsylvania. In addition to Widener University in my district, the University of Pennsylvania, University of Scranton, Drexel, Duquesne, Carnegie Mellon, Temple, University of Pittsburgh, and seven other medical and professional schools in Pennsylvania also participate as school lenders.

In addition, the provisions also impact existing structures that have been in place for many years. A 2005 U.S. Government Accountability Office—GAO—study found a wide diversity in how these institutions finance, administer, and structure their FFEL lending programs. For example, some have used affiliated foundations as the lender because of State laws prohibiting institutions from incurring debt directly or because they have chosen to issue taxable bonds to finance their loans. Some of these arrangements involve eligible lender trustee relationships as well as affiliate organizations. The bill would not allow institutions to use or modify these types of structures after date of enactment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H.R. 6138, a bill intended to extend the programs under the Higher Education Act of 1965. The Higher Education Act—HEA—authorizes the major Federal student aid programs that are responsible for the majority of financial assistance to postsecondary students.

The provisions in this bill will ensure that the HEA will not expire at the end of this fiscal year by extending its provisions another 9 months through June 30, 2007.

In 1965, the Higher Education Act was established to help low- and middle-income students pursue higher education. Today, the Federal Government invests more than $70 billion in direct financial aid to students and families, and hundreds of millions of dollars are provided to colleges and universities so that they may better serve their students.

However, it seems as though every time we extend this crucial legislation, the provisions it contains divert the resources further and further away from where they are most needed. Eighty-six percent of high school graduates from families with incomes over $80,750 go on to college while only 57 percent of graduates from families earning less than $33,000 do so. Pell grants and student loans are supposed to help narrow this gap. And yet, when dollar amounts are scoffed at as expenses rather than investments, it is our next generation of doctors, lawyers, teachers, civil servants, and other professionals who suffer.

This will be the fifth time this Congress that we have extended the Higher Education Act. Although I am disappointed that we have not been able to reauthorize this crucial bill, I am pleased that we can manage to keep these programs active for the time being.

In addition to the existing provisions for Pell grants, teacher training, student loans, and distance education, H.R. 6138 contributes further language to increase the accessibility of higher education by: reducing red tape for Hispanic-serving institutions by eliminating the 2-year wait-out period between grant applications; continues funding payments made to guaranty agencies so that those agencies can continue working to help students avoid defaulting on their loans; provides loan forgiveness to spouses and parents of those who died or became disabled in the terrorist attacks of September 11, 2001.

I encourage my colleagues to support this bill.

Mr. KELLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. KELLER) that the House suspend the rules and pass the bill, H.R. 6138, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ESTHER MARTINEZ NATIVE AMERICAN LANGUAGES PRESERVATION ACT OF 2006

Mr. McKEON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4766) to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Esther Martinez Native American Languages Preservation Act of 2006".

SEC. 2. EXPANSION OF PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

Section 803C of the Native American Programs Act of 1974 (42 U.S.C. 2991b-3) is amended—

(1) in subsection (b)—

(A) in paragraph (5) by striking "and" at the end,

(B) in paragraph (6) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(7)(A) Native American language nests, which are site-based educational programs that—

"(i) provide instruction and child care through the use of a Native American language for at least 10 children under the age of 7 for an average of at least 500 hours per year per student;

"(ii) provide classes in a Native American language for parents (or legal guardians) of students enrolled in a Native American language nest (including Native American language-speaking parents); and

"(iii) ensure that a Native American language is the dominant medium of instruction in the Native American language nest;

"(B) Native American language survival schools, which are site-based educational programs for school-age students that—

"(i) provide an average of at least 500 hours of instruction through the use of 1 or more Native American languages for at least 15 students for whom a Native American language survival school is their principal place of instruction;

"(ii) develop instructional courses and materials for learning Native American languages and for instruction through the use of Native American languages;

"(iii) provide for teacher training;

"(iv) work toward a goal of all students achieving—

"(I) fluency in a Native American language; and

"(II) academic proficiency in mathematics, reading (or language arts), and science; and

"(v) are located in areas that have high numbers or percentages of Native American students; and

"(C) Native American language restoration programs, which are educational programs that—

"(i) operate at least 1 Native American language program for the community in which it serves;

"(ii) provide training programs for teachers of Native American languages;

"(iii) develop instructional materials for the programs;

"(iv) work toward a goal of increasing proficiency and fluency in at least 1 Native American language;

"(v) provide instruction in at least 1 Native American language; and

"(vi) may use funds received under this section for—

"(I) Native American language programs, such as Native American language immersion

programs, Native American language and culture camps, Native American language programs provided in coordination and cooperation with educational entities, Native American language programs provided in coordination and cooperation with local universities and colleges, Native American language programs that use a master-apprentice model of learning languages, and Native American language programs provided through a regional program to better serve geographically dispersed students;

"(II) Native American language teacher training programs, such as training programs in Native American language translation for fluent speakers, training programs for Native American language teachers, training programs for teachers in schools to utilize Native American language materials, tools, and interactive media to teach Native American language; and

"(III) the development of Native American language materials, such as books, audio and visual tools, and interactive media programs.",

(2) in subsection (c)—

(A) in paragraph (5) by striking "and" at the end,

(B) in paragraph (6) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(7) in the case of an application for a grant to carry out any purpose specified in subsection (b)(7)(B), a certification by the applicant that the applicant has not less than 3 years of experience in operating and administering a Native American language survival school, a Native American language nest, or any other educational program in which instruction is conducted in a Native American language.", and

(3) in subsection (e)(2) by inserting before the period the following: ", except that grants made under such subsection for any purpose specified in subsection (b)(7) may be made only on a 3-year basis".

SEC. 3. DEFINITION.

Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'average' means the aggregate number of hours of instruction through the use of a Native American language to all students enrolled in a native language immersion program during a school year divided by the total number of students enrolled in the immersion program;".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

Section 816(e) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(e)) is amended by striking "1999, 2000, 2001, and 2002" and inserting "2008, 2009, 2010, 2011, and 2012".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. McKEON) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4766.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4766, the Esther Martinez Native American Languages Preservation Act of 2006. Within the confines of existing programs under the Department of Health and Human Services' Administration for Native Americans, this measure will empower Native American tribes, organizations, colleges and governing bodies as they seek to preserve Native languages and cultures.

I would like to commend my colleague, Congresswoman HEATHER WILSON, for leading the charge on this issue. Native American tribes nationwide are struggling with the loss of their languages, and, indeed, to lose even one Native language is to lose a piece of our Nation's history.

Mrs. WILSON, along with her colleague Mr. TOM UDALL, has really done a great service to us, as she invited me to her district last month. I will mention a little bit more about that later, but I want to thank her for doing that. I also want to commend Ranking Member KILDEE, who has been a strong supporter of Native American programs forever since I came here, and I am sure much longer than that.

H.R. 4766 is being considered in the same spirit as a previous version of the legislation which was examined by our Education and Workforce Committee last month in a field hearing held in Representative WILSON's district in Albuquerque. That hearing provided us an opportunity to learn firsthand about the extent and impact of Native American language loss in New Mexico, throughout the Southwest, and across the Nation. We heard from Native American advocates, academics and students about the need to preserve their languages in the face of a dramatic decline, and today I am proud we are responding.

In that hearing we began with an invocation by a Native American Governor in his language and ended with a benediction in his language by the same Native American Governor. There was a great feeling in the room, and some people commented that they hoped this wasn't just a shot and they would never see us again and never hear from us. We are back, and we are passing the bill.

In many Native American communities, Native languages are disappearing at an alarming rate. As a matter of fact, it is estimated that only 20 indigenous languages will remain viable by the year 2050.

The link between education, language, and culture is considered by many as paramount to preserving the very identity of Native Americans. By encouraging a greater focus on Native language programs, we are not only striving to preserve that identity, but we are encouraging greater academic performance among Native American students as well. The fact that this bill does so within the confines of existing programs makes it worthy of even stronger support from this body.

Mr. Speaker, when we discuss Native American language preservation, we are not just simply talking about a method of communication within tribes. This issue is far deeper than that. It represents the preservation of an important part of our Nation's history, culture, and legacy.

By providing grants to Native American language programs consisting of language nests, survival schools and restoration programs, we are bolstering that preservation effort. This measure will empower Native Americans to take the steps they deem necessary to preserve their indigenous languages and thus their cultures.

After visiting with them last month in New Mexico, I am convinced that we not only are doing right by giving them the opportunity to preserve their languages in this way, but we are also right for working in a creative, fiscally responsible manner to preserve critical elements of our national heritage.

I urge my colleagues to join me in supporting this worthwhile legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4766, the Esther Martinez Native American Languages Preservation Act of 2006, introduced by my colleague from New Mexico, Mrs. HEATHER WILSON.

Language scholars estimate that there were approximately 300 languages spoken in North America prior to the arrival of Columbus. Some project that without intervention, only 20 indigenous languages will remain viable by the year 2050. This bill will help save Native languages, whose very survival depends upon our intervention.

Native languages are one of the treasures of this country's heritage, history, and diversity. The names of many States, cities, towns, streets, rivers and other geographical names in our country are derived from Native words. It would be a dishonor to continue to lose the languages to which we owe their origin.

Native languages have played a vital role in protecting our country in times of war, Mr. Speaker. In World War I and World War II, many brave Native Americans performed the role of "code talkers" to help protect this great country.

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We owe much of this language preservation assistance to the legacy of our heroic code talkers. The key to stemming the loss of our Native American languages is by significantly increasing support for Native American language immersion programs. In addition to developing fluent speakers, language immersion programs have other remarkable benefits. Studies are showing that native language immersion programs decrease native dropout rates and increase educational attainment compared to their counterparts without such opportunities.

Mr. Speaker, these programs are valuable in fostering self-awareness, self-esteem, social growth, and problem-solving skills which are crucial in developing confident individuals who can tackle life's challenges in developing the next generation of Native American leaders.

H.R. 4766 allows the commissioner of the Administration for Native Americans Department of Health and Human Services to award grants to support and strengthen Native American language immersion programs, including language and language restoration programs. H.R. 4766 takes an important step forward in recognizing that vital importance of the Federal Government proactively working to save an important part of our heritage.

I would be remiss if I did not point out that the allowance for this grant program is just a promise, and this promise cannot be realized without a real increase in funding from the Administration for Native Americans which has been level funded at $44 million for the last 3 years. I pledge today that if this bill should become law, I shall send a letter to the Appropriations Committee supporting the increased funding necessary to support this program. I invite Chairman MCKEON to join me in this effort. And I know that Mrs. WILSON is also concerned with this.

I urge my colleagues to support H.R. 4766. And if this bill should become law, I invite all Members to join me in supporting appropriations necessary to fulfill our promise made today.

Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I would state that I would be happy to join with the gentleman on that letter.

I am happy now to yield whatever time she may consume to the gentlewoman from New Mexico (Mrs. WILSON), the author of this bill.

Mrs. WILSON of New Mexico. At a government-run boarding school for American Indians in the 1920s, Esther Martinez was not allowed to speak Tewa, her native language. Nor could she listen to the kinds of stories that her grandfather would tell her at her native San Juan Pueblo, now known as Owingeh. The goal of the school was to assimilate American Indians, and that meant leaving the past, the stories, and the language behind. But Mrs. Martinez never did.

After graduating from high school, Mrs. Martinez raised 10 children on an income earned from working as a janitor and in other service industry jobs, and she taught her children Tewa.

Esther took linguistics classes, and in her 50s she became a teacher. She taught Tewa in the local public schools. In 1983, her dictionary of San Juan Tewa was published, and just a little more than 2 weeks ago on September 14, Esther Martinez was honored as one of 12 2006 National Heritage fellows by the National Endowment of the Arts, the highest recognition in the folk and traditional arts in America.

Two days later, as she returned to San Juan Pueblo, Esther Martinez was killed in a car accident in Espanola, New Mexico, caused by a suspected drunken driver. She was 94 years young. With the permission of her family and particularly of her grandson, Matthew, and the support of Governor Joe Garcia, I would like to honor Esther's efforts to preserve native languages by naming this bill for her.

Our native languages are dying. Only about 20 of over 300 precolonial indigenous languages will be left by the year 2050. And I wanted to thank my colleagues TOM UDALL, RICK RENZI from Arizona, and particularly Chairman MCKEON and Mr. PETRI, for taking a personal interest in this, and of course Ranking Member KILDEE for his long-time leadership on Native American education.

This bill will increase the support for Native American language so that we can create and recreate fluent speakers of native languages. It doesn't create a new program, but rather incorporates Native American needs for language nests and survivor schools and restoration programs into current authorized funds.

Mr. Speaker, not too far from this House down at the foot of Capitol Hill, we have the newest building in the Smithsonian Institution. It is a beautiful building. It is the Museum of the American Indian, and inside it we are preserving Navajo rugs and bead work and beautiful pieces of art and kachinas and fetishes. We spend millions of dollars to preserve objects from the past. This bill I ask my colleagues to support tonight preserves a living culture through the preservation of language.

Mr. Speaker, I thank the gentleman from California (Mr. MCKEON) for his support. I ask my colleagues to vote in favor of this bill.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of H.R. 4766, the Esther Martinez Native American Language Preservation Act of 2006; and I would like to thank my colleague from New Mexico (Mrs. WILSON) for introducing this important piece of legislation. It is an honor to be a cosponsor of it. I would also like to thank the gentleman from Michigan (Mr. KILDEE) for his hard work on this issue, as well as many other Members who have taken an interest in this very important issue, and also thank Chairman MCKEON who brought the committee to New Mexico.

I remember, Mr. Chairman, we were in that room and it was standing room only. I think we could have gotten a much bigger room and even a bigger crowd. But it was an enormous crowd, and I think we were all impressed, and you could see and feel the real interest in this issue in terms of native communities caring about preserving their language. So it was wonderful to have you in New Mexico and have the committee out there and TOM PETRI, the gentleman from Wisconsin, who was also there.

Mr. Speaker, we pass this legislation today with the great hope for the future, but with great sorrow for the recent past. As has been mentioned, Ms. Esther Martinez, a master storyteller from Ohkay Owingeh, a pueblo located in my district, was tragically killed on September 17, 2006. Esther was returning home from the airport on the heels of a trip to Washington, D.C. to be honored as a 2006 National Heritage Fellow by the National Endowment for the Arts. Esther was 94 years old.

She had dedicated her life to maintaining and preserving the various forms of the Tewa language. Among her Pueblo people, Esther, or Aunt Esther, as many called her, is best known for her storytelling, but also recognized for her linguistic and educational contributions. Esther taught Tewa at the San Juan Day School and for more than 20 years served as the school's director of bilingual education. She also published her stories and used them as learning tools in the classroom.

As a master of the Tewa language, she compiled Tewa dictionaries in various dialects for the Northern New Mexico Pueblos, and also translated the New Testament into Tewa.

Considering Esther's dedication to preserving her native language, it is a fitting tribute that this legislation be named after her. The importance of language and its ability to enhance the rich dynamics of our Nation's history is often overlooked. From learning the ancestry of those who came before us to passing stories down through the generations to maintaining religious, cultural, and social ties, language is fundamental. Passing this legislation today is an indication that the importance of cultivating and passing languages down to younger generations is now being recognized.

I have had the great honor of visiting the Pueblos, the Navajos and the Apaches, and others, in my district during my four terms in the Congress and learning the traditions and characteristics unique to each individual tribe. One similarity, however, is that native languages are being lost. Tribal elders are often the only ones fluent in the language as an increasing number of children are growing up in homes that speak only English.

The urgent need to protect and preserve Native American languages is clear. We must invest in their preservation by implementing immersion programs. Passage of this legislation today is an important step toward reversing that trend. I urge my colleagues to support this legislation.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding, and I thank my colleagues for what has been a very interesting, indeed moving, debate. Esther Martinez is someone I wish I had met. You have certainly done her great credit in your stirring words on the floor this evening.

It was only a couple of years ago we had a procession of horses; Native Americans dressed in their traditional clothing as we came down the Mall, part of the ceremonies attendant to the opening of the newest Smithsonian just down 100 yards from where we speak. It is and stands as ongoing testament to the rich history and culture of the native peoples of our land. But in a much broader way we need to make certain that these cultures continue to live and thrive and are passed on within the generations.

I so wish that all of my colleagues had the opportunity to attend some of the events I attend in North Dakota. We are proud to host four reservations, four tribes, each with their own distinct cultures and ceremonies, but typically begin with the flag song, an honor song, a prayer delivered by an elder and so often in the native tongue. I have often thought, what will happen when these elders are no longer with us? Will we still have the native tongue?

This legislation is a wonderful commitment of this Congress to the legitimacy of the actions to preserve native languages, and commits, in my opinion, very strategic ways to continue to advance these native languages. In listening, young children, we know just by how the brain develops, language can be so effectively taught, and then continuing that trend right through junior high and high school grounding these emerging young men and women in solid notions of their culture and their history and their native pride. It can only be as important a part of their upbringing as our own respective cultural traditions have been with ours.

So I am very proud to join the discussion tonight and urge that we pass this bill and then work, as my friend, the gentleman from Michigan (Mr. KILDEE), has mentioned to get the appropriations support behind to get the funding.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

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Mr. MCKEON. Mr. Speaker, I would like to say, seeing Mr. POMEROY from North Dakota get up and speak about this, and we have talked about this before, I had a younger brother that served a mission for our church in the Dakotas with the Indian people. He would have loved what we are doing here tonight.

Ms. BORDALLO. Mr. Speaker, I rise in support of H.R. 4766, the Esther Martinez Native American Languages Preservation Act of 2006. This is important legislation which seeks to protect, preserve, and promote indigenous languages across the United States. Among the estimated 175 indigenous languages spoken by citizens of the United States today is the Chamorro language, the indigenous language of the Chamorro people of Guam.

Ethnographers and linguists recognize the Chamorro language as belonging to the western group of the Austronesian language family. The Chamorro language has been spoken by the Chamorro people for more than 5000 years. It is a beautiful language that has survived outside influences and westernization.

Chamorro and English are the official languages of Guam. I am proud to support H.R. 4766 because it proposes to increase federal resources for Native American language immersion programs. The version of H.R. 4766 that has been brought to the House floor this evening also would amend the Native American Programs Act to authorize the Administration for Native Americans (ANA) in the Department of Health and Human Services to award grants to organizations and colleges dedicated to Native American language preservation. The bill specifically authorizes grants to establish site-based educational programs for children and their families, "survivor schools," and restoration programs.

The preservation of the Chamorro language and culture is within the current authorized mission of the ANA-administered grant programs that H.R. 4766 seeks to expand and for which it seeks to reauthorize funding. The Native American Programs Act, which H.R. 4766 seeks to amend, contains a definition for "Native American Pacific Islander" that includes the Chamorro people and our indigenous language. This definition is codified in 42 U.S.C. 2992c and should guide the ANA in administering future grant programs in accordance with this legislation should it be enacted.

Mr. Speaker, I also note for the record that H.R. 4766 has received the support of the 28th Guam Legislature. The inclusion of the Chamorro language as among the Native American languages sought to be preserved by this legislation is an important element. I urge support for H.R. 4766. I thank the sponsor of this bill, my colleague from New Mexico, Mrs. WILSON, and the Chairmen and Ranking Members of the Education and Workforce Committee, for advancing this legislation and for ensuring Guam and the Pacific Territories were included in the legislation.

Mr. BACA. Mr. Speaker, I rise today in support of H.R. 4766, the Esther Martinez Native American Languages Preservation Act of 2006.

Language is an important part of one's culture and heritage. Unfortunately, many languages are dying off at a tremendous rate. Native American languages are especially vulnerable and might soon become extinct if we do not take action to preserve them. It is predicted that by 2050, only 20 indigenous languages will remain viable in the United States.

Serving as a member of the Native American Caucus and having worked closely with the Native American communities of Southern California as a Congressman (and previously in the California State Assembly and State Senate), I am committed to helping preserve Native American language and culture.

In fact, I think Congress should take additional steps to help educate all Americans about Native American culture and traditions—and to honor the contributions that the "first Americans" have made to the larger American culture.

That's why I introduced a resolution a couple of years ago to encourage schools across the country to honor Native Americans for their contributions to American history, culture and education. The House passed this resolution, H.R. 168, during the 107th Congress.

And that's why I have been working to establish a Native American holiday. I believe that a national holiday would help raise awareness about American Indians. When I served in the California Legislature, the San Manuel Band asked me to introduce a bill calling for such a holiday. We passed it in California, and now I have introduced similar legislation, H. Res. 76, in the House of Representatives.

So I understand what is at stake today: We have a chance to prevent Native languages from disappearing forever. This is why we must pass this legislation.

Native American languages can be revitalized through language immersion programs. Language immersion programs have the ability to create fluency among students. In addition, students who participate in such programs often have higher rates of academic success then their peers who do not. This legislation therefore would be one way to raise the academic achievement of Native American students.

The Native American Language Preservation Act would contribute to an already existing Native language grant program within the Department of Health and Human Services by allocating grants for language immersion programs which would not only help keep the language alive, but also help ensure that Native languages are accessible for the next seven generations to come.

I ask my colleagues to join me in supporting H.R. 4766. Let's preserve and honor Native American heritage and save our Native languages.

Mr. PEARCE. Mr. Speaker, I rise in support of the Esther Martinez Native American Languages Preservation Act of 2006 (H.R. 4766). I would like to congratulate my colleague from New Mexico, Mrs. WILSON, for bringing this issue forward.

This is important legislation to preserve the culture and increase fluency in Native American society. Sadly, all across America, Native American languages are in rapid decline; estimates are that there may be only 20 Native American languages remaining by the year 2050. These languages are unique to our country and unique to our history. If we do not preserve them, they will disappear forever.

This bill will establish a series of grants to help preserve the language and culture of our

Native American people. This will help create programs that will teach our young people of the importance of learning the language of their ancestors and continuing to preserve the history and culture of their people.

Finally, the language programs created in this bill are locally based educational programs that will help both children learn and preserve languages in households all across America.

My constituent Dr. Christine Sims, a professor of language at the University of New Mexico, and Pueblo of Acoma tribal member says, "The future of America's first languages, those that are indigenous to this country hang in the balance of what we do as a Nation to help tribal communities preserve them. Much has been given up by countless generations of Native people in the wake of this country's expansion and growth into the great nation that it is today. It is only right and just that Congress consider the tremendous price that America's first people paid in terms of losing so much throughout the course of this nation's history, including the loss of native languages. Among America's Native language communities remaining today, the hopes and the dreams that Native elders, parents and tribes hold for their children are those which include the maintenance and revitalization of tribal heritage languages. We can do no less in this country, therefore, than to ensure that tribal communities have the opportunity and the funding resources that will help make these hopes and dreams for their children a reality.

"Today's education for the American Indian student must open the doors for youngsters to have more opportunities to learn their own languages as provided in the provisions of H.R. 4766. This bill, so aptly named for one of New Mexico's tribal elders, Mrs. Esther Martinez from San Juan Pueblo (who tragically died in a car accident this past week), would not only honor the memory of this renowned Native language advocate and leader, but as well, demonstrate the commitment that Congress is willing to make in support of the intent and purpose of the Native Languages Preservation Act.".

Again, I want to thank my New Mexico colleague, Mrs. WILSON, for bringing this bill forward, her hard work and dedication are a credit to her and she is a credit to our State.

Mr. PETRI. Mr. Speaker, throughout the country, Native American languages are experiencing a rapid decline. Of the nearly 300 native languages of the United States, only 210 are still spoken, and all too often these languages are spoken only among the elderly. This is a particularly troubling development, given the importance of Native American languages to tribal identity and culture. As such, I was pleased that Congresswoman HEATHER WILSON introduced H.R. 4766, the Native American Languages Preservation Act, which would provide federal support for programs that provide language training for young children and their families. I would also like to recognize Chairman BUCK MCKEON for the expedited manner in which he has moved this legislation.

On August 31st, I had the opportunity to travel to Albuquerque, New Mexico, to participate in a hearing held by the Education and the Workforce Committee on the "Recovery and Preservation of Native American Languages". We heard from representatives of several tribes regarding their experiences with this problem and ways in which they have attempted to preserve their native languages. Fortunately, efforts are underway to save these languages and to encourage a new generation of Native Americans to keep their languages alive as an integral part of Native American culture and identity.

I was particularly pleased that a representative from the Oneida Nation of my home state of Wisconsin was able to testify at this hearing. The Oneida have made language preservation a priority by pairing Elder native speakers with younger English-speakers to train a new generation to appreciate and preserve the traditional language. Since 1996, the Oneida have developed a Language Revitalization Program to connect their fluent Elders with trainees in a semi-immersion process that would produce speakers, and most importantly, teachers of the Oneida language.

Although tribes like the Oneida have already begun to develop programs to preserve their own languages, Congress can help other tribes create programs of their own. H.R. 4766 will provide more options for revitalization programs and take advantage of existing grants within the Administration for Native Americans Office. Mr. Speaker, I urge support for this bill and for the revitalization of native languages.

Mr. RENZI. Mr. Speaker, I would like to thank Chairman MCKEON and Ranking Member MILLER for the opportunity to speak on this important piece of legislation. I also want to thank my colleague, Congresswoman HEATHER WILSON, for her leadership on this important issue.

This bill amends the Native American Programs Act to allow the Administration for Native Americans under the Dept. of Health and Human Services to award grants to strengthen Native American language immersion programs.

This measure is vital to preserving the diminishing Native languages in tribes across the nation, including many in my district. As an original cosponsor on this measure, I am thankful for the bipartisan effort to preserve the languages of those people who hold the original history of our country.

In my own district, the Navajo people have a very successful language immersion program. In 2001, the Navajo Language Immersion School at the Window Rock Unified School District was established by Dr. Deborah Dennison. At the first grade level, students are instructed in the Navajo Language 90% of the time, and the remaining 10% of their lessons are in English. With each year, these Navajo students are immersed in English more and more until there is an equal balance of language instruction.

The students in this successful program cover academic content areas in both Navajo and English and the results have been astounding. These students perform better on the standardized tests than students in "regular" classrooms. Moreover, since it was established, the Navajo Language Immersion School has consistently met No Child Left Behind's designation of "Annual Yearly Progress" and they have also met "Arizona Learns" standards. I hope this kind of excellence in learning and education can be duplicated throughout Indian Country.

While some may worry that this program would decrease the importance of the English language in the United States, we must remember the contributions that Native Americans who speak their Native language have made to our country. During World Wars I and II, Native American languages, including the Navajo language, played a vital role in protecting our Nation. Navajo people and other Native Americans were employed as "Code Talkers" during the wars, and implemented a code that our enemies could not break. Thus it was through their language that we overcame our enemies.

U.S.ENGLISH, an organization dedicated to promoting English as the official language of the United States, has stated that, ". . . official English legislation proposed by U.S.ENGLISH does not prevent the use of Native American languages . . . In education, U.S.ENGLISH supports the right of tribal governments and autonomous Native American communities to make their native languages the primary language of instruction in their schools."

Therefore, it is paramount that we pass this legislation. As it helps us protect not only an essential part of Native American history but also helps us safeguard a larger part of United States character and culture for future generations to learn their Native language.

A wise friend once shared with me that "To take away a people's language is to begin to conquer them." Let us join together to support and preserve the first American's Native languages.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, there is an urgent need to protect and preserve Native American languages. In my state of Minnesota, it is becoming more difficult to find elders to teach the Ojibwe language—the fourth most spoken Native language in North America.

The facts cannot be ignored—decades of federal restrictions on the instruction and use of Native languages led to their deliberate decline.

Despite treaties and laws and executive orders that call for the preservation and incorporation of Native language and culture in education—we are living at a time when Native American languages and culture are being eroded.

Title VII—which exists to ensure Native children receive Native language and culture instruction—has been reduced or reallocated to other functions of the No Child Left Behind law—despite significant research proving that Native children do better in all subjects when taught through the use of Native languages and culture.

Schools have felt pressure from the Bush administration to instead spend resources for Native language and culture on the goals of Bush's No Child Left Behind law. Title VII resources must be focused on Title VII goals—not siphoned off to support other goals of the Bush administration—especially at the expense of Native American children.

Native children have the right to the education they are promised—that means the highest quality education—including instruction in their language.

As a Nation, we must reaffirm our commitment to preserve, to honor, and to teach the living traditions, cultures, and languages of the First Americans who have and continue to contribute to the strength of our Nation as teachers, community leaders, business owners, artists, elected officials, and neighbors—and the brave men and women who have fought in our armed services.

Native Americans have identified the recovery and preservation of their languages as one of their highest priorities. As a country, we have a moral obligation to live up to our commitments to the First Americans.

It is my hope that Congress will do what is right—and recommit our Nation's resources to strengthen Native American languages for all Native people across the entire country.

Mr. McKEON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. McKEON) that the House suspend the rules and pass the bill, H.R. 4766, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Native American Programs Act of 1974 to provide for the revitalization of Native American languages through Native American language immersion programs; and for other purposes.".

A motion to reconsider was laid on the table.

EXTENDING SECRETARY OF EDUCATION WAIVER AUTHORITY

Mr. JINDAL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6106) to extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109–148.

The Clerk read as follows:

H.R. 6106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY.

Section 105 of title IV of division B of Public Law 109–148 (119 Stat. 2797) is amended—

(1) in subsection (b), by inserting "and, at the discretion of the Secretary, for fiscal year 2007" after "2006"; and

(2) in subsection (c)(2)—

(A) by inserting "or 2007" after "fiscal year 2006"; and

(B) by striking "fiscal year 2007" and inserting "for the respective succeeding fiscal year".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. JINDAL) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana.

GENERAL LEAVE

Mr. JINDAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6106.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this important legislation. It is in response to the devastating Hurricanes Katrina and Rita and the impact they had on the schools of Louisiana.

More than 1,100 public and private schools were forced to close in the wake of those hurricanes. Approximately 158,000 students were displaced as a direct result of the hurricanes. Restoration efforts are under way, but there is still much work that needs to be done.

As a result of the storms and the flooding, the local tax base in several gulf coast communities was decimated. The loss of business and government infrastructure, jobs and housing deprived school districts of local property taxes that normally fund school operations.

In Louisiana, Orleans and St. Bernard Parishes were the most severely impacted by Hurricane Katrina. Currently, approximately 23,000 students are enrolled in the Orleans Parish School System and Recovery School District. That is compared to an original enrollment of 62,000 students prior to the hurricanes.

In St. Bernard Parish, only 3,300 students have returned out of a total of 8,400 before the hurricane.

The Hurricane Education Recovery Act, included in the Defense Appropriations Act of 2006, granted the U.S. Secretary of Education the authority to waive, in many of the programs falling under her jurisdiction, select provisions having to do with the State or school district's financial commitment.

Under ordinary times, these provisions require States and local districts to contribute sufficient local and State funding to receive Federal aid. However, when communities have decimated and local funding is unavailable, these provisions can place much-needed Federal aid in jeopardy.

The Secretary's authority to grant this waiver was critical to ease the burdens on State and local educational agencies in the gulf coast region. Through this language, the Secretary granted waivers for fiscal year 2006 that provided Louisiana school districts the flexibility they needed to begin the recovery process.

These waivers have proven critical to the recovery of our schools in several parishes and counties in the impacted areas. Unfortunately, the waiver authority is set to expire on September 30 of this year, even though families continue to return to the area and there are schools in need of rebuilding.

This bill will extend this critical waiver authority for one more year through fiscal year 2007. By extending this authority, it will provide districts the flexibility they need to continue moving students and teachers back into classrooms.

Under the Hurricane Education Recovery Act, the Orleans Parish schools received $132 million in restart funding, and St. Bernard Parish has received $21 million. Without this waiver, the schools would not have the flexibility they need to use these funds.

These districts are facing the tremendous challenge of rebuilding a school district while continuing to operate at the same time, akin to changing a tire on your car while driving it. Without this waiver authority, these districts will not receive the resources to replace textbooks, library books, computers, instructional materials, and other supplies lost during the storm.

I urge swift passage of this legislation to grant an additional year of flexibility and the use of Federal dollars to rebuild schools for Louisiana and gulf coast children.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6106.

As the gentleman from Louisiana just mentioned, over a year ago our Nation experienced one of the worst natural disasters in our history when Hurricanes Katrina and Rita devastated southeast Louisiana and parts of Mississippi. He mentioned that public and private schools were forced to close, and over 150,000 students were displaced as a direct result of those hurricanes.

Last year, the Hurricane Education Recovery Act was enacted. It authorized the U.S. Secretary of Education to waive selected portions of general education law having to do with State or school district use of Federal funds.

Unfortunately, the waiver is set to expire on September 30, even though the families continue to return to the area and their schools are in need of rebuilding. The waiver is critical because it allows school systems the flexibility to use available Federal funds for the most critical needs. Without the waiver, they would have funding for just about everything they need except those critical immediate needs required to reopen the schools. Without the waiver, they won't be able to spend the money for those critical needs. This waiver has worked well and just needs to be extended.

On September 19, just a few days ago, H.R. 6106 to extend the waiver authority for the Secretary of Education was introduced by the gentleman from Louisiana (Mr. JINDAL). This legislation is a straightforward extension of the Secretary of Education's waiver authority for an additional fiscal year through 2007.

This bill would not have been possible without the hard work of not only the gentleman from Louisiana (Mr. JINDAL) but his Louisiana colleagues, Mr. MELANCON and Mr. JEFFERSON on this side, and I am sure there are others he might want to mention.

Mr. Speaker, I urge my colleagues to help Louisiana continue their recovery effort by supporting the passage of H.R. 6106.

Mr. Speaker, I yield back the balance of my time.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank the gentleman from Virginia (Mr. SCOTT) not only for his support of our legislation but for taking the time personally to visit my State after it was devastated by these storms, to visit personally with our teachers, principals and students and see for himself the needs of our State, and for his continuing hard work to try to address those needs through our committee. I appreciate his commitment to helping my State recover and our students return to school.

Mr. Speaker, Mr. SCOTT is correct. There are several Members from Louisiana, indeed the entire delegation, that supports this legislation. I especially want to mention in addition, to Mr. MELANCON and Mr. JEFFERSON, Mr. BOUSTANY, who has several schools in his district that were also impacted by Hurricane Rita in particular. I urge swift passage of this bill.

Mr. MELANCON. Mr. Speaker, I am here today to urge Congress to pass H.R. 6106. This waiver authority has been a key component in the success of rebuilding schools in the areas devastated by Hurricanes Katrina and Rita and it is critical that we act immediately to extend the duration of this authority in order to allow these schools to continue their rebuilding efforts.

A real success story born from this waiver is the St. Bernard Unified School Group. Led by the efforts of Superintendent Doris Voitier and others committed in St. Bernard, this combined school was able to quickly start back up to provide a place for children whose parents were committed to coming home and rebuilding.

St. Bernard Parish was one of the most devastated regions affected by Hurricane Katrina. Without local revenue, the schools had to look elsewhere to meet the 10 percent match required by FEMA.

This waiver has allowed the school district to use State funds for the 10 percent match and use federal restart funds to pay teacher's salaries and benefits. By allowing this flexibility, Superintendent Voitier was able to secure teacher's employment and open up the St. Bernard Unified School 11 weeks after the storm.

Today, there is no longer need for the St. Bernard Unified School. Chalmett High is back up and running full capacity with 1700 students to date; Andrew Jackson Elementary, with 1800 students, has also opened its doors, and Tryst Elementary is next in line.

However, we can't stop here. There are many more schools that are still being rebuilt and we need this legislation to ensure that these schools continue to reopen.

This waiver has proven critical to the recovery of schools in the Gulf Coast region, and has enabled them to access much needed reconstruction funds. Without this extension, these school systems will not have the financial resources to operate nor rebuild.

This waiver authority has already been authorized by Congress in the Hurricane Education Recovery Act. Unfortunately it is set to expire this Saturday. It is imperative that we reauthorize this waiver. Hurricane recovery has reached a critical stage, and it needs our continued support in the Gulf Coast.

Families are continuing every day to return home to these areas and there are still schools that are in need of rebuilding and repair. Therefore, I urge the members of Congress to support this bi-partisan legislation and give these schools the flexibility that Superintendent Voitier and others need to continue their dedicated efforts in rebuilding and to make sure that students and teachers can return to the classroom.

Brief Summary of what waiver does:

FEMA requires that each local community put up a 10 percent match in order to get 90 percent reimbursed for replacing all items lost in the storm.

Two Problems; (1) 10 percent of the total damage is tens of millions of dollars and (2) St. Bernard schools can't raise this money from the local community because their sales and property tax base has been decimated.

So, they initially wanted to use federal restart monies to put up the 10 percent match. However this is prohibited in the Stafford Act because you can't use federal restart monies to supplant money from FEMA.

Then they wanted to use State money to put up the 10 percent match, but this was also prohibited. However, in the Hurricane Education Recovery Act, the waiver authority needed to waiver this requirement was granted to Secretary Spellings.

She waived this requirement and St. Bernard schools were able to put up state money for the 10 percent matching requirement and then use federal restart monies to pay teacher's salaries and benefits (i.e. what state money would have been used for).

This waiver allows schools to:

Waive the requirement (found in the Hurricane Education Recovery Act, Section 105 of Public Law 109–148) that federal funds must be used to supplement and not supplant non-federal funds and thus allows schools to:

Use state money for the 10 percent match required by FEMA for the 90 percent reimbursement and

Use Restart money to pay for things the State money would have been used for:

For example: teacher's salaries, benefits etc.

Mr. JINDAL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CONAWAY). The question is on the motion offered by the gentleman from Louisiana (Mr. JINDAL) that the House suspend the rules and pass the bill, H.R. 6106.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING ESTABLISHMENT OF SEPTEMBER AS CAMPUS FIRE SAFETY MONTH

Mr. JINDAL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 295) expressing the sense of the House of Representatives supporting the establishment of September as Campus Fire Safety Month, and for other purposes.

The Clerk read as follows:

H. RES. 295

Whereas recent student housing fires in Ohio, Pennsylvania, Tennessee, and Maryland have tragically cut short the lives of some of the youth of our Nation;

Whereas since January 2000, at least 75 people, including students, parents, and children have died in student housing fires;

Whereas over three-fourths of these deaths have occurred in off-campus occupancies;

Whereas a majority of the students across the Nation live in off-campus occupancies;

Whereas a number of fatal fires have occurred in buildings where the fire safety systems have been compromised or disabled by the occupants;

Whereas it is recognized that automatic fire alarm systems provide the necessary early warning to occupants and the fire department of a fire so that appropriate action can be taken;

Whereas it is recognized that automatic fire sprinkler systems are a highly effective method of controlling or extinguishing a fire in its early stages, protecting the lives of the building's occupants;

Whereas many students are living in off-campus occupancies, Greek housing, and residence halls that are not adequately protected with automatic fire sprinkler systems and automatic fire alarm systems;

Whereas it is recognized that fire safety education is an effective method of reducing the occurrence of fires and reducing the resulting loss of life and property damage;

Whereas students are not routinely receiving effective fire safety education throughout their entire college career;

Whereas it is vital to educate the future generation of our Nation about the importance of fire safety behavior so that these behaviors can help to ensure their safety during their college years and beyond; and

Whereas by developing a generation of fire-safe adults, future loss of life from fires can be significantly reduced: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the establishment of September as Campus Fire Safety Month;

(2) encourages administrators and municipalities across the country to provide educational programs to all students during September and throughout the school year; and

(3) encourages administrators and municipalities to evaluate the level of fire safety

being provided in both on- and off-campus student housing and take the necessary steps to ensure fire-safe living environments through fire safety education, installation of fire suppression and detection systems and the development and enforcement of applicable codes relating to fire safety.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. JINDAL) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana.

GENERAL LEAVE

Mr. JINDAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 295.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 295, a measure to support establishment of September as Campus Fire Safety Month. So often in this Chamber we consider legislation to expand access to college and strengthen our Federal higher education programs. Today, we have an opportunity to discuss the need to bolster safety on college campuses, specifically fire safety; and we are right to do so. Our Nation's college students should be able to live on campus with the confidence that they will be safe in their dorms, apartments or other housing. This measure will take a key step toward ensuring greater awareness of this issue.

I thank my colleagues, the gentlewoman from Ohio (Mrs. JONES) and the gentleman from Pennsylvania (Mr. WELDON), for taking the lead and offering this legislation.

This is not the first time this year that campus fire safety has been a priority for the House. In March, when we passed the College Access and Opportunity Act, we also endorsed an effort to ask colleges and universities to report annually on fire safety efforts. The report would include such information as a list of all student housing facilities and whether or not they were equipped with a sprinkler system or other fire safety program, as well as statistics on occurrences of fires, false alarms, information on various fire safety rules and regulations, and other measures as well.

Mr. Speaker, although that measure has not advanced with our friends on the other side of the Capitol, today we have the opportunity to demonstrate our continued commitment to the safety of college students.

I urge my colleagues to join me in supporting this resolution, and I thank the primary authors of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 295, a bill to establish September as Campus Fire Safety Month.

As students get back into the full swing of the school year, we all know that the need to be prepared for campus fire is the last thing perhaps on their mind.

Since January of 2000, the Center for Campus Fire Safety has identified 89 fire fatalities in student housing. Almost 80 percent of these deaths have occurred in off-campus housing such as rented houses and apartments.

Last year, a number of States across the Nation issued proclamations for September, and many schools held events on campus to educate their students about fire safety. This summer, the Center for Campus Safety convened a summer conference of college administrators, fire organizations and legislators to further the work and progress of many of the stakeholders. We hope through education and attention to the dangers on and off campus we can reduce the numbers of fires.

H. Res. 295 is the first step in recognizing September as Campus Fire Safety Month on a national level, which is being done in conjunction with many States and colleges and universities across the country.

Mr. Speaker, I yield the balance of my time to the gentlewoman from Ohio (Mrs. JONES), the sponsor of this legislation, and I ask unanimous consent that she be permitted to manage the remainder of our time on this side for H. Res. 295.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mrs. JONES of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to thank my colleagues for support of H. Res. 295. I rise in support of this bipartisan resolution introduced to establish September as Campus Fire Safety Month.

I want to commend my colleague, my cosponsor, the gentleman from Pennsylvania (Mr. WELDON), for all of the work he has been doing in this area. Many of you recognize that Mr. WELDON has long been involved in fire safety law enforcement and with firefighter issues during his career.

This legislation encourages administrators and municipalities across the country to provide educational programs to all students during September and throughout the school year.

Additionally, the resolution calls for evaluation of the level of fire safety being provided in both on- and off-campus student housing and taking the necessary steps to ensure fire-safe living environments through fire safety education.

It encourages installation of fire suppression and detection systems and the development and enforcement of applicable codes relating to fire safety.

My colleague in the Senate, Mr. MIKE DEWINE, introduced companion legislation to this resolution in the Senate.

My colleagues have already talked about 89 people having been killed in student housing since January of 2000. Almost 80 percent of the fire fatalities have occurred in off-campus occupancies such as rented houses and apartments. Common factors in a number of these fires include lack of automatic sprinklers, disabled smoke alarms, careless disposal of smoking materials and alcohol consumption.

According to the Center for Campus Fire Safety, April and May, followed by August and September, are the two most dangerous periods of time for student housing fire fatalities. Last year, September was designated as National Campus Fire Safety Month. Currently, 27 States have issued proclamations declaring September as Campus Fire Safety Month.

H. Res. 295 is supported by the Center for Campus Fire Safety, the National Electrical Manufacturers Association, the Congressional Fire Services Institute, the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Firefighters, the National Fire Sprinkler Association, the International Code Council, Society of Fire Protection Engineers and the International Fire Marshals.

It is also supported by many colleges fraternities and sororities across this country, and they have been advocates on our behalf.

For the past few Congresses, I have introduced H. Res. 128, known as the College Fire and Prevention Act.

□ 2100

This legislation would establish a demonstration incentive program within the Department of Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing or dormitories, and for other purposes. The Congressional Fire Services Institute and others have endorsed this fire prevention legislation.

Fire safety and prevention is an issue that needs to be addressed across the country. Over these few years we have seen many tragedies involving fires at colleges, places of business, entertainment venues, and places of residence. We must begin to put in place our fire suppression measures against fires and increase support and resources for our firefighters to ensure that no more lives are lost to fires that could have been prevented.

I thank all of my colleagues for supporting this resolution, and I know that students across this country, and particularly their parents, will be very happy that we have begun the process of instituting this legislation.

I encourage all of my colleagues to pass this legislation so that we can increase awareness about this problem that affects us all.

And besides that I want to thank my staff, one of them on the floor tonight, Steve Abbott, and others who have worked so very hard with me in order to get this legislation passed.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to close by praising my colleagues on the other side of the aisle but also praising Mr. WELDON, who I know wanted to be here to speak on this. My colleague is correct: I think he is the only former fire chief to be serving in the United States Congress. He has been a vocal leader on the need for fire safety and a strong supporter of our first responders, and I know he feels very strongly about the legislation in front of us.

Mr. Speaker, I urge quick passage of the resolution.

Mr. PASCRELL. Mr. Speaker, I rise today in support of H. Res. 295, which establishes September as Campus Fire Safety Month.

I applaud the efforts of my distinguished colleague, Congresswoman STEPHANIE TUBBS JONES, in bringing this matter to the floor today.

The statistics relating to fire safety on college campuses are startling. Since January 2000, 89 campus-related fire fatalities have been reported in the United States. Three of these were in my home state of New Jersey alone. So far in 2006, we have already lost 11 students to fires on college campuses.

What these tragedies mean is that too many families have had to suffer the unbearable horror of losing a loved one right at the beginning of a promising life.

Despite these fires, many campus communities have taken far too long to act. Indeed, only 35 percent of dormitories and fraternity/sorority houses that suffer fires are equipped with life-saving sprinkler systems.

It is clear that the campus community is falling far behind in fire safety standards and we must do more to urge them to take the steps needed to curb this disturbing trend.

SETON HALL

I became deeply involved in the issue of campus fire safety after experiencing the terrible aftermath of a catastrophic fire at Seton Hall University in New Jersey in 2000.

That fire killed three young freshmen and wounded 58 other students in a dorm on campus.

CAMPUS FIRE SAFETY RIGHT TO KNOW ACT

In response to the devastating fire, I introduced the "Campus Fire Safety Right to Know Act," which passed the House as part of the "College Access and Opportunity Act" in March 2006.

This bipartisan legislation required colleges and universities to provide prospective and current students and parents with a report of the school's campus fire safety policies and records.

CAMPUS FIRE SAFETY MONTH LEGISLATION

Now, we're talking about designating September as National Campus Fire Safety Month.

Currently, 27 states have issued proclamations declaring September as Campus Fire Safety Month. Historically, September is one of the most fatal months for campus fires.

In recognizing this tragic trend on America's campuses, H. Res. 295 will provide a platform to alert students, their parents, and school administrators to the dangers of campus fires.

H. Res. 295 encourages colleges and universities across the country to provide educational programs to all students in September and throughout the school year.

It urges administrators and municipalities to evaluate the level of fire safety being provided in both on and off campus housing.

They can then take the necessary steps to ensure fire-safe living conditions through fire safety education; the installation of fire suppression and detection systems; and the development and enforcement of applicable codes relating to fire safety.

Mrs. TUBBS JONES' legislation will help to publicize common sense measures that can be taken to prevent the senseless death, injury, and loss of property that result from these tragedies.

H. Res. 295 is supported by the Center for Campus Fire Safety, the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Association of State Fire Marshals, and many others.

CONCLUSION

Educating students about fire safety during their time in school will have a strong impact on the choices they make in the future. If we can influence what they learn, we can create a more fire-safe generation for tomorrow and potentially save thousands, of lives.

This is the least we can do for our students. When we entrust our young people to any institution, we expect that they will be in a safe environment. And we have the right to expect that much.

Mr. JINDAL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. JINDAL) that the House suspend the rules and agree to the resolution, H. Res. 295.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING EFFORTS PROMOTING GREATER PUBLIC AWARENESS OF EFFECTIVE RUNAWAY YOUTH PREVENTION PROGRAMS

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1009) supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for homeless youth and youth in other high-risk situations.

The Clerk read as follows:

H. RES. 1009

Whereas preventing young people from running away and supporting homeless youth and youth in other high-risk situations is a family, community, and national concern;

Whereas the prevalence of runaway and homeless youth in the Nation is staggering, with studies suggesting that between 1,600,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets or in emergency shelters are often those who have been thrown out of their homes by their families; who have been physically, sexually, or emotionally abused at home; who have been discharged by State custodial systems without adequate transition plans; who have lost their parents through death or divorce; and who are too poor to secure their own basic needs;

Whereas the commemoration of National Runaway Prevention Month will encourage all sectors of society to develop community-based solutions to prevent runaway and homeless episodes among the Nation's youth;

Whereas effective programs that support runaway and homeless youth and assist young people in remaining at home succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas Congress supports an array of community-based support services that address the critical needs of runaway and homeless youth, including family strengthening, street outreach, emergency shelter, and transitional living programs;

Whereas Congress supports programs that provide crisis intervention and referrals to reconnect runaway and homeless youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the purpose of National Runaway Prevention Month in November 2006 is to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe and productive alternatives, resources, and supports for youth, their families, and their communities: Now, therefore, be it

Resolved, That the House of Representatives supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for homeless youth and youth in other high-risk situations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska.

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 1009.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H. Res. 1009, which seeks to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations. I would like to thank the leadership for allowing this resolution to come to the House floor, as it highlights a very tragic and important issue.

Runaway episodes among our Nation's youth are serious and widespread, with one of every seven children and youth in the United States running away or being turned out of the home before the age of 18. That constitutes roughly 15 to 17 percent of our young people. A recent study by the Federal Office of Juvenile Justice and Delinquency Prevention estimates that nearly 1.7 million youth experienced a runaway or thrown-away episode in a single year. The prevalence of runaway and homeless youth in the Nation is astounding, with studies suggesting that between 1.6 million and 2.8 million young people live on the streets of the United States each year.

The primary factors of running away or being turned out of a home are severe family conflict, abuse and neglect, and parental abuse of alcohol and drugs.

And parenthetically I might add, Mr. Speaker, that I coached some young men, one of whom I remember very vividly who was turned out of his home at age 11 because the boyfriend who was living with that young man's mother and the young guy couldn't get along; so the young guy went and spent 2 or 3 years living on the streets. And that certainly left an impression and scarring on that young man that I do not think he ever completely overcame.

Many of the conditions that lead young people to leave or be turned out of their homes are preventable through interventions that can strengthen families and support youth in high-risk situations. Successful interventions are grounded in partnerships among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and even businesses.

The National Network for Youth and the National Runaway Switchboard have collaborated since 2002 in cosponsoring the National Runaway Prevention Month during the month of November. National Runaway Prevention Month is a public education initiative aimed at increasing the awareness of issues facing runaways as well as making the public aware of the role they play in preventing youth from running away. As a result of this collaboration, communities across the country have undertaken a range of activities to commemorate National Runaway Prevention Month.

Preventing young people from running away and supporting youth in high-risk situations is a family, community, and national concern. Please join us in encouraging all Americans to play a role in supporting the millions of young people who have run away and who are at risk of doing so each year. H. Res. 1009 supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague from Nebraska, one of the most effective, if I might say, advocates for young people that I know anywhere in this country.

Mr. Speaker, I want to thank my colleague Mr. OSBORNE for bringing H. Res. 1009 to the floor today, and I join him in support of this resolution that promotes the need for greater public awareness of effective runaway youth prevention programs and the increasing need for safe and productive alternatives, resources, and supports for youth in high-risk situations.

Mr. Speaker, this resolution points to an issue that is of great concern to me: young people who have been pushed aside and thrown away, oftentimes by their parents and sometimes by all of society.

The youth who come to these programs represent what some call a lost generation, a generation that holds so much promise and yet sees so few opportunities. When a young person comes to these programs, they often do so out of a need for security, shelter, and comfort that they cannot find at home. And these programs provide that comfort. They provide basic life skills training, job preparation and placement, health referrals and services.

Unfortunately, Mr. Speaker, each year the need for these programs grows. The basic housing needs of our Nation's most vulnerable youth, those experiencing homelessness, are not being met. And continued shortfalls in funding for the Runaway and Homeless Youth Act have increased this need.

Nearly 150,000 young people are served at basic centers and through transitional living programs. Yet as this resolution points out, many more runaways and homeless youth find themselves without these critical community services. It is appropriate that today we take time out to promote greater public awareness of the needs of these young people and the services that are available to them in the community.

In particular, I want to applaud the hard work of the front line workers who are on the ground working with runaway and homeless youth every day. For many young people, these workers represent the only responsible and caring adults they will have contact with during their time on the streets. Many of these workers are volunteers who make themselves available 24 hours a day. They venture into dangerous situations, providing a lifeline to these young people, and they should be acknowledged for their efforts.

I am mindful of one organization in my neighborhood, the Night Ministry, that has developed probably one of the most effective programs of this type in the country, where not only have they provided a program with adequate shelter, but they have what I call state-of-the-art housing. You can see them at night during the cold winter, driving along the streets, getting out, oftentimes interceding and picking up young people, questioning them about why they are there. And those who know Chicago know that it gets awfully cold during the winter months. So I applaud the Night Ministry.

I thank Mr. PORTER for introducing this resolution, and certainly I commend Mr. OSBORNE for his tremendous work on behalf of young people.

Mr. Speaker, I reserve the balance of my time.

Mr. OSBORNE. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding. I want to thank Mr. PORTER for the legislation; Mr. OSBORNE, Mr. DAVIS, and the staff for bringing this to the floor and for bringing it to the attention of the Members; and, Mr. Speaker, to the general public at large.

The community service for youth across this great Nation is, I think, for the most part, doing one of the best jobs it can for the youth of America who are homeless, who each day, instead of a bright, sunlit opportunity, they find despair, and they do not know what hope is. They do not know what joy is. But they probably know what a prison cell looks like at a very young age.

What this legislation does, and what we all should continue to pursue, is dedicate our words to the front line of service that Mr. DAVIS was talking about and Mr. OSBORNE has mentioned, those people who are mostly volunteers that provide the shelter, provide the hope, provide the work for these people who are homeless.

And what we hope this resolution will do, and what we should continue to work towards, is to create a better framework for homeless youth, that more people will get involved. The community service, the front line service, can be expanded to an immense pool of people that will spend just a very small amount of their time on a weekly or monthly basis if they go out into their community and find out where a homeless shelter is and then visit that homeless shelter and talk to those youth and give them hope and give them opportunity and let them know that someone cares about them. Create a Boy Scout troop for juvenile delinquents. Create a Boy Scout troop or a Girl Scout troop for people who are homeless, who are living in homeless shelters.

Almost 40 years ago, my brothers and a couple other people who had not gone to college, we all got out of the service. We had just gotten out of Vietnam, and we got involved with a minister and a lawyer that created a Boy Scout troop for people who committed felonies. We created a Boy Scout troop for juvenile delinquents. And the way to get in that Boy Scout troop was that you had to have committed a felony or you had to be homeless or one of those categories. And it transformed their lives.

This Sunday in my district, we are going to have a picnic for 30 homeless children and, if they come, their parents. And what we are going to do is we are going to walk through the woods, we are going to feel the cool shade of the forest, and we are going to identify trees and we are going to talk about nature's design. Then we are going to take them on a short canoe ride and walk them on the beaches of the Sassafras River. But we are going to show them that in their dreary, hopeless life: there are magnificent opportunities.

The people on the front line need help. There is a massive amount of opportunity out there for people to see something that they don't see every day, to find out where a homeless shelter is in your community, and then go and talk to the people who service those homeless shelters, talk to the people who fund those homeless shelters, and talk to the people who are in those homeless shelters and provide them with dignity, respect, hope, and opportunity. It is a matter of initiative, ingenuity, courage, and compassion. And it can all be done.

And I want to thank Mr. OSBORNE, Mr. DAVIS, and Mr. PORTER and his staff for this great resolution.

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Mr. DAVIS of Illinois. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, what an honor to be able to join my colleagues this evening and to again thank the distinguished gentleman from Illinois for using the terminology: There are no throwaways.

Let me thank the manager Member, Mr. OSBORNE, for his leadership: Mr. GILCHREST, delighted to have a good Speaker in the Chair from Texas.

I rise today because I believe that this is an important statement that is being made today on the floor of the House. I do want to capture those words again that our young people are not throw, there are no throwaways. I say it very often as I go to schools or interact with young people that we meet in our congressional districts and really around the Nation.

I spent some time with Covenant House and spent some time on the streets as they invited me in one of their night outs to be able to interact with homeless youth, to hear their stories, to hear their feeling about, in essence, being thrown away or thrown out.

I do not think most Americans dwell on the fact that there are some 1.6 million to 2.8 million homeless young people. That means that they have barely a place to be more than one night. And there are these good Samaritans, these people who hold vigils on the streets of America, trying to protect our young people.

It was a shocking experience as I stood on a cold night in Houston, Texas, gets a little cold there sometimes in the wintertime, as we gathered under a streetlight. The word had gone out that Covenant House was out and about, that you could come and hear a little music, get a little food and talk, to hear some of the stories of these young people who had either been sexually abused or who had been emotionally abused or had been physically abused, to hear them tell stories of guardians or parents who themselves were addicted and other problems that were associated with the household, and there was no comfort.

So I find that this resolution should do a number of things. As my colleagues have said, it should reemphasize and thank those who are out with our young people, the various ministries, the Boys and Girls Club, the Boy Scouts, Girl Scouts, but, as well, the agencies that go out during the night to find these young people.

But, again, it should say that we are not doing enough. And we should also say that there are role models, that there is something to live for, and that we should not be ashamed of trying to enhance the funding to provide transitional pathways for young people to transition into adulthood, provide them with interim housing as they move from 17, 18, 19, which causes them to be homeless.

Because one of the major problems is what we call "aging out" in foster care, where you have gotten to a certain age at 18, 17, 18 in some States. And many of us who have young people in our homes, we raised our children, they are in their 20s, and you are taking care of them. So you age out in a foster care system, and you have no place to go, and you have been in foster care for 10, 15 years, or 10 years or 5 years.

We see this as a prevalent situation that leads to disaster. This may be indirect, but I want young people to understand that they are important.

I raise this picture of this beautiful young lady on the front page of the Washington Post today by the name of Emily J.T. Perez. The headline reads, West Point Mourns a Font of Energy, Laid to Rest By War.

The story is about a young woman who, unfortunately, lost her life on the front lines of Iraq. But the story describes an outstanding, energetic, committed patriot and the first African American woman sergeant at West Point. She was a young person. She lost her life. But she certainly represents the best of our youth.

In the midst of homeless youth, there are those who are the best. And this resolution, I think, focuses our attention on providing more resources so that we can ensure that the young people, homeless that they may be, will not have despair but will have a future and will be affirmed by this Nation that they can contribute.

I rise in support of this legislation, but I ask my colleagues as this session wanes down, let us commit ourselves, if we are fortunate enough to be reelected by our constituents, to come back and fund opportunities for providing for homeless youth, to give them a future.

Mr. OSBORNE. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, in closing, I want to thank the gentlewoman from Texas for her statement and for the energy that she puts into everything that she does.

I also want to again commend Mr. PORTER for introducing this resolution and thank Mr. OSBORNE and say that, when he is not here, I am going to miss him tremendously, because he is a real advocate for young people, and I have never seen anyone do it more effectively or do it better.

Mr. Speaker, I yield back the balance of my time.

Mr. OSBORNE. I thank the gentleman. We share a strong interest in young people, and we are often together on bills. And I would like to thank Mr. DAVIS for all that he does. I would also like to thank Mr. PORTER for authoring this resolution.

Ms. JACKSON-LEE of Texas. Mr Speaker, I rise today in support of H. Res. 1009, a bill supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and support for homeless youth and youth in other high-risk situations.

As the Chairwoman of the Congressional Children's Caucus, I am integrally involved in the efforts of Congress to help protect and look after the children of this Nation, and to ensure that they have an equal opportunity to learn, to grow, to achieve, and most importantly, to dream.

Youth that end up on the streets or in emergency shelters are often those who have been thrown out of their homes by their families. These youth are also, tragically, more likely to have been physically, sexually, or emotionally abused at home. It is also common for these youth to have been discharged by State custodial systems without adequate transition plans. Many have lost their parents through death or divorce, and many are too poor to secure their own basic needs. It is clear that this situation is a family, community, and national concern.

The prevalence of runaway and homeless youth in the Nation is an epidemic. Studies suggest that between 1,600,000 and 2,800,000 young people live on the streets of the United States each year. Running away from home occurs across the country. A staggering 1 out of every 7 children in the United States running away before the age of 18.

The future well-being of the Nation is dependent upon how we value our young people. The opportunities we provide for our youth to attain the ability and the knowledge needed to develop into safe, healthy, and productive adults.

When it comes to our young people—all of our young people—including our runaway, throwaway and homeless youth—we must always be willing to stand up, to speak up, and to never give up.

I encourage my colleagues to support this bill.

Ms. BORDALLO. Mr. Speaker, I rise today in strong support of H. Res. 1009, a resolution to promote greater awareness of effective runaway youth prevention programs. This legislation, introduced by my friend from Nevada, Mr. PORTER, is a step in the right direction towards reducing the number of our youth that separate from their families in times of distress and discouragement. Raising awareness of concerns of the disadvantaged in our communities and bringing issues to the attention of lawmakers and the general public is often the catalyst for action.

The number of young people who currently live on the streets is alarming. Without any family or community support, these youth fall through the cracks of society. It is critical for our young people, who are the future of our country, to be afforded the best possible opportunities in order to succeed and become balanced, well-informed citizens.

On Guam, there are a number of community-based youth organizations that provide structured counseling for at-risk youth and their loved ones. One such program under the Department of Youth Affairs (DYA), Jumpstart, works to strengthen family ties with the goal of integrating troubled teens back into their homes. Sanctuary is another longstanding and effective nonprofit organization dedicated to addressing Guam's at-risk youth. In addition to counseling, these organizations work preventatively, targeting and providing education about drug-use, physical and mental abuse, and violence. Another program, the Youth At-Risk Life Skills Training Program, is affiliated with the 4–H Club and the University of Guam's College of Natural and Applied Sciences (CNAS). This program focuses on education paired with life skills such as peer mentorship and environmental sciences.

I take this opportunity today to commend the efforts of organizations such as these that take action in their communities, often working from the grassroots. The success of these organizations depends on the dedication of the people who run the programs and, as a result of their conviction and hard work, troubled teens and their families have a network of support and hope for a better future.

These are the individuals and organizations for which H. Res. 1009 seeks to bring recognition upon, and it is their work this resolution seeks to support. I urge all of my colleagues to support H. Res. 1009.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong support of runaway youth prevention programs.

Children are our greatest resource, and positive investment in our children is essential for America's future.

We are facing a potential crisis in America. There are nearly 20 million American teenagers that are at serious risk of not achieving a positive adulthood.

For our Nation's homeless youth, this path towards positive adulthood is even more challenging.

It is estimated that each year there are 1.5 million runaway and homeless youth in the United States. Last year, in Dallas County we saw about 9 thousand children ran away from home.

We cannot simply forget these children. They need a life-line, a place to stay, and the tools to have a bright future.

The Promise House Emergency Shelter and Street Outreach Programs are exceptional programs that are vital to Dallas.

Promise House offers invaluable services for runaway and homeless youth.

I have seen first-hand the outstanding contributions Promise House has made to the Dallas Community.

Promise House not only gives these young people a safe place to stay, but it gives them a life-line, and a chance to change their outlook and situation.

I would like to commend the staff of Promise House, Dr. Harriet Boorhem, and the many volunteers for the extraordinary service they provide to the Dallas community.

I would also like to thank Mr. PORTER for offering this Resolution.

Mr. PORTER. Mr. Speaker, I rise today in support of H. Res. 1009 which seeks to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources and supports for youth in high-risk situations. I would like to thank the leadership for allowing this resolution to come to the House floor as it highlights a very tragic and important issue.

Runaway episodes among our Nation's youth are serious and widespread, with one out of every seven children and youth in the United States running away or being turned out of the home before the age of 18. A recent study by the Federal Office of Juvenile Justice and Delinquency Prevention estimates that nearly 1.7 million youth experienced a runaway or thrown away episode in a single year. The prevalence of runaway and homeless youth in the Nation is astounding; with studies suggesting that between 1.6 million and 2.8 million young people live on the streets of the United States each year. The primary factors of running away or being turned out of a home are severe family conflict, abuse and neglect, and parental abuse of alcohol and drugs.

In the district that I represent in southern Nevada, the statistics are similar. In the year 2003, the Las Vegas Metropolitan Police Department reported 4,527 runaways. There were approximately 3,500 children who required emergency shelter. Eighteen hundred of these children were placed in foster care. In addition to that, the Clark County School District estimates that 3,500 of our students were homeless. These astonishing statistics highlight the need for our support of those important programs that seek to prevent these types of incidents.

Many of the conditions that lead young people to leave or be turned out of their homes are preventable through interventions that can strengthen families and support youth in high-risk situations. Successful interventions are grounded in partnerships among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations and businesses.

The National Network for Youth and the National Runaway Switchboard have collaborated since 2002 in cosponsoring National Runaway Prevention Month during the month of November. National Runaway Prevention Month is a public education initiative aimed at increasing the awareness of issues facing runaways as well as making the public aware of the role they play in preventing youth from running away. As a result of this collaboration, communities across the country have undertaken a range of activities to commemorate National Runaway Prevention Month.

Preventing young people from running away and supporting youth in high-risk situations is a family, community and national concern. Please join us in encouraging all Americans to play a role in supporting the millions of young people who have run away and who are at risk of doing so each year. H. Res. 1009 supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources and supports for youth in high-risk situations.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. HINOJOSA. Mr. Speaker, I rise in strong support of H. Res. 1009, a resolution to support greater public awareness of effective runaway youth prevention programs. I would like to thank the gentleman from Nevada, Mr. PORTER, for bringing this forward. I am proud to be a cosponsor.

November is National Runaway Prevention Month.

I am proud that this body, in a bipartisan manner, comes together each year to commemorate this month and to urge our communities to get involved in runaway prevention activities.

Runaway Prevention Month is a public education campaign spearheaded by the National Runaway Switchboard (NRS) and the National Network for Youth (NNY) to increase the awareness of the issues facing runaways, and educate the public about the solutions and the role they can play in preventing youth from running away.

It is a national tragedy that an estimated 1.6 to 2.8 million young people live on the street each year. One out of seven children in the United States runs away from home before the age of 18. The dangers these young people face on the streets cannot be overstated.

In my home State of Texas, our runaway and youth crisis hotlines offer crisis intervention, telephone counseling, and referrals to troubled youth and families. A volunteer workforce of about 60 people answer the phones.

Many callers face a variety of problems including family conflict, delinquency, truancy, and abuse and neglect issues.

The program increases public awareness through television, radio, billboards and other media efforts. Hotline telephone counselors respond to about 40,000 calls annually.

These people are true heroes because they save lives.

The Runaway and Homeless Youth Act represents our national commitment to protecting and improving the lives of our most at risk youth. Sadly, funding for these programs has been eroded with the across-the-board cuts we have been seeing in our appropriations bills over the past few years.

I hope that this year, this Congress will commemorate Runaway Prevention Month by increasing the resources available to keep our young people safe, healthy, and off the streets.

I urge my colleagues to support this resolution.

Mr. SESSIONS. Mr. Speaker, as Congress considers H. Res. 1009 this week, I would like to highlight the outstanding efforts of an organization in my district, Promise House of Dallas. Since 1984, Promise House has served as a pillar of the Dallas community through its mission to serve the needs of runaway and homeless youth throughout our community.

Promise House was originally established by Lovers Lane United Methodist Church to provide a 16 bed emergency shelter for teenagers. Today, this program provides over eight large programs for runaway, homeless, and at-risk students, and is supported by numerous churches, businesses, and individuals. At-risk youth and their families may access services ranging from food and clothing to counseling, education, transitional living arrangements, and parenting services. With communal support, the Promise House staff works endlessly to offer hope to youth and families in crisis.

Promise House has helped countless youths pursue their hopes and dreams. When he entered Promise House, Justin was a 17-year-old young man who was physically and emotionally abused by his father. Between the abuse and family disarray, Justin turned to aggressive behavior and heavy drug usage. In a courageous and lifesaving decision, Justin came to Promise House for help. Promise House provided Justin with a safe environment and a variety of services, including shelter, counseling, intensive case management and life skills therapy. Through the support of Promise House, Justin turned his life around. Justin continued therapy services even after leaving Promise House and successfully graduated from high school. Today, Mr. Speaker, I am happy to say that Justin is a senior at the University of Texas at Dallas and a recipient of the Blake Davis Memorial Scholarship—established by Promise House to promote opportunities for higher education and a better life.

Justin's story serves as an example of how Promise House provides youths with a safe haven to help meet their life goals. I am proud of Promise House's selfless efforts in reaching out with open arms to the needs of the children and teenagers in the north Texas area.

Mr. OSBORNE. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the resolution, H. Res. 1009.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF "LIGHTS ON AFTERSCHOOL!"

Mr. KUHL of New York. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 478) supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

The Clerk read as follows:

H. CON. RES. 478

Whereas high-quality after-school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high-quality after-school programs support working families by ensuring that their children are safe and productive after the regular school day ends;

Whereas high-quality after-school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's young people, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality after-school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas "Lights On Afterschool!", a national celebration of after-school programs on October 12, 2006, promotes the critical importance of high-quality after-school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home, and 14,300,000 children have no place to go after school; and

Whereas many after-school programs across the Nation are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KUHL) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. KUHL of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 478.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KUHL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 478, offered by my colleague, the gentlewoman from New York (Mrs. LOWEY). This resolution seeks to support the goals and the ideals of Lights on Afterschool!, a national celebration of after-school programs. This year's Lights on Afterschool! rally, which takes place on October 12, 2006, is expected to include more than 7,000 events in the United States and at military bases around the world. This event is aimed at bringing attention to the need for high-quality after-school programs that keep kids safe, help working families, and improve academic achievement.

I support this resolution because after-school programs are an important part of many American's student lives. High-quality after-school programs provide safe, challenging and fun learning experiences that help children and youth develop their social, emotional, physical, cultural and academic skills.

I am pleased that we are able to bring attention to the critical importance of after-school programs. I commend the communities across the Nation that engage in innovative after-school programs and activities and ensure that the doors stay open and the lights stay on for all children after school.

This resolution is simple and straight forward. It supports the goals and ideals of Lights on Afterschool!, a nationwide celebration of after-school programs.

I commend my colleague, Mrs. LOWEY, for her leadership in authoring H. Con. Res. 478. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs.

LOWEY), who is the sponsor of this resolution.

Mrs. LOWEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of H. Con. Res. 478 to highlight the goals of the seventh annual Lights on Afterschool! celebration. This event organized by the Afterschool Alliance is the only national celebration of afterschool programs and the important role they play in the lives of children, families and communities.

On October 12, more than 1 million Americans, representing thousands of after-school initiatives across the country, including more than 100 programs in my home State of New York, are expected to open their doors to parents, neighbors, business leaders and elected officials to showcase their accomplishments.

In my own district, events will take place in Tarrytown, White Plains, and Yonkers, and more programs are registering each day.

While there is growing enthusiasm for this year's Lights On celebration, we need more than just one day a year to highlight the importance of afterschool programs. That is why I joined with Representatives ROS-LEHTINEN and KILDEE to form the bipartisan Congressional Afterschool Caucus last year. Our mission is simple: to build support for these programs within Congress and to translate that support into sufficient funding to meet the growing demand for after-school initiatives.

For years, we have known that what our kids do after school can have as great an impact as what they do in school.

In 1996, from my seat on the Appropriations Committee, I helped create the 21st Century Community Learning Centers, the first-ever Federal afterschool initiative.

Since then, I have watched it grow from a million dollar demonstration project to a billion dollar permanent program today, because there is astonishing demand and tremendous unmet need for it.

According to a study conducted by the Afterschool Alliance, 40 percent of middle school children, the age when kids are most vulnerable to engaging in dangerous activities, are unsupervised for a good portion of the day. Parents are crying out for safe, structured environments where their kids can learn and play, make friends and develop new interests. Yet Congress is not doing what it should to ensure that our kids are safe and engaged while their parents are at work.

The Congressional Afterschool Caucus and the Lights On celebration will focus on changing that. We will share the lessens we have learned to make sure after-school does not become an afterthought in our Federal education priorities.

Mr. Speaker, I urge my colleagues to support this resolution, to join the Caucus, to fight tooth and nail for every dollar available so that kids and their parents have access to these desperately needed programs.

I thank you, I thank my colleague from New York.

Mr. KUHL of New York. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume to close for our side.

Again, I want to commend the gentlewoman from New York for her introduction of this resolution. I rise in support of H. Con. Res. 478, a resolution supporting the goals and ideals of Lights on Afterschool!, a national celebration of after-school programs.

Lights on Afterschool! is a project of the Afterschool Alliance. As many of you may know, the Afterschool Alliance is a nonprofit organization dedicated to raising awareness of the importance of after-school programs for all children. The Alliance was created to conduct this public awareness and advocacy work and to serve as a national voice for after-school programs.

Consistent with the work of the Alliance, they have created the Lights on Afterschool! projects that will host nationwide celebrations this October. These celebrations are a way of highlighting and bringing attention to the importance of after-school programs.

I think every single Member of Congress here can speak to the importance of these programs. I myself have seen the important and necessary role that after-school plays, especially in the everyday lives of working families. Nationwide, 14.3 million children take care of themselves after the school day ends. Of these, 6.5 million children are in after-school programs.

We all know that these programs provide not only a place for young people to be after school but also provide a tremendous benefit. Some of us have probably even visited after-school programs in our district. We appreciate the role that they have played and will continue to play in providing a safe place for our youth to be after school and provide them with the opportunity to grow and to learn.

□ 2130

Every statistic that you can look at and find generally depicts the fact that when young people get in trouble the most it is when they are without supervision, have nothing meaningful to do and are left to their own environs.

As a matter of fact, my parents used to say it differently. They used to say that an idle mind is the devil's workshop. I guess what they really meant was that if young people did not have something created for them to do, that we would create our own things, and oftentimes those things would not be in the best interests not only of our individual development but not in the best interests of the communities where we were.

So when the gentlewoman from New York introduces such a resolution, she is really doing all of America a great favor by helping us to remember that if we do not provide positive things for young people to do, oftentimes they will create the negative. So I thank Mrs. LOWEY for her introduction of this resolution and strongly support it.

Mr. Speaker, I yield back the balance of my time.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Con. Res. 478, supporting the goals and ideals of the Lights On Afterschool! program. According to the Afterschool Alliance's survey, 14.3 million children are left alone and unsupervised after school. Lights On provides children with a safe place to go after school and promotes healthy opportunities for growth and learning.

I believe that after school programs provide vital services to our youth and we must make a commitment to continue to fund these programs. Communities and schools can help by promoting after-school programs that engage teenagers in a thoughtful and safe manner. Encouraging high school students to join afterschool clubs, sports teams, and band or chorus also gives teenagers purposeful extra-curricular activities that diminish their chances of causing trouble in their community.

Our children deserve the very best chance to succeed in a turbulent global community, a world where economic competitors grow more numerous and powerful everyday. To ensure American leadership in the future, children today must be afforded comprehensive education and enrichment through well-funded schools and after-school activities.

There are many after school programs that are benefiting the children of my district. The Trenton After School Program has been serving our community for over 20 years. It not only provides our children with a safe place to go after school, but also provides culturally enriching programs including arts education.

Lights On provides children with fun, educational, and entertaining activities when the school day ends. I am proud to rise in support of this resolution.

Mr. KUHL of New York. Mr. Speaker, I have no further requests for time at this moment. Once again, I would like to commend my colleague Mrs. LOWEY for bringing this important resolution to the floor, and I thank my colleague Mr. DAVIS for expounding upon the very need for it, and with that, Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KUHL) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 478.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RAILROAD RETIREMENT DISABILITY EARNINGS ACT

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5483) to increase the disability earning limitation under the Railroad Retirement Act and to index the amount of allowable earnings consistent with increases in the substantial gainful activity dollar amount under the Social Security Act.

The Clerk read as follows:

H.R. 5483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Retirement Disability Earnings Act".

SEC. 2. REFORM OF DISABILITY EARNINGS LIMITATION PROVISIONS.

(a) IN GENERAL.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended—

(1) by striking "$400 in earnings" in the first sentence and inserting "the monthly allowable earnings as defined in the section";

(2) by striking "$4.800" in the fourth sentence and inserting "the amount of earnings computed by totaling the monthly allowable earnings as determined under this section for each month in the year"; and

(3) by striking the fifth sentence and inserting "If the total amount of such individual's earnings during such year (exclusive of earnings for services as described in subdivision (3) and after deduction of disability related work expenses) is in excess of the annual allowable earnings amount. the number of months in such year with respect to which an annuity is not payable by reason of the first and third sentences shall not exceed the number of months derived by dividing the amount by which such annual earnings exceed the annual allowable earnings amount by the monthly allowable earning amount determined under this section. If the computation under the preceding sentence results in a remainder greater than or equal to one-half. the number of months for which an annuity is not payable as determined under the preceding sentence shall be increased by one. The annual allowable earnings amount shall be computed by totaling the amount of monthly allowable earnings as determined under the first sentence of this subdivision for each month in the calender year. If the amount of the individual's annuity has changed during the calendar year. any payment of annuities which become payable solely by reason of the limitations in the preceding three sentences shall be made first with respect to the month or months for which the annuity is larger. For purposes of this subdivision, 'the monthly allowable earnings' shall be $700. except that for each year after 2007. 'the monthly allowable earnings' amount shall be the larger of the amount for the previous year or the amount calculated by multiplying $700 by the ratio of the national average wage index for the year 2 calender years before the year for which the amount is being calculated to the national average wage index for the year 2005. The amount so computed will be rounded to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect January 1. 2007.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5483.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume. I strongly support this bipartisan legislation.

H.R. 5483 is a bill to help disabled railroad employees. Under our current system, a permanently disabled railroad worker is given a monthly stipend by the Railroad Retirement Board. The average stipend is about $1.911 a month, which is often too little to support a family. This has led disabled workers to seek a supplemental source of income.

If a disabled railroad worker is well enough to work at another job, current law limits his or her earnings to only $400 a month, a limit which has remained unchanged for years.

Mr. Speaker, in my own district, the mayor of Mentor, Ohio, is a disabled railroad worker, and he can only accept $400 as his monthly pay for being the mayor of Mentor.

This legislation that we are considering today, H.R. 5483, the Railroad Retirement Disability Earnings Act, will increase that amount to only $700 per month, with no decrease in retirement benefits. The $700 figure will also be indexed to inflation.

The cost of this legislation is estimated to be at less than $500,000 a year. To put things in perspective, the National Railroad Retirement Trust is currently valued at over $29 billion and has been so well managed that railroad payroll taxes are actually going down.

H.R. 5483, the Railroad Retirement Disability Earnings Act, is important to disabled railroad employees and their families and is one of the most important pieces of railroad legislation that we will consider this year.

I urge your support for this bill and wish to commend our committee chairman, Mr. YOUNG of Alaska; the ranking minority member, Mr. OBERSTAR; and the subcommittee's ranking minority member, Ms. BROWN, for her outstanding leadership on this issue.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

I want to thank Chairman YOUNG and Chairman LATOURETTE and Ranking Member OBERSTAR for their work in bringing this important bill to the House floor for a vote.

It has been nearly 20 years since we have passed a bill to help out our Nation's rail workers who were injured on the job and unable to continue working in the railroad industry. I am pleased to see that everyone has agreed to support an increase in their allowed monthly earnings limit so that these hardworking men and women can work freely in jobs that are not as physically demanding as those in the railroad industry.

H.R. 5483 will increase the outside earnings limits for disabled workers from $400 to $700 per month. which will then increase yearly based on the Social Security index.

We all know that the cost of living in this country is skyrocketing. Whether it is the cost of needed medicines, increased insurance premiums. or the high price of gasoline, this small increase will make a major impact on the ability of these individuals to provide for their families.

I stand in strong support of this legislation, and I am happy to see everyone has come together today and that the views of all interested groups, not just a select few, were included in this legislation.

I encourage all of my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker. I yield myself such time as I may consume. Very shortly. I would advise my distinguished ranking member that I have no additional speakers. but I do want to make this comment.

This is my first session of Congress to serve as the chairman of the Railroad Subcommittee, and it has been my distinct pleasure to serve with the gentlewoman from Florida, and I want to thank her for the kind and bipartisan way in which she has treated all of the issues that have come before the subcommittee these last 2 years.

I do not know where our forces are going to take us in the next couple of years. but I very much look forward to working with you. and with that. when the gentlewoman yields back. I will do the same.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 5483. This bill increases the outside earnings limit for disabled workers from $400 to $700 per month, and indexes their outside earnings annually after 2007 to increases in the national average wage index—consistent with the indexing mechanism for determining substantial gainful employment under the Social Security Act.

Currently, the Railroad Retirement Act withholds monthly annuities for disabled workers who earn more than $400 in outside income. At the end of each year, the withheld annuities are reimbursed to disabled workers whose total annual earnings are less than $5,000. Otherwise, the annuity is subject to a deduction of 1 month's benefit for each multiple of

$400 earned over $5,000. H.R. 5483 increases that threshold to $8,750.

With ever-increasing costs for health care and prescription drugs, an extra $300 in earnings per month could make a real difference for disabled persons, who are all too often denied affordable, comprehensive healthcare, and guaranteed coverage of prescription drugs.

The Railroad Retirement Board's chief actuary estimates that these increases would not have a substantial impact on the Railroad Retirement Trust Fund. According to the actuary, the cost of raising the disability work deduction limit would be less than $1 million per year. That is a small price to pay for helping meet the needs of many disabled persons and their families.

I urge my colleagues to join me in supporting H.R. 5483.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 5483.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DAM SAFETY ACT OF 2006

Mr. KUHL of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4981) to amend the National Dam Safety Program Act, as amended.

The Clerk read as follows:

H.R. 4981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dam Safety Act of 2006".

SEC. 2. NATIONAL DAM INVENTORY.

Section 6 of the National Dam Safety Program Act (33 U.S.C. 467d) is amended to read as follows:

"SEC. 6. NATIONAL DAM INVENTORY.

"The Secretary of the Army, acting through the Chief of Engineers, shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include an assessment of each dam based on inspections completed by either a Federal agency or a State dam safety agency.".

SEC. 3. NATIONAL DAM SAFETY PROGRAM.

Section 8(b)(1) of the National Dam Safety Program Act (33 U.S.C. 467f(b)(1)) is amended by striking "and target dates to" and inserting "performance measures, and target dates toward effectively administering this Act in order to".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the National Dam Safety Program Act (33 U.S.C. 467j) is amended to read as follows:

"SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

"(a) NATIONAL DAM SAFETY PROGRAM.—

"(1) ANNUAL AMOUNTS.—There are authorized to be appropriated to FEMA to carry out sections 7, 8, and 11 (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e)) $6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000 for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011. Such sums shall remain available until expended.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 8 shall be allocated among the States as follows:

"(i) One-third among States that qualify for assistance under section 8(e).

"(ii) Two-thirds among States that qualify for assistance under section 8(e), to each State in proportion to—

"(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 6; as compared to

"(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 6.

"(B) MAXIMUM AMOUNT OF ALLOCATION.—The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

"(C) DETERMINATION.—The Director and the Board shall determine the amount allocated to States.

"(b) NATIONAL DAM INVENTORY.—There is authorized to be appropriated to carry out section 6 $650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011.

"(c) RESEARCH.—There is authorized to be appropriated to carry out section 9 $1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011. Such sums shall remain available until expended.

"(d) DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 10 $550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010, and $750,000 for fiscal year 2011.

"(e) STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 8 through 10 $700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011.

"(f) LIMITATION ON USE OF AMOUNTS.—Amounts made available under this Act may not be used to construct or repair any Federal or non-Federal dam.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KUHL) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

Mr. KUHL of New York. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4981, as amended, reauthorizes the National Dam Safety Program for 5 years through fiscal year 2011. It makes minor improvements to the national inventory of dams. The existing program authorization expires in just 3 days at the end of September.

The National Dam Safety Program is administered by the Federal Emergency Management Agency, commonly known as FEMA, and was established to improve safety and security around dams. The program provides assistance grants to State dam safety agencies to assist them in improving their regulatory programs, training and research, and to create a national inventory of dams.

According to the U.S. Army Corps of Engineers' National Inventory of Dams, there are nearly 2,000 dams in New York State, of which 133 are in my congressional district alone. Some of these high-hazard dams include the Almond Dam in Steuben County; the Canadice Lake Dam in Ontario County; the Cuba Lake Dam in Allegany County; and the Keuka Lake Outlet Dam in Yates County.

Of those 133 dams, 30 of them are considered to be high hazard and 41 are significant hazard. That means if there is a failure, and I underline, there is a high risk of death and destruction, high risk of death and destruction, according to the American Society of Civil Engineers.

Reauthorization of this program is necessary to continue the program and benefit the research, development of information technology, and the training of State dam safety officials who are considered the Nation's first line of defense from dam failures.

I support this bill and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4981, the Dam Safety Act of 2006, which reauthorizes and amends the National Dam Safety program. The program's goal is to reduce the risks to life and property by establishing an effective national dam safety maintenance program that utilizes the resources and expertise of the Federal and non-Federal communities to achieve the reduction of dam safety hazards. In other words, one of the primary purposes of the National Dam Safety program is to provide financial assistance to the States for strengthening their dam safety program.

Since the passage of the National Dam Safety Program Act in 1996, the program has improved the Nation's dam safety. Dam safety inspections have increased; State training programs have been enhanced; and research in the area of improving dam safety has increased.

Additionally, in light of our Nation's need to protect our infrastructure from possible terrorist attacks, the National

Dam Safety Review Board has established the Dam Safety Security Task Force to facilitate dialogue and offer technical assistance and support on security-related policy and guidance, and there has been an increase in the development of dam safety and security emergency action plans.

H.R. 4981, the Dam Safety Act of 2006, seeks to build upon these achievements made over the past several years and enhance them. The bill strengthens the act by improving the national dam inventory, and encourages States to improve State dam safety programs and increase reauthorization levels of the various components of the act.

Mr. Speaker, many people are not aware that there are approximately 80,000 dams in the United States. Of these, approximately 10,000 dams are considered to have high hazard potential, meaning their failure could result in loss of life or severe property damage. It is critical that we help to ensure the safety and security of these dams.

H.R. 4981, the Dam Safety Act of 2006, is a good bill, has bipartisan support, and I urge its passage.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 4981, the Dam Safety Act of 2006, as amended, which reauthorizes and amends the National Dam Safety Program. The National Dam Safety Program is a partnership of the States, Federal agencies, and other stakeholders to encourage individual and community responsibility for dam safety.

The purpose of the National Dam Safety Program is to "reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the federal and non-federal communities in achieving national dam safety hazard reduction."

H.R. 4981 reauthorizes the National Dam Safety Program through fiscal year 2011. The dam safety program, administered by the Federal Emergency Management Agency—FEMA—provides grants to State regulatory agencies, funds research projects aimed at improving dam safety, and trains safety officials and dam operators.

Of the 79,777 public and private dams in the United States, there are currently 11,811 high hazard dams across the country. If one of these dams fails, it could cost lives and damage the economy and the environment. From 2000 to 2006, the number of high hazard dams increased by almost 20 percent.

These dams can pose a significant threat. Between 1999 and 2004, States reported 1,090 dam safety incidents, including 125 failures. Deficient or unsafe dams mean that these dams have been identified as having hydrologic or structural deficiencies that make them susceptible to a failure triggered by a large storm event, an earthquake, progressive deterioration, or inadequate maintenance. Currently, States have identified approximately 3,400 dams as being deficient or unsafe—an increase of 33 percent since 1998.

Since the creation of the National Dam Safety Program in 1996, dam safety inspections have increased significantly. In addition, the program has provided funding to increase the amount and the quality of dam safety research and has increased the amount of direct assistance for training State officials and providing technical seminars and workshops.

Presently, many States lack the financial resources to effectively carry out the program and many State regulatory programs lack the support they require at a time when these critical program funds are truly needed. Clearly, there is a need for this program, the funds it provides, and the technical support it offers States.

Mr. Speaker, I support the bill and urge its approval.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. KUHL of New York. Mr. Speaker, I have no other requests for time. I would just like to thank my colleague from the other side of the aisle, Ms. BROWN, for her support of this bill and certainly to my colleagues Mr. MATHESON and Mr. ABERCROMBIE for their cosponsorship of this bill; and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KUHL) that the House suspend the rules and pass the bill, H.R. 4981, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CARROLL A. CAMPBELL, JR. FEDERAL COURTHOUSE

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5546) to designate the Federal courthouse to be constructed in Greenville, South Carolina, as the "Carroll A. Campbell, Jr. Federal Courthouse," as amended.

The Clerk read as follows:

H.R. 5546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse to be constructed in Greenville, South Carolina, building number SC0017ZZ, shall be known and designated as the "Carroll A. Campbell, Jr. United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Carroll A. Campbell, Jr. United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5546, introduced by Representative BOB INGLIS of South Carolina, designates the United States Courthouse to be constructed in Greenville, South Carolina, as the Carroll A. Campbell, Jr. Federal Courthouse. The bill honors former South Carolina Governor and U.S. Congressman Carroll A. Campbell, Jr.

In 1970, Governor Campbell's political career began with his election to the South Carolina House of Representatives, and later served in the South Carolina Senate. He served in the U.S. House of Representatives from 1979 until his election as Governor in 1986.

As Governor of South Carolina, Campbell coordinated his State's response to Hurricane Hugo and lured large industry to the State. After two terms in office, Governor Campbell was prevented from seeking a third term by term limits.

In 2001, at the relatively young age of 61, Governor Campbell was diagnosed with Alzheimer's disease. Governor Campbell passed away after a severe heart attack on December 7, 2005.

This is a fitting tribute to a dedicated public servant and a former Member of this Chamber. I support this legislation and encourage all my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

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Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5546, as amended, is a bill to designate the United States courthouse located in Greenville, South Carolina, as the Carroll A. Campbell, Jr., United States Courthouse. This bill, introduced by Mr. INGLIS, has bipartisan support from the South Carolina delegation.

Mr. Campbell was born in 1940 in Greenville, South Carolina. He attended public school in Greenville and graduated from the University of South Carolina. From 1970 to 1974, he served in the South Carolina House of Representatives. In 1975, he was appointed as Executive Assistant to Governor Jim Edwards. In 1976, he was elected to the State Senate; and in 1978 he was elected to the 96th Congress as a Republican from South Carolina. He served for three terms in Congress, and in 1987 he ran for Governor of South Carolina and served from 1987 to 1995. Carroll Campbell died in December, 2005, from the effects of Alzheimer's disease.

Mr. Campbell was known as the man who built the Republican Party in South Carolina to a dominant political force. In 1978, when Mr. Campbell headed to Congress, he won assignment on the Appropriations Committee and the Ways and Means Committee. In 1980, he joined forces with Lee Atwater to engineer the primary victory of Ronald Reagan in South Carolina.

As Governor, Mr. Campbell realized that South Carolina had to become a modern State to compete in the world economy; and he revamped the State's tax code to make it more business friendly, which resulted in record economic growth. He was personally involved in bringing the BMW plant to upstate South Carolina. Campbell was continually active in the international arena trying to bring business to South Carolina.

Campbell's greatest challenge was dealing with Hurricane Hugo in 1989. He joined forces with South Carolina Mayor Joe Riley and planned how to deal with the storm. He was a decision leader, and his decisions to prepare and evacuate saved many lives.

Congressman Campbell served the citizens of South Carolina with devotion and energy. It is fitting and proper to honor his civic contributions with this designation.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 5546, as amended; a bill to designate the United States Courthouse located in Greenville, South Carolina, as the Carroll A. Campbell, Jr. United States Courthouse. This bill, introduced by the gentleman from South Carolina (Mr. INGLIS), has the bipartisan support of the South Carolina delegation.

Carroll Campbell was born in 1940 in Greenville, South Carolina. He attended public schools in Greenville, and graduated from the University of South Carolina. From 1970 to 1974, he served in the South Carolina House of Representatives. In 1976, Governor Campbell was elected to the State Senate and, in 1978, he was elected to the 96th Congress, as a Republican from South Carolina. He served for three succeeding Congresses. In 1987, he ran for Governor of South Carolina and served as Governor from 1987 to 1995. As Governor, Campbell was personally involved in bringing a BMW plant to upstate South Carolina. Carroll Campbell passed away in December 2005.

Perhaps Campbell's greatest challenge as Governor was dealing with Hurricane Hugo in 1989. He joined forces with Charleston Mayor Joe Riley and methodically planned how to deal with the storm. He was a decision leader and his decisions to prepare and evacuate doubtlessly saved lives.

Governor Campbell served the citizens of South Carolina with devotion and boundless energy. It is fitting and proper to honor his civic contributions with this designation.

I urge my colleagues to join me in supporting H.R. 5546, as amended.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 5546, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States courthouse to be constructed in Greenville, South Carolina, as the 'Carroll A. Campbell, Jr. United States Courthouse'.".

A motion to reconsider was laid on the table.

WILLIAM M. STEGER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5606) to designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the "William M. Steger Federal Building and United States Courthouse".

The Clerk read as follows:

H.R. 5606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, shall be known and designated as the "William M. Steger Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "William M. Steger Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) will each control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5606, introduced by my good friends RALPH HALL and LOUIE GOHMERT of Texas, designates the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the William M. Steger Federal Building and United States Courthouse. This bill honors William Steger, who dedicated most of his life to Federal service.

Judge Steger's service began in 1941 when he joined the Army Air Corps the day after the attack on Pearl Harbor. By 1952, Judge Steger was a seasoned attorney and appointed to serve as the United States Attorney for the Eastern District of Texas by President Eisenhower.

Judge Steger's career as a judge began in 1970 with an appointment to the Federal bench by President Nixon. During his tenure, he closed more than 6,500 cases, issued several landmark decisions and was rarely reversed on an appeal. Judge Steger passed away June 4, 2006.

Mr. Speaker, I support this legislation and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5606 is a bill to designate the Federal building and United States courthouse located at 221 West Ferguson Street in Tyler, Texas, as the William M. Steger Federal Building and United States Courthouse.

Judge William Steger was born on August 22, 1920, in Dallas, Texas. He attended local schools and Baylor University. In 1941, the war interrupted his studies; and in 1942 he enlisted in the United States Army. After training as a pilot, he served in North Africa and flew 56 missions over North Africa and Italy in Spitfires, the famous British fighter plane.

Upon his return to Texas, he enrolled in South Methodist University as a pre-law student. In 1950, he graduated with honors from law school. Shortly after Eisenhower was elected, he appointed him to serve as the United States Attorney for the Eastern District of Texas. He served until 1959 and then entered private practice. He was the Republican nominee in the Texas Governor's race in 1960. President Nixon appointed him to the Federal bench in 1970, beginning his long and distinguished Federal judicial career.

He died in June of this year at age 85 and was known for his effective and judicial integrity and carried a heavy caseload even when he entered senior status. He was routinely described as an honest, ethical man and was a role model to teachers, his law clerks, lawyers, and fellow judges. It is both fitting and proper to honor the long public service of Judge Steger with this designation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GOHMERT), my good friend.

Mr. GOHMERT. Mr. Speaker, I appreciate my good friend, Mr. SHUSTER, yielding. I do rise today to speak in support of H.R. 5606, to designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler as the William M. Steger Federal Building and U.S. Courthouse.

Immediately after Judge Steger's death, my good and long-time friend, Congressman RALPH HALL, had spoken to me about what I also had in my heart, and that is paying a tribute to

Judge Steger by naming this Federal building for Judge Steger. I appreciate my friend, Mr. HALL, and his commitment to his old friend and also the respect we both had for Judge Steger.

Judge Steger was a heroic patriot, he was a caring father, he was a loving husband, an evenhanded, clear-thinking, constitutionally understanding judge, and he was a personal mentor. He was a cherished friend.

After I finished the 4 years I owed the United States Army from a scholarship at A&M and my wife and I considered coming back to Tyler, Judge Steger was one of the first people I talked to about it. Judge Steger was the father of Reed Steger and husband of Ann Steger, and their son Reed was one of my little brother's very best friends.

I learned a great deal from Judge Steger. Most people never did really come to know all that he had done and what he was, but he was a Dallas native originally. He always wanted the opportunity to become a pilot; and when the Nation entered World War II, he took the chance. On November 9, 1942, he got his wings; and, after training, he was sent to Casablanca and flew 56 combat missions, for which he received an Air Medal and four oak leaf clusters. While later training other pilots, Captain Steger also tested the first U.S. jet airplanes. If judged only by his service here, he would be counted as a hero, but he was much more than that.

Once his Nation was secure, Bill Steger went back to school, received his law degree from Southern Methodist University Law School, and then he engaged in private practice in Longview and Tyler and headed up numerous east Texas campaign clubs for a gentleman named Dwight D. Eisenhower, who was running for president. After the election, President Eisenhower appointed Judge Steger in 1953 to the position of U.S. Attorney for east Texas at the very young age of 32.

Judge Steger was up to the task. He became a Federal District Judge for the Eastern District of Texas in December, 1970, after President Richard Nixon nominated him.

He did truly love being a jurist. He was a hardworking, dedicated, cerebral, no-nonsense constitutional constructionist judge, whose discerning intellect could always cut straight to the heart of any issue. I know. I tried cases in front of this great judge.

In 1987, Judge Steger assumed senior active status duty, but since there still needed cases to be handled, Judge Steger stepped in and stood in the gap. December 1, 2005, marked 35 years on the Federal bench for Judge Steger. Since his appointment in 1970, he had handled more than 15,000 cases.

Judge Steger not only made his home in Tyler, Texas, a better place, but he changed Texas politics. In 1960, he and a good friend debated as to which one should run for Governor and which one should run for Senator. Their goal was to bring the Republican Party into popularity in the State of Texas. Because Texas was conservative, it seemed to Judge Steger that it would be a good fit, but he was blazing a trail.

He ended up being the one to run for Governor against a very popular John Connolly. Judge Steger's good friend, named John Tower, ran for Senator. The Republican Party had never received enough votes to hold a primary, and even though Judge Steger knew he couldn't win the race, he hoped he would get the requisite 200,000 votes so the Republican Party could hold a primary in the next election. Judge Steger actually received more than 600,000 votes that year. Texas then became eligible to begin having Republican primaries because of Judge Steger.

Always having the courage of his convictions, despite the odds against him, Judge Steger was a profile in courage whose memory will continue to inspire me for the rest of my life. At the 2004 Tyler Law Day, Judge Steger received the Justinian award for his community service, his legal ethics, and professionalism.

He was a Baptist, a Baptist's Baptist. He was a charter member and deacon at Green Acres Baptist Church, helping to nurse it through its early days of growing from nonexistence to its current 12,000 members. He was a confidant to me, he was a friend, and he was a wise sounding board.

He and Ann endured the worst heartache a couple can face in the loss of their only child, Reed, in a tragic scuba diving accident. But the manner in which Judge Steger dealt with such devastation and allowed his faith, God's help and Ann's companionship to help overcome this horrendous blow has always and will always be an inspiration to me.

It is an honor to be a part of this bill that will create a lasting tribute to such a deserving man. I thank my friend, Mr. HALL, and I urge my colleagues to vote "yes" on H.R. 5606 in order to commemorate the life of an ideal American.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. HALL).

Mr. HALL. Mr. Speaker, I thank the gentleman for yielding to me, and I thank my colleague LOUIE GOHMERT. It is an honor to join LOUIE in sponsoring H.R. 5606, a bill to designate the Federal building and courthouse in Tyler, Texas.

Judge Steger passed away on June 4, having served on the bench with great distinction for, I guess 35, 36, 37 years. I appeared before him. I was in law school with him at SMU. He was a great American. He was just really a wonderful guy, just a super friend.

□ 2200

He was a great jurist. Judge was successful in everything he did in life, including the marrying of his wife Ann, to serving his country in World War II, to being in public service.

I had known Bill Steger when we were fellow law students at Southern Methodist University following World War II and had the utmost respect and admiration for him. I did not like him too much because he was very brilliant and he ruined the curve for a lot of us ordinary lawyers there and law students, but we had a lot of laughs about that.

He was appointed by Richard Nixon. He began a long and distinguished service as U.S. District Judge in December of 1970. He served in Beaumont until 1977 and then returned to Tyler, where he built upon a reputation for efficiency and integrity. He closed more than 6,500 cases, issued several landmark decisions and was rarely reversed on appeal.

Judge was a constitutionally reverent jurist, upheld the highest ideals of our judicial system and earned the respect of fellow jurists, attorneys and their clients.

As a testament to his contributions on the Federal bench, Judge was honored in 2005 by current and former law clerks, attorneys, fellow jurists, local officials, friends and admirers at a attribute dinner in Tyler.

Prior to his appointment to the Federal bench, he was appointed by President Eisenhower as U.S. District Attorney in East Texas, a position he held from 1952 to 1969. Judge had been Eisenhower's East Texas campaign manager and was the founding father of East Texas Republican politics.

He also distinguished himself in service to his country by answering his call to duty and enlisting in the U.S. Army Air Corps shortly after the bombing of Pearl Harbor. He was studying pre-law at Baylor University at the time but did not hesitate to enlist.

He flew 56 combat missions as a fighter pilot in Tunisia, Sicily and Italy, received the Air Medal and four Oak Leaf Clusters and obtained the rank of Captain. While later training other pilots, Captain Steger also tested the very first U.S. jet airplanes.

Upon completion of his military service in 1947, Judge returned to Dallas and enrolled in SMU. He also made one of the best decisions in his life in his marriage to Ann Hollandsworth Steger. Judge and Ann were inseparable and contributed so much to their community, both separately and as a couple.

Shortly before his death, when it was mentioned to Judge that his law clerks, friends and family were hoping that the Federal Building would be named after him, he quipped, "and maybe we could also have an Ann-ex." Such was his love and respect for his wife of some 58 years.

Judge and Ann, as Congressman GOHMERT stated, had a wonderful son named Reed, who died tragically in a scuba diving accident several years ago. It was just a hard time for them to go through. But his faith in God and with God's help and Ann's companionship helped him through that very difficult time.

In closing, Judge Steger just really was one of the great judges of the Eastern District. Naming the Federal building for him would be a living tribute and would remain long after we are all gone, while others will see his name and know it stood for justice. Judge Steger leaves a powerful legacy of ethical conduct, judicial prudence and distinguished service that will long be remembered.

I urge my colleagues to support me today in support of H.R. 5606 in honor of this great jurist and great American, the late Judge William M. Steger.

Mr. OBERSTAR. Mr. Speaker, H.R. 5606 is a bill to designate the Federal building and U.S. courthouse located at 221 West Ferguson St. in Tyler, TX as the William M. Steger Federal Building and United States Courthouse.

Judge William Steger was born in 1920 in Dallas, TX. He attended local schools and Baylor University. He enlisted in the U.S. Army in 1942. After training as a pilot, he served in Northern Africa and flew 56 missions over North Africa and Italy in Spitfires, the famous British fighter plane.

In the 1950s, President Eisenhower appointed him to serve as the United States Attorney for the Eastern District of Texas. In 1960, Judge Steger was the Republican nominee in the Texas governor race in 1960. In 1970, President Nixon appointed him to the Federal bench, beginning his long and distinguished Federal judicial career. Judge Steger passed away this past June.

I urge my colleagues to support H.R. 5606.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 5606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANDRES TORO BUILDING

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5026) to designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, as the "Andres Toro Building".

The Clerk read as follows:

H.R. 5026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, shall be known and designated as the "Andrés Toro Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Andrés Toro Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5026, introduced by Representative LUIS FORTUÑO of Puerto Rico, designates the Investigations Building of the Food and Drug Administration located in San Juan, Puerto Rico, as the Andres Toro Building.

Andres Toro was the Director of the Compliance Division of the FDA San Juan district office. He joined the FDA in 1977 as an investigator in the San Juan district office and worked his way up through the ranks to Director of the Compliance Division. He is the first and only Puerto Rican to have risen to this high government rank in the FDA without taking a position off the island, and received many awards along the way.

Mr. Toro played a major role in some of the most unprecedented regulatory cases the FDA has initiated against the food and drug industry. He was known for his dedication and commitment in preserving and protecting public health.

Mr. Toro's life of public service came to an end when a sudden heart attack claimed his life June 24, 2005. This bill is a fitting tribute to a dedicated public servant.

I support the legislation, and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as may consume.

Mr. Speaker, H.R. 5026 is a bill to designate the Food and Drug Building located in San Juan, Puerto Rico, as the Andres Toro Building.

Andres Toro was an extremely knowledgeable public servant. As a Federal employee highly regarded by both his coworkers and members of the pharmaceutical industry in Puerto Rico, he directed the Office of Investigations for the Food and Drug Administration in the Puerto Rico district.

Working with local government agencies, he demonstrated his commitment to preserving and enhancing public health by playing a major role in FDA actions in regulatory matters. He was widely regarded as one of the most knowledgeable members in the regulatory environment and made valuable and significant contributions to the FDA office in San Juan.

During his Federal career, he received numerous awards and honors, including the Commissioner's Special Citation for the Tylenol tampering case, the FDA Commendable Service Award for outstanding performance and dedication during Hurricane David, and in 1993 for his participation in the criminal investigation called "operation golden pill."

Mr. Toro was a veteran of the Vietnam War and was awarded the National Defense Service Medal and the Vietnam Service Medal.

After attending Catholic University in Puerto Rico, he joined the FDA in San Juan in 1977. Over the course of his Federal a career he rose to the rank of Director of Investigations for the Puerto Rico district of the Food and Drug Administration. He was beloved by his fellow workers, who relied on his expertise, knowledge and guidance.

It is both fitting and proper to honor this extraordinary public servant with this designation. I support H.R. 5026, and urge my colleagues to join me in supporting this bill.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 5026, a bill to designate the Food and Drug Administration, FDA, Building located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico as the Andres Toro Building.

Andres Toro, a Federal employee who recently passed away, was highly regarded by his co-workers and members of the pharmaceutical industry in Puerto Rico. He was the Director of the Office of Investigations for the Food and Drug Administration in the Puerto Rico District.

Andres Toro was a veteran of the Vietnam war and was awarded the National Defense Service Medal, and the Vietnam Service Medal. After attending Catholic University in Puerto Rico he joined the FDA in San Juan in 1977. He was the recipient of the Secretary's award for Distinguished Service and the Outstanding Service Award.

It is both fitting and proper to honor Andres Toro and his extraordinary public career with this designation.

I support H.R. 5026 and urge my colleagues to join me in support of this bill.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 5026.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JOHN F. SEIBERLING FEDERAL BUILDING

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6051) to designate the Federal building located at 2 South Main Street in Akron, Ohio, as the "John F. Seiberling Federal Building," as amended.

The Clerk read as follows:

H.R. 6051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, shall be known and designated as the "John F. Seiberling Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "John F. Seiberling Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6051, introduced by my good friend, Representative TIM RYAN of Ohio, designates the Federal Building and Courthouse located in Akron, Ohio, as the John F. Seiberling Federal Building and United States Courthouse.

John Seiberling was born in 1918 in Akron, Ohio. He received his degree from Harvard University and his law degree from Columbia School of Law. After 4 years of duty with the Army during World War II, Seiberling began a career in private practice.

After more than 20 years as an attorney, Seiberling was elected to the 92nd Congress and served in the U.S. House of Representatives for 16 years as a representative of the 14th District of Ohio. During his eight terms in the U.S. Congress, Representative Seiberling led the fight to establish some of our country's most important urban parks, and has received the title of "patron saint" of many of today's national parks.

In 1992, Representative Seiberling joined the faculty of the University of Akron's School of Law in Akron, Ohio. He currently resides in Akron, Ohio.

I support this legislation, and encourage my colleagues to do the same. I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6051, as amended, is a bill to designate the Federal building located at 2 South Main Street in Akron, Ohio, as the John F. Seiberling Federal Building and United States Courthouse.

Congressman Seiberling was born in Akron, Ohio, in 1918. He attended public school in Akron and Staunton Military Academy in Virginia. After graduating from military academy, he attended Harvard and received his law degree from Columbia Law School, New York, in 1949.

Serving in the United States Army from 1942 to 1946, he was admitted to the New York bar in 1950 and engaged in private practice from 1949 to 1954. During this time, he volunteered with the New York Legal Aid Society.

He was elected to the 92nd Congress and served for seven consecutive Congresses, from January, 1971, through January, 1987.

He had a deep and weighty impact on the course of conservation in our Nation's history. Although he was raised in a family of committed conservationists, it was through his public service as a Congressman from the 14th District of Ohio that he made his most significant contributions to conservation.

Congressman Seiberling authored legislation to establish the American Conservation Corps. Although the legislation was vetoed by President Reagan, the ideals and concepts outlined in the bill were later adopted in legislation signed by President Clinton to establish the AmeriCorps.

Also, under his leadership, more than 100 million acres of public land in Alaska were designated in 1980 as national parks, forests, wildlife refuges and wilderness areas. He led the effort on over 33 bills to create 250 wildlife areas or refuges. He was also an expert on historical preservation and authored legislation that created the Historic Preservation Fund.

He was recognized by his colleagues as a gentleman and a man of honor who worked diligently and tirelessly for his constituents. We all benefited from his boundless energy and determination. It is certainly fitting and proper that we take this opportunity to honor his civic career with this designation.

I thank Congressman TIM RYAN for introducing this bill, and urge its passage.

Mr. SHUSTER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I would like to thank the gentlelady from Florida and my good friend, the chairman from Pennsylvania, for all of his leadership on this committee and many other issues in Congress.

I am honored today, Mr. Speaker, to sponsor H.R. 6051 to name the Federal building and courthouse in Akron, Ohio, after Congressman John Seiberling, who served in the House from 1970 to 1987. I am also humbled that over the last 5 years I have come to know Mr. Seiberling as a friend, as a mentor and as a role model for I think what it truly means to be a dedicated and distinguished public official.

In Ohio, and in particular in my congressional district, Mr. Seiberling is among the most respected and loved leaders of the last century, and it is a distinction that is well-deserved. During his 16 years of service in the House, he has an endless list of legislative achievements, as you heard here earlier tonight, including the bill that constructed this Akron Federal building. He also was a champion of civil rights and workers' rights.

□ 2215

Most notably, he successfully sponsored and passed dozens of bills addressing conservation and environmental protection which continue to benefit our Nation here today.

From protecting wilderness areas to authorizing the legislation of the American Conservation Corps, to establishing the only national park in the State of Ohio and the Cuyahoga Valley, which actually kept Akron and Cleveland from growing together, he demonstrated a long-term vision which is seldom seen in politics today and leadership and ability.

Even after leaving Congress, he remained one of our Nation's advocates for conservation and environmental protection. So it is no surprise that he was nominated for the Presidential Medal of Freedom in 2000 and in January 2001 received the Presidential Citizens Medal.

But as important, John Seiberling distinguished himself in his community, Ohio, and this body through civility, kindness, and a genuine respect for all people.

And it was interesting, as I was beginning to offer this piece of legislation, to talk to several current Members of Congress who were staffers when Mr. Seiberling was a Member of Congress, and each of them said that he treated the staffers as he treated the Members of Congress, which I think is a sign of class and kindness that is to be respected here today.

Since introducing this bill, not only did I hear these stories, but I also heard many other stories from staffers and colleagues and others, and there is yet to be a conversation with any of these Members where Mr. Seiberling didn't end his conversation with a "thank you" or a "please" or "thank you for your assistance," going above and beyond the kind of respect that most people offer.

In 2001, when Mr. Seiberling received the Presidential Citizens Medal, he called many of his former staffers, one of whom is my chief of staff now, Mary Anne Walsh, to ask them to join him at the White House ceremony because he said: "I am receiving this award because of your hard work, your talents, your dedication. And that made it all possible for us to make a difference during my congressional career." That statement represents the essence of the man John Seiberling is.

When John first ran for Congress in 1970, he had a slogan that said: The guts to do what is right. And for those of us who know John Seiberling, I am certain we will all agree that John never needed the guts to do what is right; it is just who the man is.

And so, Mr. Speaker, I want to thank Chairman YOUNG, Ranking Member OBERSTAR, Chairman SHUSTER, Ranking Member NORTON, Ms. BROWN for handling the time here tonight and helping me with this legislation to help move this bill through the committee and to the floor so quickly.

President Kennedy said in the great speech he gave at Amherst College that this Nation reveals itself not only by the men it produces but by the men it honors. And I think this is a very appropriate response to honor Mr. Seiberling to reflect the importance and the greatness of this Nation.

Ms. CORRINE BROWN of Florida. Once again, I want to thank Congressman RYAN for bringing this bill to the floor, and I want to thank the chairman.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 6051, as amended, a bill to designate the federal building located at 2 South Main St. in Akron, OH, as the John F. Seiberling Federal Building and United States Courthouse.

Congressman John Seiberling was born in 1918. He attended public school in Akron and Staunton Military Academy in Virginia. After graduating from the military academy, he attended Harvard and received his law degree from Columbia Law School.

In the 1950s, Congressman Seiberling engaged in private practice and also volunteered with the New York Legal Aid Society. He was elected to the 92nd Congress and served for seven succeeding Congresses from 1971 to 1987.

He was an ardent environmentalist long before it was a trendy word. He comes from a long line of conservationists. His grandfather donated land in Akron for the city's first metropolitan park. As a junior Member of Congress, Seiberling authored legislation to establish the Cuyahoga Valley National Recreation Area. He then went on to shepherd through Congress an additional 62 park related bills, including legislation that tripled the size of the Land and Water Conservation Fund.

Congressman Seiberling also sponsored legislation to establish an American Conservation Corps. Although the legislation was vetoed by President Reagan, the ideals and concepts outlined in the bill were later adopted as part of the AmeriCorps authorization legislation signed by President Clinton.

I urge my colleagues to join me in supporting H.R. 6051.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield the balance of my time.

The SPEAKER pro tempore (Mr. MARCHANT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 6051, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the 'John F. Seiberling Federal Building and United States Courthouse'."

A motion to reconsider was laid on the table.

CLYDE S. CAHILL MEMORIAL PARK

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1556) to designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the "Clyde S. Cahill Memorial Park".

The Clerk read as follows:

H.R. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The parcel of land described in section 3, and located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, shall be known and designated as the "Clyde S. Cahill Memorial Park".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the parcel of land described in section 3 shall be deemed to be a reference to the "Clyde S. Cahill Memorial Park".

SEC. 3. PROPERTY DESCRIPTION.

The parcel of land designated under section 1 is the parcel bounded by South 10th Street, Clark Avenue, South 9th Street, and Walnut Street in St. Louis, Missouri.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1556, introduced by Representative LACY CLAY, designates a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri as the Clyde S. Cahill Memorial Park. The bill honors Judge Clyde S. Cahill, who was the first African American to be appointed to the U.S. District Court of the Eastern District of Missouri.

After serving in the U.S. Air Force during World War II and acquiring a law degree from St. Louis University Law School, Judge Clyde S. Cahill engaged in the private practice of law in 1951. From 1958 through 1968, he served as chief legal adviser to the Missouri NAACP. While with the NAACP, he filed the first lawsuit in Missouri to implement the Supreme Court's decision in Brown v. Board of Education, helping to end school segregation in Missouri.

Judge Cahill was appointed to the U.S. District Court for the Eastern District of Missouri in 1980. Judge Cahill had a reputation for being courteous and compassionate. He passed away on August 18, 2004, at age 81.

I support this legislation and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1556 is a bill to designate the land located in the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri as the Clyde S. Cahill Memorial Park. This parcel of land is bounded by South Tenth St., Clark Avenue, South Ninth Street, and Walnut Avenue in St. Louis.

Judge Cahill was the first African American Federal district judge to serve in the eighth circuit. A native Missourian, he was born in 1923. He attended local elementary and high schools. After graduating from high school, he joined the U.S. Air Force and served in World War II from 1942 until 1946.

When he returned from the war, he continued his education at the University of St. Louis. He graduated from St. Louis University Law School in 1951 and began private practice. In 1954 he joined the Office of the Circuit Attorney for the City of St. Louis. In 1972, he became the executive director and general counsel for the Legal Aid Society of St. Louis. From 1975 until 1980, he served as circuit court judge of the Twenty-Second Judicial Circuit of the State of Missouri in St. Louis.

He was appointed by President Carter on May 23, 1980 to the Federal court. Judge Cahill became the first African American to be appointed to the United States District Court for the Eastern District of Missouri.

He was known for being both compassionate and courteous. However, he frequently challenged the flaws in the judiciary system and was critical of Federal sentencing guidelines which he believed were sometimes inappropriately severe. He served as a role model for many young lawyers and civil servants.

Judge Cahill died in 2004. Due to his lifetime of judicial excellence, it is both fitting and just that the park area located in the Thomas Eagleton U.S. Courthouse be designated in his honor.

I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. CORRINE BROWN of Florida. I yield such time as he may consume to the sponsor of the bill, Mr. CLAY.

Mr. CLAY. Mr. Speaker, I thank the gentlewoman from Florida, as well as my friend and chairman, Chairman SHUSTER of Pennsylvania. I thank them both for their support of this bill.

I rise in support of H.R. 1556, a bill to designate a park in the City of St. Louis in honor of the late Judge Clyde S. Cahill.

Judge Cahill served on the U.S. District Court for the Eastern District of Missouri for more than two decades, appointed by President Jimmy Carter in 1980. Judge Cahill was the first African American to serve in the eighth circuit court.

The Honorable Clyde S. Cahill, Jr., was a native St. Louisian. He graduated from Vashon High School and served in the U.S. Air Force during World War II. He went on to graduate from St. Louis University and St. Louis University School of Law.

Early in his legal career, Mr. Cahill served as chief legal adviser to the Missouri office of the NAACP and filed the first lawsuit in the State of Missouri calling for enforcement of the landmark Supreme Court ruling in Brown v. The Board of Education.

Throughout his career, Clyde Cahill demonstrated a deep commitment to improving the quality of life in the African American community. He was a leader in the struggle for civil rights, and he was active in many domestic programs to help the poor and disadvantaged.

In 1966, he joined the U.S. Office of Economic Opportunity, and later he went to work for the St. Louis Human Development Corporation. He also served as executive director and general counsel for the Legal Society of St. Louis, where he played a pivotal role in expanding legal aid services throughout eastern Missouri. Judge Cahill was truly a dedicated public servant who spent his life pursuing justice and equality for others.

Today, throughout St. Louis, Judge Cahill is fondly remembered for his courteous style and his compassionate heart. He was a hardworking man with a generous spirit who helped to improve the lives of countless citizens, some who knew him well and others who never even met him. Judge Cahill's contributions will benefit generations, and St. Louisians will forever cherish his memory.

I also want to add, Mr. Speaker, that I grew up knowing Judge Cahill going to school with his children. We are friends to this day. I ask my colleagues to support H.R. 1556, a bill to designate a site at the Thomas F. Eagleton United States Courthouse as the Clyde S. Cahill Memorial Park.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 1556, a bill to designate the land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, MO, as the Clyde S. Cahill Memorial Park. This parcel of land is bounded by South 10th Street, Clark Avenue, South 9th Street, and Walnut Avenue in St. Louis.

Judge Cahill, a native Missourian, was born in St. Louis in April 1923. He attended local elementary schools and Vashon High School. After graduating from high school, he joined the U.S. Army Air Corps and served in World War II from 1942 until 1946.

When he returned from the war he continued his education at the University of St. Louis. He graduated from St. Louis University Law School in 1951. After graduation, Judge Cahill engaged in private practice until 1954 when he joined the staff of the circuit attorney of the city of St. Louis. From 1958 to 1965, he served as the chief legal advisor to the Missouri NAACP and filed the first lawsuit in Missouri to implement the Supreme Court's decision in Brown v. Board of Education.

From 1975 until 1980, Judge Cahill served as a circuit judge on the 22nd Judicial Circuit of the State of Missouri in St. Louis. With his appointment to the Federal court by President Carter on May 23, 1980, Judge Cahill became the first African-American to be appointed to the United States District Court for the Eastern District of Missouri.

Judge Cahill was known for being both compassionate and courteous. However, he frequently challenged the flaws in the judicial system and was critical of Federal sentencing guidelines, which he believed were sometimes inappropriately severe. He served as a role model for many young lawyers and civil servants.

Judge Cahill died peacefully in 2004. Due to his lifetime of judicial excellence, it is both fitting and just that the park area located at the Thomas Eagleton U.S. Courthouse be designated in his honor.

I urge my colleagues to join me in supporting H.R. 1556.

Ms. CORRINE BROWN of Florida. I yield back the balance of my time, Mr. Speaker.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 1556.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

KIKA DE LA GARZA FEDERAL BUILDING

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2322) to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building".

The Clerk read as follows:

H.R. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 320 North Main Street in McAllen, Texas, shall be known and designated as the "Kika de la Garza Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Kika de la Garza Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentlewoman from Florida (Ms. CORRINE BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2322, introduced by Representative LLOYD DOGGETT, designates the Federal building located in McAllen, Texas, as the Kika de la Garza Federal Building. The bill honors former Congressman Kika de la Garza from Texas, who served in the U.S. House of Representatives for 32 years.

Congressman de la Garza started his career of civil service early when he enlisted in the U.S. Navy at age 17. After his military service, he earned a law degree from St. Mary's University in San Antonio. Following law school, he was elected to the Texas House of Representatives, where he served for six consecutive terms. Representative de la Garza was elected in 1964 to the U.S. House of Representatives.

During his 32 years of service in Washington, de la Garza accomplished countless goals and participated in a number of historic events, including the creation of the Congressional Hispanic Caucus.

This bill is a fitting tribute to former Representative de la Garza. I support this legislation, and encourage my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2322 is a bill to designate the Federal building located at 320 North Main Street in McAllen, Texas as the Kika de la Garza Federal Building. This bill has bipartisan support, and I commend Mr. DOGGETT for his constant and dogged support of this bill.

Kika, as he is known by everyone, came to the United States Congress in 1964 and served the people of Texas for over 30 years. He was the first Hispanic American to become chairman of a standing committee and served as chairman of the Agricultural Committee from 1981 to 1994. He was an outspoken advocate for U.S. agriculture and for programs to protect and improve the farm and rural economy.

Chairman de la Garza led the effort to enact landmark legislation such as the Federal Crop Insurance Reform and the Department of Agriculture Reorganization Act of 1994, which established a federally fund catastrophic risk coverage policy for crop losses.

In 1990, he helped pass the Food, Agriculture, Conservation and Trade Act of 1990, which reformed export assistance programs and established new initiatives to strengthen environmental protection of agricultural lands.

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He is a World War II veteran and received his law degree from St. Mary's University in San Antonio, Texas.

It is fitting and proper to honor the long and distinguished career of Congressman de la Garza by designating the Federal building located in McAllen, Texas, in his honor. I support H.R. 2322, and urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. DOGGETT), the bill's sponsor.

Mr. DOGGETT. Mr. Speaker, I thank both of my colleagues for their leadership on this matter, and I am pleased to honor Congressman Kika de la Garza as he has honored south Texas and America by his extended public service.

This particular building is located around the corner from where Kika de la Garza began his career practicing law in McAllen and also around the corner from the district office that I have had the honor to maintain this past 2 years in the city of McAllen.

Kika began humbly and poorly, poor in economic terms but rich in talent. His first job was shining shoes, and he rose from that to making laws in the State House and later here in the United States Congress. But as far as he traveled and as important a position as he held here in Washington, he never stopped treating all of his constituents as if each one were the most important.

Kika still remembers an episode from his early days as a lawyer when he loaned one of his clients a shirt to keep warm in a cold courthouse. Throughout his tenure in Congress, Congressman de la Garza never forgot where he came from. It was my pleasure to share one term with him when I was first elected to my term that began in 1995.

At a time when many this year look at the Rio Grande Valley and talk about building walls, Congressman de la Garza believed in building bridges, literally and figuratively. He worked to improve relations and trade between the United States and Mexico throughout his career. He promoted dialogue between Members of Congress and our counterparts in Mexico. He led efforts to create modern border crossings across the Texas-Mexico border and bridges that are now vital links in commerce throughout this hemisphere.

His hard work earned him many honors here, many things named for him in the Rio Grande Valley, but also the Order of Aztec Eagle, the highest honor that the country of Mexico can bestow on a noncitizen.

Kika de la Garza is best known for his work here on agriculture, particularly his extended service as Chair of the House Agriculture Committee. He was the first Hispanic since 1917 to chair a standing committee in the United States House of Representatives; and no other chairman has ever done so much to advance the concerns of the small farmer, the family farmer, as Chairman de la Garza.

When you ask him of his proudest accomplishments, he points to the farm bills that he shepherded through this Congress. He particularly remembers his first farm bill as chairman. He gave a speech in this very room that won him a standing ovation, but it was his last-minute persuasion of a colleague from the other side of the aisle that passed the bill by a single vote. Chairman de la Garza knew for the farmer in the field results count far more than rhetoric.

Even though he has retired from this Congress, Kika de la Garza has not retired from public life. In fact, we still call him "Mr. Chairman" in the valley because he is the Democratic precinct chairman of Precinct 62 in McAllen. Although he has moved along in years, he has maintained the same interest in service that he always has had from his origin in the valley.

When you ask him about his most recent political office, he quotes back Tip O'Neill's famous axiom that "all politics is local." From humble beginnings in the local community, Kika de la Garza has returned home but maintains a legacy that is international in scope.

I want also to commend Lucille de la Garza, who clearly has been his partner and continues to be his partner. She served with him through the legislature, the Congress and now in McAllen. Kika and Lucille have devoted their lives together to enhance the quality of life for all citizens of the valley.

That devotion is also reflected in a great family. George is a cardiovascular surgeon who still practices in the valley. Michael is a retired Lieutenant Commander in the Navy who defended our country on the high seas from the Pacific to the Persian Gulf. Angela is a special education teacher at Tobias Elementary School in Kyle, working to pass along the world of opportunities that come with a strong public education.

Kika de la Garza is an example to all of us of a true gentleman and public servant who brought honor to this Congress through civility, respect and commitment to doing what is right. He will serve as an appropriate role model for the lawyers and public servants who enter into that courthouse; that Federal building named after him in McAllen, Texas.

His lifetime dedication to public service has been a gift to our community. Today's tribute is richly deserved, and I thank my colleagues for helping to secure the approval of this legislation.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 2322, a bill to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the E. "Kika" de la Garza Federal Building.

E. Kika de la Garza's long and productive career spanned 30 years of public service to his constituents in Texas. He was elected to the Texas House of Representatives in 1953. In 1964, Kika was elected to Congress and served 16 years.

Congressman de la Garza was the first Hispanic American to become Chairman of a standing committee, the Committee on Agriculture. In the 103rd Congress, Kika led the initiative to enact legislation to revamp and streamline the U.S. Department of Agriculture.

He also became one of the founding Members of the Congressional Hispanic Caucus, which he chaired from 1989–1991. His numerous legislative accomplishments included creating the Texas Water Commission and the Reagan/de la Garza coastal wetlands. He was also a driving force behind legislation creating the Nation's first state-run system of English language instruction for pre-school age children.

Kika de la Garza was one of Congress' leading experts on U.S.-Mexican relations and worked to improve relations between the two countries. He served as Chairman of the Mexican-U.S. Interparliamentary Group, which promotes dialogue between the two countries.

In Congress, Kika was known, on both sides of the aisle, as a gentleman who fostered cooperation and bipartisanship. He was devoted to his constituents and their needs.

Mr. Speaker, I urge my colleagues to join me in supporting H.R. 2322.

Ms. JACKSON-LEE of Texas. I appreciate this opportunity to express my strong support for H.R. 2322, which designates the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building." This honor is well-deserved recognition to the former Chairman of the House Agriculture Committee, co-founder of the Congressional Hispanic Caucus, and one of the most beloved members to have served in this House with distinction for more than thirty years.

Elected in 1964 to the U.S. House of Representatives from Texas' 15th District, Kika de la Garza served the people of the Rio Grande

Valley and the nation for 16 terms before retiring in 1996. He was one of the first Hispanics elected to Congress and the first to chair the Committee on Agriculture.

Born Eligio de la Garza in Mercedes, Hidalgo County, Texas on September 22, 1927, "Kika" de la Garza grew up in Mission where he attended Our Lady of Guadalupe Catholic School and Mission High School. At age 17, he enlisted in the U.S. Navy and served until 1946. He continued his education at Edinburg Junior College and the U.S. Army Artillery School at Fort Sill, Oklahoma. De la Garza served in the Korean conflict as a second lieutenant with the Army's Thirty-seventh Division Artillery. In 1952, he earned a law degree from St. Mary's University in San Antonio (where he was later awarded an honorary Doctor of Laws degree). That same year he was elected to the Texas House of Representatives, where he served for 12 years until his election in 1964 to the U.S. House of Representatives.

As a member of the Texas House of Representatives, Kika de la Garza had numerous legislative accomplishments, including the absorption of Pan American University into the University of Texas system, the creation of the Texas Water Commission, and the establishment of the Reagan/de la Garza coastal wetlands. He was the driving force behind legislation creating the nation's first state-run system of English language instruction for pre-school age children. He also sponsored a bill allowing Texas' border cities and counties to build their own international bridges.

Because he hailed from a district with a large agricultural base, de la Garza joined the House Committee on Agriculture. In 1967 he served as Chairman of the Subcommittee on Department Operations and Foreign Agriculture. From 1981 to 1994, he chaired the Committee on Agriculture, becoming the first Hispanic since 191 7 (when Ladislas Lazaro chaired the Enrolled Bills Committee) to chair a standing committee in the U.S. House of Representatives.

During his tenure as Agriculture Chairman, Representative de la Garza successfully led the way for the House to pass three omnibus farm bills (1981, 1985, and 1990), a major overhaul of the agricultural lending system, federal crop insurance reform, a major reorganization of the USDA, reforms in federal pesticide laws, and numerous other measures relating to agriculture, rural economic development, and nutrition.

During Kika de la Garza's 13 years of leadership as Chairman of the Agriculture Committee, major agricultural legislation was enacted, including the Agriculture and Food Act of 1981; the Temporary Emergency Food Assistance Act of 1983, which authorized distribution of government- owned surplus commodities to indigent persons; and the Food Security Act, which included provisions to shift the direction of farm programs to more market-oriented levels, strengthened export programs, and created a conservation reserve targeted at highly erosive croplands. His Agricultural Credit Act of 1987 revised credit assistance programs, restructured the Farm Credit System, and facilitated creation of a secondary market for agricultural loans. In 1988 and 1989, he managed to passage the Disaster Assistance Acts to provide assistance to farmers and ranchers who lost crop production due to drought and other natural disasters that occurred during this period.

A strong supporter of civil rights safeguard for minorities, de la Garza has successfully fought for improved access to health care for the elderly and veterans, better living conditions for low-income individuals and the impoverished, and access to educational opportunities for all Americans.

An influential proponent of free trade, de la Garza also was instrumental in the passage of both the North American Free Trade Agreement (NAFTA) and the expansion of the General Agreement on Tariffs and Trade (GATT).

One of Congress' leading experts on U.S.-Mexican relations, de la Garza worked to improve relations and trade between the two countries throughout his congressional career. In 1966, he became the first congressman from the Texas-Mexico border area to serve on the Mexico-United States Inter-Parliamentary Group, which promotes dialogue between legislators from the two countries.

All in all, Kika de la Garza gave remarkable service to the people of Texas, the United States, and this chamber. He was a great congressmen and great American.

For these reasons, I strongly support H.R. 2322, which gives well-deserved and long overdue recognition to this great American and former member of this House.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of H.R. 2322 which would designate the Federal building at 320 North Main Street in McAllen, Texas as the "Kika de la Garza Federal Building." I want to thank my colleague, Congressman LLOYD DOGGETT for his efforts in bringing this measure forward.

I am proud to represent the district that was held for over 32 years by my friend Kika de la Garza. Congressman de la Garza had a distinguished career in public service first as a state legislator then as a Member of Congress.

As a state legislator, he created the Nation's first state-run system of English language instruction for pre-school children. As a Member of Congress, he was instrumental in protecting rural and agriculture communities through his work as Chairman of the House Agriculture Committee. Kika was also a founding member of the Congressional Hispanic Caucus and worked to improve the quality of life for Hispanic Americans. As an expert on U.S.-Mexican relations he worked to build bridges between Mexico and the U.S., not walls.

After such a lifetime of service, it is very fitting that the Federal building in McAllen is being named after such great Texan and a great American. I urge my colleague to support this resolution.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the bill, H.R. 2322.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on H.R. 4981, as amended; H.R. 6051, as amended, H.R. 1556; H.R. 5546, as amended; H.R. 5606; H.R. 5026; and H.R. 2322.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MARINE DEBRIS RESEARCH, PREVENTION, AND REDUCTION ACT

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 362) to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes, as amended.

The Clerk read as follows:

S. 362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Debris Research, Prevention, and Reduction Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety;

(2) to reactivate the Interagency Marine Debris Coordinating Committee; and

(3) to develop a Federal marine debris information clearinghouse.

SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

(b) PROGRAM COMPONENTS.—The Administrator, acting through the Program and subject to the availability of appropriations, shall carry out the following activities:

(1) MAPPING, IDENTIFICATION, IMPACT ASSESSMENT, REMOVAL, AND PREVENTION.—The Administrator shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources and navigation safety, including—

(A) the establishment of a process, building on existing information sources maintained by Federal agencies such as the Environmental Protection Agency and the Coast Guard, for cataloguing and maintaining an inventory of marine debris and its impacts found in the navigable waters of the United States and the United States exclusive economic zone, including location, material, size, age, and origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within United States navigable waters, the United States exclusive economic zone, and the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan for preventing and removing marine debris from United States navigable waters and within the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear and other marine debris.

(2) REDUCING AND PREVENTING LOSS OF GEAR.—The Administrator shall improve efforts to reduce adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment, and methods for marking gear used in specific fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

(B) development of effective nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in its recovery.

(3) OUTREACH.—The Administrator shall undertake outreach and education of the public and other stakeholders, such as the fishing industry, fishing gear manufacturers, and other marine-dependent industries, and the plastic and waste management industries, on sources of marine debris, threats associated with marine debris and approaches to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety, including outreach and education activities through public-private initiatives. The Administrator shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

(1) IN GENERAL.—The Administrator, acting through the Program, shall enter into cooperative agreements and contracts and provide financial assistance in the form of grants for projects to accomplish the purpose set forth in section 2(1).

(2) GRANT COST SHARING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), Federal funds for any grant under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) WAIVER.—The Administrator may waive all or part of the matching requirement under subparagraph (A) if the Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(3) AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.—

(A) CONSENT DECREES AND ORDERS.—If authorized by the Administrator or the Attorney General, as appropriate, the non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) OTHER DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) ELIGIBILITY.—Any State, local, or tribal government whose activities affect research or regulation of marine debris, and any institution of higher education, nonprofit organization, or commercial organization with expertise in a field related to marine debris, is eligible to submit to the Administrator a marine debris proposal under the grant program.

(5) GRANT CRITERIA AND GUIDELINES.—Within 180 days after the date of the enactment of this Act, the Administrator shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. In developing those guidelines, the Administrator shall consult with—

(A) the Interagency Committee;

(B) regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local governmental entities with marine debris experience;

(D) marine-dependent industries; and

(E) nongovernmental organizations involved in marine debris research, prevention, or removal activities.

(6) PROJECT REVIEW AND APPROVAL.—The Administrator shall—

(A) review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of this Act;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide notification of that approval or disapproval to the person who submitted the proposal.

(7) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports as required by the Administrator. Each report shall include all information required by the Administrator for evaluating the progress and success in meeting its stated goals, and impact of the grant activities on the marine debris problem.

SEC. 4. COAST GUARD PROGRAM.

(a) STRATEGY.—The Commandant of the Coast Guard, in consultation with the Interagency Committee, shall—

(1) take actions to reduce violations of and improve implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels;

(2) take actions to cost-effectively monitor and enforce compliance with MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), including through cooperation and coordination with other Federal and State enforcement programs;

(3) take actions to improve compliance with requirements under MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) that all United States ports and terminals maintain and monitor the adequacy of receptacles for the disposal of plastics and other garbage, including through promoting voluntary government-industry partnerships;

(4) develop and implement a plan, in coordination with industry and recreational boaters, to improve ship-board waste management, including recordkeeping, and access to waste reception facilities for shipboard waste;

(5) take actions to improve international cooperation to reduce marine debris; and

(6) establish a voluntary reporting program for commercial vessel operators and recreational boaters to report incidents of damage to vessels and disruption of navigation caused by marine debris, and observed violations of laws and regulations relating to the disposal of plastics and other marine debris.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report evaluating the Coast Guard's progress in implementing subsection (a).

(c) EXTERNAL EVALUATION AND RECOMMENDATIONS ON ANNEX V.—

(1) IN GENERAL.—The Commandant of the Coast Guard shall enter into an arrangement with the National Research Council under which the National Research Council shall submit, by not later than 18 months after the date of the enactment of this Act and in consultation with the Commandant and the Interagency Committee, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive report on the effectiveness of international and national measures to prevent and reduce marine debris and its impact.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of international and domestic implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) and recommendations of cost-effective actions to improve implementation and compliance with such measures to reduce impacts of marine debris;

(B) recommendation of additional Federal or international actions, including changes to international and domestic law or regulations, needed to further reduce the impacts of marine debris; and

(C) evaluation of the role of floating fish aggregation devices in the generation of marine debris and existing legal mechanisms to reduce impacts of such debris, focusing on impacts in the Western Pacific and Central Pacific regions.

SEC. 5. INTERAGENCY COORDINATION.

(a) INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT OF INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—There is established an Interagency Marine Debris Coordinating Committee to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, States, Indian tribes, and other nations, as appropriate."; and

(2) in subsection (c), by inserting "public, interagency" before "forum".

(b) DEFINITION OF MARINE DEBRIS.—The Administrator and the Commandant of the Coast Guard, in consultation with the Interagency Committee established under subsection (a), shall jointly develop and promulgate through regulations a definition of the term "marine debris" for purposes of this Act.

(c) REPORTS.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—

(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Interagency Committee, through the chairperson, shall complete and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives a report that—

(i) identifies sources of marine debris;

(ii) the ecological and economic impact of marine debris;

(iii) alternatives for reducing, mitigating, preventing, and controlling the harmful affects of marine debris;

(iv) the social and economic costs and benefits of such alternatives; and

(v) recommendations to reduce marine debris both domestically and internationally.

(B) RECOMMENDATIONS.—The report shall provide strategies and recommendations on—

(i) establishing priority areas for action to address leading problems relating to marine debris;

(ii) developing strategies and approaches to prevent, reduce, remove, and dispose of marine debris, including through private-public partnerships;

(iii) establishing effective and coordinated education and outreach activities; and

(iv) ensuring Federal cooperation with, and assistance to, the coastal States (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), Indian tribes, and local governments in the identification, determination of sources, prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(2) ANNUAL PROGRESS REPORTS.—Not later than 3 years after the date of the enactment of this Act, and biennially thereafter, the Interagency Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purpose of this Act. The report shall include—

(A) the status of implementation of any recommendations and strategies of the Interagency Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

SEC. 6. FEDERAL INFORMATION CLEARINGHOUSE.

The Administrator, in coordination with the Interagency Committee, shall—

(1) maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested persons to improve marine debris source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data; and

(2) take the necessary steps to ensure the confidentiality of such information (especially proprietary information), for any information required by the Administrator to be submitted by the fishing industry under this section.

SEC. 7. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) INTERAGENCY COMMITTEE.—The term "Interagency Committee" means the Interagency Marine Debris Coordinating Committee established under section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914).

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term "United States exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms "MARPOL", "Annex V", and "Convention" have the meaning given those terms under section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

(5) NAVIGABLE WATERS.—The term "navigable waters" means waters of the United States, including the territorial sea.

(6) TERRITORIAL SEA.—The term "territorial sea" means the waters of the United States referred to in Presidential Proclamation No. 5928, dated December 27, 1988.

(7) PROGRAM.—The term "Program" means the Marine Debris Prevention and Removal Program established under section 3.

(8) STATE.—The term "State" means—

(A) any State of the United States that is impacted by marine debris within its seaward or Great Lakes boundaries;

(B) the District of Columbia;

(C) American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands; and

(D) any other territory or possession of the United States, or separate sovereign in free association with the United States, that is impacted by marine debris within its seaward boundaries.

SEC. 8. RELATIONSHIP TO OUTER CONTINENTAL SHELF LANDS ACT.

Nothing in this Act supersedes, or limits the authority of the Secretary of the Interior under, the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year 2006 through 2010—

(1) to the Administrator for carrying out sections 3 and 6, $10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the Coast Guard in carrying out section 4, $2,000,000, of which no more than 10 percent may be used for administrative costs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 362.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 362, the Marine Debris Research, Prevention and Reduction Act, was introduced by Senator INOUYE of Hawaii and was passed by unanimous consent in the Senate in July last year.

The bill would enhance the Federal Government's capabilities to remove and prevent the creation of marine debris that is derived from ocean-based activities. Marine debris degrades very slowly, is highly buoyant and can be carried thousands of miles by ocean currents. Marine debris poses significant entanglement threats to many marine organisms, including fish, crabs, birds and marine mammals and can have serious consequences on human health.

The bill would require the establishment of a Marine Debris Prevention and Removal Program with the National Oceanic and Atmospheric Administration to coordinate that agency's existing activities and requirements to reduce the impact of marine debris on the environment and navigation safety.

The bill also would require the Coast Guard to implement measures to improve compliance and enforcement of laws and international agreements regarding the discard of plastics and garbage from vessels.

The bill also amends current law to reactivate the Interagency Marine Debris Coordinating Committee, rather than establish a new interagency forum, as was proposed in the Senate-passed bill.

The bill before us today is the result of extensive consultation between the Committee on Transportation and Infrastructure and the Committee on Resources. The bill has strong bipartisan support, and I expect the Senate to act quickly to send this legislation to the President.

S. 362 will significantly improve the Federal Government's programs to prevent and remove marine debris without creating unnecessary, duplicative programs.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. PALLONE), the great defender of our Nation's coastlines.

Mr. PALLONE. Mr. Speaker, I thank my colleague from California for those very nice remarks.

Mr. Speaker, I rise in support of S. 362, legislation that will address the serious and overlooked problem of marine debris along our Nation's shores and beaches.

Marine debris remains a huge issue in my home State of New Jersey. It was not too long ago that the New York Bight, a 19,000-square-mile area off the coast of New Jersey and New York, was known infamously as the "ocean dumping capital of the world."

It has taken years of work to clean up our oceans and our beaches, and S. 362 will help ensure that we never go back to where we were.

I applaud my colleagues on the Transportation and Infrastructure Committee, especially the chairman, DON YOUNG, and the ranking member, JIM OBERSTAR, and Resources Committee chairman, RICHARD POMBO, and the ranking member, NICK RAHALL, for their support in clearing this important legislation for the floor. And I also thank my colleague from San Diego and my colleague, the chairman of our Subcommittee on Resources from Maryland, for helping clear this important legislation.

Mr. Speaker, I introduced the House companion version of this bill, H.R. 3692, not only because marine debris is bad for human health and the environment but also because it can be incredibly harmful to our tourism economy in New Jersey and across the country.

By building on the recommendations of the U.S. Commission on Ocean Policy, S. 362 will provide additional coordination to prevent and reduce marine debris through the establishment of an interagency coordinating committee. The bill will also strengthen and enhance specific program activities carried out by NOAA and the U.S. Coast Guard.

This legislation will provide additional grant resources to reduce the volume of marine debris, track the origination and subsequent dispersal of this trash, and stimulate new education strategies to build public awareness of the problem. Marine debris is an issue that we ignore at our own peril, and I urge adoption of this legislation to finally establish an effective and coordinated Federal response to the problem.

Mr. FILNER. Mr. Speaker, I think everything has been said, and I urge support for the bill.

Mr. Speaker, I rise today in strong support of S. 362, the Marine Debris Research, Prevention, and Reduction Act.

America's beaches are littered with garbage washed ashore. At a time when more and more people are enjoying being outdoors, we're finding more debris on our coasts that can pose a serious threat to beachgoers, boaters, and divers.

Congress has already passed many laws that attempt to address this issue including the Clean Water Act, the Act to Prevent Pollution from Ships, the Ocean Dumping Act, the Driftnet Impact Monitoring, Assessment, and Control Act, and the Marine Plastic Pollution Research and Control Act. Yet the problem persists.

S. 362 attempts to address these issues by having the National Oceanic and Atmospheric Administration (NOAA) undertake various initiatives to reduce and prevent the use and adverse impact of debris on the marine environment including—

Assessing the impact of marine debris found in the navigable waters of the United States and our 200-mile Exclusive Economic Zone.

Mapping and removing marine debris from our coastal waters.

Requiring measures to prevent the loss of fishing gear that can kill fish and marine mammals for years after they are lost from a ship.

Establishing outreach and education programs to help those that live on and along our waters to understand the impact of marine debris on our environment.

Under this legislation, the Coast Guard is required to enforce existing laws and treaties related to marine pollution and to develop new regulations on the disposal of plastics and fishing gear.

Plastic and other materials that are not biodegradable threaten the health of our oceans. Therefore, we must find a way to make sure they don't get into the water in the first place. As someone who represents a coastal district, I look forward to the day when I can walk down the beach without seeing it polluted by marine debris that has washed ashore.

Mr. Speaker, I would like to thank Chairman YOUNG, Chairman LOBIONDO and Ranking Member OBERSTAR for the bipartisan approach that they took to develop this legislation. This legislation is another step forward in protecting the world's oceans from marine debris.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I want to thank my colleagues on the other side of the aisle, especially the gentleman from New Jersey (Mr. PALLONE) for his work on this issue.

To use another term, marine debris is trash and garbage which is massively discharged into our oceans. Some of it is degraded within a few days, others will last for hundreds if not thousands of years.

As Mr. PALLONE mentioned, the Ocean Commission dedicates an entire chapter to the problems of marine debris. This legislation, with the help of the staff on the Transportation Committee and the Resources Committee, will go a long way to solve this problem.

Mr. Speaker, I urge an "aye" vote on the legislation.

Mr. OBERSTAR. Mr. Speaker, I rise today in strong support of S. 362, the Marine Debris Research, Prevention, and Reduction Act. This bill has been developed in a very bipartisan manner.

The purpose of this legislation is to help fill in the gaps between existing maritime pollution laws such as the Act to Prevent Pollution from Ships. Our oceans are becoming the garbage pit for the world. Each year, tons of marine debris, such as plastics and garbage from vessels, is discarded into the oceans. It's killing the animals in our oceans and with it the oceans themselves.

The coastlines of islands in the middle of the Pacific Ocean are littered with debris that washes up including massive fishing nets that are lost each year.

S. 362, introduced by Senator INOUYE, will help address these problems. This legislation requires the Administrator of the National Oceanic and Atmospheric Administration to map debris fields, to assess the impact of this debris on the living marine resources and navigational safety, and to develop strategies to prevent and remove marine debris from the navigable waters of the United States and our 200-mile exclusive economic zone.

S. 362 also requires the Commandant of the Coast Guard to take actions to reduce violations of and improve implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships. Under the bill, the Coast Guard will also have to develop and implement a plan to improve ship-board waste management and to make sure that U.S. ports and terminals maintain and monitor the adequacy of receptacles for the disposal of plastics and other garbage that are brought into our ports each year on ships.

The oceans are our lifelines. We cannot let human activity kill them. S. 362 will help to prevent thousands of tons of debris from entering the ocean each year from vessels.

I urge my colleagues to join me in supporting S. 362, the Marine Debris Research, Prevention, and Reduction Act.

Mr. POMBO. Mr. Speaker, I rise in support of S. 362, the Marine Debris Research, Prevention and Reduction Act.

S. 362 is an important piece of environmental legislation. People in the U.S. and world-wide generate a lot of trash. While every effort is made to ensure the trash is sent to the appropriate place, improperly used trash receptacles, storm runoff, and outright littering send trash into rivers and oceans daily. All of this loose trash becomes marine debris. In return this marine debris has become a pervasive threat in our world's oceans adversely harming marine animals and their habitat.

S. 362 follows up on recommendations made by the U.S. Commission on Ocean Policy which called for action to reduce marine debris. Most importantly it would help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety. It would re-establish the Interagency Marine Debris Coordinating Committee to help ensure a coordinated government response across Federal agencies. In addition, it would also develop a Federal information clearing house to enable researchers to study the sources, scale and impact of marine debris more efficiently.

S. 362 is an important step in reducing, and hopefully some day eliminating, marine debris from our ocean environment. S. 362 is a good bill and should receive the support of Members and pass the House today.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and pass the Senate bill, S. 362, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

STEVENS-INOUYE INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE LEGACY ACT OF 2006

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5946) to amend Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

TITLE I—INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE

Sec. 101. International fisheries monitoring and compliance.
Sec. 102. Finding with respect to illegal, unreported, and unregulated fishing.
Sec. 103. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.
Sec. 104. Monitoring of Pacific Insular Area fisheries.
Sec. 105. Reauthorization of Atlantic Tunas Convention Act.
Sec. 106. International overfishing and domestic equity.
Sec. 107. United States catch history.
Sec. 108. Secretarial representative for international fisheries.

TITLE II—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Appointment of United States Commissioners.
Sec. 204. Authority and responsibility of the Secretary of State.
Sec. 205. Rulemaking authority of the Secretary of Commerce.
Sec. 206. Enforcement.
Sec. 207. Prohibited acts.
Sec. 208. Cooperation in carrying out Convention.
Sec. 209. Territorial participation.
Sec. 210. Exclusive Economic Zone notification.
Sec. 211. Authorization of appropriations.

TITLE III—PACIFIC WHITING

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. United States representation on joint management committee.
Sec. 304. United States representation on the scientific review group.
Sec. 305. United States representation on joint technical committee.
Sec. 306. United States representation on advisory Panel.
Sec. 307. Responsibilities of the Secretary.
Sec. 308. Rulemaking.
Sec. 309. Administrative matters.
Sec. 310. Enforcement.
Sec. 311. Authorization of appropriations.

SEC. 2. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE

SEC. 101. INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE.

(a) IN GENERAL.—Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:

"SEC. 207. INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE.

"(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this title.

"(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

"(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

"(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

"(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

"(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

"(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

"(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

"(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 206 the following:

"Sec. 207. International fisheries monitoring and compliance.".

SEC. 102. FINDING WITH RESPECT TO ILLEGAL, UNREPORTED, AND UNREGULATED FISHING.

Section 2(a) (16 U.S.C. 1801(a)) is further amended by adding at the end the following:

"(11) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.".

SEC. 103. ACTION TO END ILLEGAL, UNREPORTED, OR UNREGULATED FISHING AND REDUCE BYCATCH OF PROTECTED MARINE SPECIES.

(a) IN GENERAL.—Title VI of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.), is amended by adding at the end the following:

"SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

"The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, and every 2 years thereafter, a report that includes—

"(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

"(2) a list of nations whose vessels have been identified under sections 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

"(3) a description of efforts taken by nations on those lists to take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

"(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

"(5) steps taken by the Secretary at the international level to seek adoption of international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

“The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

“(1) urging international fishery management organizations to which the United States is a member—

“(A) to incorporate multilateral market-related measures against member or nonmember governments whose vessels engage in illegal, unreported, or unregulated fishing;

“(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

“(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under the an international fishery management organization's jurisdiction;

“(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and

“(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish;

“(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

“(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

“(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

“(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry; and

“(3) urging other nations at the appropriate bilateral, regional, and international levels to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

“(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding two years in illegal, unreported, or unregulated fishing; and—

“(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

“(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

“(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.

“(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

“(1) notify nations listed in the report of the requirements of this section;

“(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

“(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

“(d) IUU CERTIFICATION PROCEDURE.—

“(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation listed by the Secretary under subsection (a), for determining if that government has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

“(A) whether the government of each nation identified under subsection (b) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

“(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

“(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

“(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

“(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

“(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or products thereof not managed under the relevant international fishery agreement (or, where there is no such agreement, not caught by the vessels engaged in illegal, unreported, or unregulated fishing)) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

“(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

“(1) IN GENERAL.—In this Act the term ‘illegal, unreported, or unregulated fishing’ has the meaning established under paragraph (2).

“(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, the Secretary shall publish a definition of the term ‘illegal, unreported, or unregulated fishing’ for purposes of this Act.

“(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

“(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

“(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

“(C) fishing activity that has adverse impacts on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

“SEC. 610. EQUIVALENT CONSERVATION MEASURES.

“(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

“(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices—

“(A) beyond the exclusive economic zone of any nation that result in bycatch of a protected living marine resource; or

“(B) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

“(2) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

“(3) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

"(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

"(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

"(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

"(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

"(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

"(c) CONSERVATION CERTIFICATION PROCEDURE.—

"(1) CERTIFICATION.—The Secretary shall determine, on the basis of a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation identified by the Secretary under subsection (a). The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether the government of each harvesting nation—

"(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

"(2) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

"(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

"(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

"(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

"(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

"(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

"(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

"(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term 'protected living marine resource'—

"(1) means non-target fish, sea turtles, or marine mammals, that are protected under United States law or international agreement, including the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, provisions enacted by the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

"(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.".

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting "or illegal, unreported, or unregulated fishing" after "fishing" in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A)(i).

(2) DURATION OF DENIAL.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by inserting "or illegal, unreported, or unregulated fishing" after "fishing".

SEC. 104. MONITORING OF PACIFIC INSULAR AREA FISHERIES.

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16 U.S.C. 1821(h)(2)(B)) is amended by striking "that is at least equal in effectiveness to the program established by the Secretary;" and inserting "or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;".

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

"(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;".

SEC. 105. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention $5,495,000 for each of the fiscal years 2007 through 2012.

"(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—

"(1) $150,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and

"(2) $4,240,000 are authorized for research activities under this Act and section 3 of Public Law 96–339 (16 U.S.C. 971i), of which $3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H).".

(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16 U.S.C. 971i(b)(2)) is amended—

(1) by striking "and" after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I); and

(3) by inserting after subparagraph (G) the following:

"(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and".

SEC. 106. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.

(a) INTERNATIONAL OVERFISHING.—Section 304 (16 U.S.C. 1854) is amended by adding at the end thereof the following:

"(i) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

"(1) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

"(2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

"(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

"(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.".

(b) HIGHLY MIGRATORY SPECIES TAGGING RESEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is amended by striking "(16 U.S.C. 971d)" and inserting "(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act.".

SEC. 107. UNITED STATES CATCH HISTORY.

In establishing catch allocations under international fisheries agreements, the Secretary of Commerce, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history in a fishery associated with a vessel of the United States remains with the United States in that fishery, and is not transferred or credited to any other nation or vessel of such nation, including when a vessel of the United States is sold or transferred to a citizen of another nation or to an entity controlled by citizens of another nation.

SEC. 108. SECRETARIAL REPRESENTATIVE FOR INTERNATIONAL FISHERIES.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements.

(b) ADVICE.—The designated official shall, in consultation with the Deputy Assistant Secretary for International Affairs and the Administrator of the National Marine Fisheries Service, advise the Secretary, Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and the National Oceanic and Atmospheric Administration on development of policy on international fisheries conservation and management matters.

(c) CONSULTATION.—The designated official shall consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish, including before initialing any agreement concerning living marine resources or attending any official meeting at which management measures will be discussed, and shall otherwise keep the committees informed throughout the negotiation process.

(d) DELEGATION.—The designated official may delegate and authorize successive redelegation of such functions, powers, and duties to such officers and employees of the National Oceanic and Atmospheric Administration as deemed necessary to discharge the responsibility of the Office.

TITLE II—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Western and Central Pacific Fisheries Convention Implementation Act".

SEC. 202. DEFINITIONS.

In this title:

(1) 1982 CONVENTION.—The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) AGREEMENT.—The term "Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) COMMISSION.—The term "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) CONVENTION AREA.—The term "convention area" means all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

(5) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) FISHING.—The term "fishing" means:

(A) searching for, catching, taking, or harvesting fish.

(B) attempting to search for, catch, take, or harvest fish.

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose.

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons.

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment.

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) FISHING VESSEL.—The term "fishing vessel" means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) HIGHLY MIGRATORY FISH STOCKS.—The term "highly migratory fish stocks" means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) TRANSHIPMENT.—The term "transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPCF CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.—The terms "WCPCF Convention" and "Western and Central Pacific Convention" means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

SEC. 203. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) IN GENERAL.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be a member of either the Pacific Fishery Management Council or Western Pacific Fishery Management Council. Each appointment shall coordinate with the other Council to ensure that the jurisdictional concerns of both Councils are addressed. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(A) injury compensation under chapter 81 of title 5, United States Code;

(B) tort claims liability as provided under chapter 171 of title 28 United States Code;

(C) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(D) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary of Commerce may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee that shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the United States Commissioners appointed under section 203, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chairs of the Pacific Fishery Management Council and the Western Pacific Fishery Management Council's fishing industry Advisory Committees or such a chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion, and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) ADMINISTRATIVE MATTERS.—

(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered Federal employees by reason of their service as members of an advisory committee, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(e) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that specifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 204. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary of Commerce and the United States Commissioners, approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary of Commerce to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

SEC. 205. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.

(a) PROMULGATION OF REGULATIONS.—The Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title, including recommendations and decisions adopted by the Commission. In cases where the Secretary of Commerce has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.—The Secretary of Commerce may promulgate regulations under this title applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

SEC. 206. ENFORCEMENT.

(a) IN GENERAL.—The Secretary of Commerce may—

(1) administer and enforce this title and any regulations issued under this title, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this title; and

(B) the conduct of scientific, research, and other programs under this title;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this title, to recover the actual costs to the United States of management and enforcement under this title, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108 219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971).

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business or any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) USE OF INFORMATION.—The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act.

SEC. 207. PROHIBITED ACTS.

(a) IN GENERAL.—It is unlawful for any person—

(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, or an applicable permit issued pursuant to this title;

(3) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this title;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer one a vessel under this title, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 206(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 206(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 206(d) of this title.

(b) ENTRY CERTIFICATION.—In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 206(a) of this title.

SEC. 208. COOPERATION IN CARRYING OUT CONVENTION.

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The Secretary of Commerce may cooperate with agencies of the United States government, any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this title.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary of Commerce, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) SANCTIONED FISHING OPERATIONS AND FISHERIES EXPERIMENTS.—Nothing in this title, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and fisheries experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) STATE JURISDICTION NOT AFFECTED.—Except as provided in subsection (e) of this section, nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) APPLICATION OF REGULATIONS.—

(1) IN GENERAL.—regulations promulgated under section 206(a) of this title shall apply within the boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this title, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—

(i) are less restrictive that the regulations promulgated under section 206(a) of this title; or

(ii) are not effectively enforced.

(2) DETERMINATION BY SECRETARY.—The regulations promulgated pursuant to section 206(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 206(a) of this title.

(3) HEARING.—If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant section 206(a) of this title within that State's boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) REVIEW OF STATE LAWS AND REGULATIONS.—To ensure that the purposes of subsection (e) are carried out, the Secretary of Commerce shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may apply and the extent to which such laws and regulations are enforced.

SEC. 209. TERRITORIAL PARTICIPATION.

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

SEC. 210. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

(1) notify the Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) if requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 2007 through 2012 to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

TITLE III—PACIFIC WHITING

SEC. 301. SHORT TITLE.

This title may be cited as the "Pacific Whiting Act of 2006".

SEC. 302. DEFINITIONS.

In this title:

(1) ADVISORY PANEL.—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) AGREEMENT.—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) CATCH.—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) JOINT MANAGEMENT COMMITTEE.—The term "joint management committee" means the joint management committee established by the Agreement.

(5) JOINT TECHNICAL COMMITTEE.—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) OFFSHORE WHITING RESOURCE.—The term "offshore whiting resource" means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) SCIENTIFIC REVIEW GROUP.—The term "scientific review group" means the scientific review group established by the Agreement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(9) UNITED STATES SECTION.—The term "United States Section" means the United States representatives on the joint management committee.

SEC. 303. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.

(a) REPRESENTATIVES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) TERM OF OFFICE.—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) CHAIR.—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) ALTERNATE REPRESENTATIVES.—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

SEC. 304. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) TERM.—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) JOINT APPOINTMENTS.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel —

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

SEC. 305. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.

(a) SCIENTIFIC EXPERTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) INDEPENDENT MEMBER.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

SEC. 306. UNITED STATES REPRESENTATION ON ADVISORY PANEL.

(a) IN GENERAL.—

(1) APPOINTMENT.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

SEC. 307. RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is responsible for carrying out the Agreement and this title, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) REGULATIONS; COOPERATION WITH CANADIAN OFFICIALS.—In exercising responsibilities under this title, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this title; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

SEC. 308. RULEMAKING.

(a) APPLICATION WITH MAGNUSON-STEVENS ACT.—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this title.

(b) JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any

adjustments necessary under section 5 of Article II of the Agreement.

SEC. 309. ADMINISTRATIVE MATTERS.

(a) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(1) injury compensation under chapter 81 of title 5, United States Code;

(2) tort claims liability as provided under chapter 171 of title 28 United States Code;

(3) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(4) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.

(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 304(a) to serve as a scientific expert on the scientific review group who is not employed by the United States government, a State government, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.

(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 304(c), and the 1 independent member to the joint technical committee jointly appointed under section 305(b), the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

SEC. 310. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 2007 through 2012 to carry out the obligations of the United States under the Agreement and this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5946 is an important tool for the United States to use to take action against those vessels that participate in illegal, unreported, and unregulated fishing practices. This legislation is vitally important for the health of the world's fishery resources and for the economic well-being of the U.S. high seas and domestic fishing fleets. The provisions in H.R. 5946 have already been passed the Senate by unanimous consent as a part of S. 2012.

□ 2245

I will submit into the RECORD an exchange of letters with Chairman THOMAS of the Committee on Ways and Means on the bill, and I thank him for his cooperation.

I urge an "aye" vote on H.R. 5946.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 20, 2006.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
Longworth House Office Building,
Washington, DC.

DEAR CHAIRMAN POMBO: Thank you for your letter regarding H.R. 5946, the "Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006," which was introduced on July 27, 2006.

As you noted, the Committee on Ways and Means maintains jurisdiction over trade sanctions. H.R. 5946 includes text which falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this bill for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I appreciate your cooperation in this matter and agree to your offer to include this exchange of letters in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 20, 2006.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means,
Longworth HOB, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request your cooperation in scheduling H.R. 5946, the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, for action by the House of Representatives before adjournment of the 109th Congress. This bill, of which I am the author, amends the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes. While the bill was referred solely to the Committee on Resources, Title I of the bill references trade sanctions from the High Seas Driftnet Fisheries Enforcement Act, and I believe the Committee on Ways and Means has a jurisdictional interest in these provisions. They are taken almost verbatim from S. 2012, a bill reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act, which is currently at the Speaker's desk and which I understand may pose Constitutional issues because of their origination in the Senate.

I recognize that this action would not be considered as precedent for any future referrals of similar measures or seen as affecting your Committee's jurisdiction over the subject matter of the bill. Moreover, if the bill is conferenced with the Senate, I would support naming Ways and Means Committee members to the conference committee. I would also be pleased to include this letter and your response in the Congressional Record during debate on H.R. 5946 on the House Floor.

Thank you for your assistance with this measure, and many others during your distinguished tenure as Chairman of the Ways and Means Committee. Angela Ellard and Steven Schrage of your staff have been particularly helpful, and we appreciate your efforts, as well as theirs in this regard.

Sincerely,

RICHARD W. POMBO,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to this legislation. In fact, we support it. And I thank the chairman of our subcommittee of the Resources Committee for his support on this. I would encourage adoption and passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 5946, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.".

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF THE INTERIOR TO IMPROVE CALIFORNIA'S SACRAMENTO-SAN JOAQUIN DELTA AND WATER SUPPLY

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6014) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to improve California's Sacramento-San Joaquin Delta and water supply, as amended.

The Clerk read as follows:

H.R. 6014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CALIFORNIA DELTA SUBVENTION.

(a) AUTHORITY.—The Secretary of the Interior, acting through the Commissioner of Reclamation, shall deposit within 30 days of receipt, all funds under this Act into the Fund established by Cal. Water Code section 12300(a), to be used for project reimbursement under Cal. Water Code section 12300(b)(1), as in effect before July 1, 2006.

(b) ADMINISTRATIVE COSTS.—The Bureau of Reclamation may use not more than 1 percent of appropriated funds to cover administrative and overhead costs.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section $10,000,000 for each of fiscal years 2007 through 2012. Any amounts expended under this subsection shall be considered to be nonreimbursable Federal expenditures.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 6014, sponsored by Resources Committee Chairman RICHARD POMBO, authorizes the Secretary of the Interior to assist in protecting and improving California's Sacramento-San Joaquin Delta. The delta is one of the most flood-prone areas in the world and is currently protected by a series of deteriorating 80-year earthen levees. After Hurricane Katrina, we all know the devastating effects of levee failures. The funding in this bill helps prevent future failures that could have far-reaching impacts on the entire State of California. It is simply an ounce of prevention for a pound of cure.

I urge my colleagues to support this bill. I urge support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I too support this very worthy legislation here tonight. I encourage its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 6014, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEW MEXICO WATER PLANNING ASSISTANCE ACT

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1711) to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Mexico Water Planning Assistance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term "State" means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2006 through 2010.

SEC. 5. SUNSET OF AUTHORITY.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1711, sponsored by Congresswoman HEATHER WILSON, authorizes the Secretary of the Interior to assist the State of New Mexico in developing comprehensive water plans.

New Mexico is experiencing record drought, and limited Federal assistance will help provide a water-use roadmap to overcome this and future droughts. This legislation specifically authorizes water resources mapping assistance in the State and allows for a comprehensive study of New Mexico's groundwater resources to assess the quantity and quality of the groundwater. Ultimately, the State and local entities will make the water-use decisions, but this bill helps provide the scientific data needed to make such decisions.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objections in regards to this legislation. We encourage its adoption and passage.

Ms. WILSON of New Mexico. Mr. Speaker, I rise today to support the New Mexico Water Planning Assistance Act (H.R. 1711).

The New Mexico Water Planning Assistance Act (H.R. 1711) would assist the state of New Mexico with the development of comprehensive state water plans that will help the state more effectively manage our most precious natural resource—water.

I introduced the New Mexico Water Planning Assistance Act on April 19, 2005 and Senator DOMENICI and Senator BINGAMAN introduced companion legislation in the Senate on January 26, 2005.

Mr. Speaker, this legislation directs the Secretary of the Interior to: (1) provide to New Mexico technical assistance and grants for the development of comprehensive State water plans; (2) conduct water resources mapping in New Mexico; and (3) conduct comprehensive studies of groundwater resources in New Mexico to assess the quantity, quality, and interaction of groundwater and surface water resources.

The legislation also directs the Secretary, subject to the availability of appropriations, to allocate: (1) $5 million to develop hydrologic models of eight New Mexico river systems; (2) $2.5 million to complete the hydrologic models for the San Juan River and other Southwest New Mexico river systems; and (3) $4.5 million for statewide digital orthophotography mapping. The federal cost share shall be on a 50–50 match basis, and all federal funds are to be non-reimbursable.

Chaco Canyon in northwestern New Mexico was the home to many indigenous southwestern peoples from A.D. 850 to 1250. Unfortunately, the Chacoans ingenuity in storing and channeling water was not enough to save them from a 50-year drought that began in 1130. The Chacoan pueblo people left Chaco Canyon in stages and established a string of pueblos along the Rio Grande and a few other desert rivers.

Mr. Speaker, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and state conservancy and irrigation districts flood control and reclamation projects along New Mexico's river systems that store water during wet years for use during dry years help ensure that New Mexico's current population will not have to relocate during extended periods of drought—like the Chacoans were forced to do more than eight centuries ago.

However, like much of the West, the demands on New Mexico's ground and fresh water resources are immense and growing. For example, Mr. Speaker, the First Congressional District of New Mexico is bisected by the Rio Grande. The flows of the Middle Rio Grande serve the biggest city in New Mexico, Albuquerque, many smaller cities, six Indian pueblos, and a network of agriculture users. Many of these farmers irrigate the same land as their Spanish ancestors did over 4 centuries ago. In addition there is the endangered silvery minnow, which, under a 2003 U.S. Fish and Wildlife Service Biological Opinion, requires 180 miles of continuous minimum river flow in the Middle Rio Grande.

New Mexico has an average allotment of 393,000 acre-feet of Rio Grande water under the 1938 interstate compact that apportions the Rio Grande between Colorado, New Mexico, Texas, and Mexico. These demands have stretched this allotment to the limit. Further complicating the picture is the fact that Article VII of the Rio Grande Compact severely restricts New Mexico's ability to store native water up stream at Heron, Abiquiu, El Vado, or Cochiti Reservoir.

Thus far, New Mexico's water managers have been able to stretch New Mexico limited water supplies to meet the expanding demands of New Mexico cities, industries, Indian pueblos, and endangered species, without widespread displacement of its historical agriculture users. By providing federal water planning assistance to New Mexico's water managers this important legislation will help stretch New Mexico's limited water resources; and, as a result, will help prevent waters conflict in New Mexico well into the future.

In closing, I want to thank Chairman POMBO, Subcommittee Chairman RADANOVICH, and their staffs for working so hard on legislation. I particularly wanted to thank Water and Power Subcommittee staff members Kiel Weaver, Lane Dickson, and Michael Correia for there work on this bill. I also wanted to thank Nate Gentry, who works on Senator DOMENICI's Energy and Natural Resources staff, and was instrumental in helping draft this important piece of legislation. I also wanted to thank New Mexico Interstate Stream Commissioner Estaban Lopez who made the trip to Washington D.C. to testify in support of this legislation before the House Resources Subcommittee on Water and New Mexico and State Engineer John DAntonio who testified on the Senate companion legislation in the Senate Energy and Natural Resources Committee. They both do an excellent job overseeing and managing New Mexico most precious natural resource—water. I also want to thank Office of the State Engineer General Counsel DL Sanders and Interstate Stream Commission General Counsel Tanya Trujillo for their work on this legislation.

I am very pleased that the legislation is going to be voted on by the full House of Representatives so that this legislation can come one step closer to becoming law and New Mexico can come is one step closer to getting much needed federal assistant with its water planning efforts.

Mr. KIND. Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 1711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LONG ISLAND SOUND STEWARDSHIP ACT OF 2006

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5160) to establish the Long Island Sound Stewardship Initiative, as amended.

The Clerk read as follows:

H.R. 5160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long Island Sound Stewardship Act of 2006".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Long Island Sound is a national treasure of great cultural, environmental, and ecological importance;

(2) 8,000,000 people live within the Long Island Sound watershed and 28,000,000 people (approximately 10 percent of the population of the United States) live within 50 miles of Long Island Sound;

(3) activities that depend on the environmental health of Long Island Sound contribute more than $5,000,000,000 each year to the regional economy;

(4) the portion of the shoreline of Long Island Sound that is accessible to the general public (estimated at less than 20 percent of the total shoreline) is not adequate to serve the needs of the people living in the area;

(5) existing shoreline facilities are in many cases overburdened and underfunded;

(6) large parcels of open space already in public ownership are strained by the effort to balance the demand for recreation with the needs of sensitive natural resources;

(7) approximately 1/3 of the tidal marshes of Long Island Sound have been filled, and much of the remaining marshes have been ditched, diked, or impounded, reducing the ecological value of the marshes; and

(8) much of the remaining exemplary natural landscape is vulnerable to further development.

(b) PURPOSE.—The purpose of this Act is to establish the Long Island Sound Stewardship Initiative to identify, protect, and enhance upland sites within the Long Island Sound ecosystem with significant ecological, educational, open space, public access, or recreational value through a bi-State network of sites best exemplifying these values.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Long Island Sound Stewardship Advisory Committee established by section 8.

(3) REGION.—The term "Region" means the Long Island Sound Stewardship Initiative Region established by section 4(a).

(4) STATE.—The term "State" means each of the States of Connecticut and New York.

(5) STEWARDSHIP.—The term "stewardship" means land acquisition, land conservation agreements, site planning, plan implementation, land and habitat management, public access improvements, site monitoring, and other activities designed to enhance and preserve natural resource-based recreation and ecological function of upland areas.

(6) STEWARDSHIP SITE.—The term "stewardship site" means any area of State, local, or tribal government, or privately owned land within the Region that is designated by the Administrator under section 5(a).

(7) SYSTEMATIC SITE SELECTION.—The term "systematic site selection" means a process of selecting stewardship sites that—

(A) has explicit goals, methods, and criteria;

(B) produces feasible, repeatable, and defensible results;

(C) provides for consideration of natural, physical, and biological patterns;

(D) addresses replication, connectivity, species viability, location, and public recreation values;

(E) uses geographic information systems technology and algorithms to integrate selection criteria; and

(F) will result in achieving the goals of stewardship site selection at the lowest cost.

(8) QUALIFIED APPLICANTS.—The term "qualified applicant" means a non-Federal person that owns title to property located within the borders of the Region.

(9) THREAT.—The term "threat" means a threat that is likely to destroy or seriously degrade a conservation target or a recreation area.

SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE REGION.

(a) ESTABLISHMENT.—There is established in the States of Connecticut and New York the Long Island Sound Stewardship Initiative Region.

(b) BOUNDARIES.—The Region consists of the immediate coastal upland areas along—

(1) Long Island Sound between mean high water and the inland boundary, as described on the map entitled "Long Island Sound Stewardship Region" and dated April 21, 2004; and

(2) the Peconic Estuary as described on the map entitled "Peconic Estuary Program Study Area Boundaries" and included in the Comprehensive Conservation and Management Plan for the Peconic Estuary Program and dated November 15, 2001.

SEC. 5. DESIGNATION OF STEWARDSHIP SITES.

(a) IN GENERAL.—The Administrator may designate a stewardship site in accordance with this Act any area that contributes to accomplishing the purpose of this Act.

(b) PUBLICATION OF LIST OF RECOMMENDED SITES.—The Administrator shall—

(1) publish in the Federal Register and make available in general circulation in the States of Connecticut and New York the list of sites recommended by the Advisory Committee; and

(2) provide a 90-day period for—

(A) the submission of public comment on the list; and

(B) an opportunity for owners of such sites to decline designation of such sites as stewardship sites.

(c) OPINION REGARDING OWNER'S RESPONSIBILITIES.—The Administrator may not designate an area as a stewardship site under this Act unless the Administrator provides to the owner of the area, and the owner acknowledges to the Administrator receipt of, a comprehensive opinion in plain English setting forth expressly the responsibility of the owner that arises from such designation.

(d) DESIGNATION OF STEWARDSHIP SITES.—Not later than 150 days after receiving from the Advisory Committee its list of recommended sites, the Administrator—

(1) shall review the recommendations of the Advisory Committee; and

(2) may designate as a stewardship site any site included in the list.

SEC. 6. RECOMMENDATIONS BY ADVISORY COMMITTEE.

(a) IN GENERAL.—The Advisory Committee shall—

(1) in accordance with this section, evaluate applications—

(A) for designation of areas as stewardship sites;

(B) to develop management plans to address threats to stewardship sites; and

(C) to act on opportunities to protect and enhance stewardship sites;

(2) develop recommended guidelines, criteria, schedules, and due dates for the submission of applications and the evaluation by the Advisory Committee of information to recommend areas for designation as stewardship sites that fulfill terms of a multi-year management plan;

(3) recommend to the Administrator a list of sites for designation as stewardship sites that further the purpose of this Act;

(4) develop management plans to address threats to stewardship sites;

(5) raise awareness of the values of and threats to stewardship sites;

(6) recommend that the Administrator award grants to qualified applicants; and

(7) recommend to the Administrator ways to leverage additional resources for improved stewardship of the Region.

(b) IDENTIFICATION OF SITES.—

(1) IN GENERAL.—Any qualified applicant may submit an application to the Advisory Committee to have a site recommended to the Administrator for designation as a stewardship site.

(2) IDENTIFICATION.—The Advisory Committee shall review each application submitted under this subsection to determine whether the site exhibits values that promote the purpose of this Act.

(3) NATURAL RESOURCE—BASED RECREATION AREAS.—In reviewmg an application for recommendation of a recreation area for designation as a stewardship site, the Advisory Committee may use a selection technique that includes consideration of—

(A) public access;

(B) community support;

(C) high population density;

(D) environmental justice (as defined in section 385.3 of title 33, Code of Federal Regulations (or successor regulations));

(E) open spaces; and

(F) cultural, historic, and scenic characteristics.

(4) NATURAL AREAS WITH ECOLOGICAL VALUE.—In reviewmg an application for recommendation of a natural area with ecological value for designation as a stewardship site, the Advisory Committee may use a selection technique that includes consideration of—

(A) measurable conservation targets for the Region; and

(B) prioritizing new sites using systematic site selection, which shall include consideration of—

(i) ecological uniqueness;

(ii) species viability;

(iii) habitat heterogeneity;

(iv) size;

(v) quality;

(vi) open spaces;

(vii) land cover;

(viii) scientific, research, or educational value; and

(ix) threats.

(5) DEVIATION FROM PROCESS.—The Advisory Committee may accept an application to recommend a site other than as provided in this subsection, if the Advisory Committee—

(A) determines that the site makes significant ecological or recreational contributions to the Region; and

(B) provides to the Administrator the reasons for deviating from the process otherwise described in this subsection.

(c) SUBMISSION OF LIST OF RECOMMENDED SITES.—

(1) IN GENERAL.—After completion of the site identification process set forth in subsection (b), the Advisory Committee shall submit to the Administrator its list of sites recommended for designation as stewardship sites.

(2) LIMITATION.—The Advisory Committee shall not include a site in the list submitted under this subsection unless, prior to submission of the list, the owner of the site is—

(A) notified of the inclusion of the site in the list; and

(B) allowed to decline inclusion of the site in the list.

(3) PUBLIC COMMENT.—In identifying sites for inclusion in the list, the Advisory Committee shall provide an opportunity for submission of, and consider, public comments.

SEC. 7. GRANTS AND ASSISTANCE.

(a) IN GENERAL.—The Administrator may provide grants, subject to the availability of appropriations, and other assistance for projects to fulfill the purpose of this Act.

(b) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using any assistance or grant under this Act shall not exceed 60 percent of the total cost of the activity.

SEC. 8. LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the "Long Island Sound Stewardship Advisory Committee".

(b) MEMBERSHIP.

(1) IN GENERAL.—The Administrator may appoint the members of the Advisory Committee in accordance with this subsection and the guidance in section 320(c) of the Federal Water Pollution Control Act (33 D.S.C. 1330(c)), except that the Governor of each State may appoint 2 members of the Advisory Committee.

(2) ADDITIONAL MEMBERS.—In addition to the other members appointed under this subsection, the Advisory Committee may include—

(A) a representative of the Regional Plan Association;

(B) a representative of marine trade organizations; and

(C) a representative of private landowner interests.

(3) CONSIDERATION OF INTERESTS.—In appointing members of the Advisory Committee, the Administrator shall consider—

(A) Federal, State, and local government interests and tribal interests;

(B) the interests of nongovernmental organizations;

(C) academic interests;

(D) private interests including land, agriculture, and business interests; and

(E) recreational and commercial fishing interests.

(4) CHAIRPERSON.—In addition to the other members appointed under this subsection.

the Administrator may appoint as a member of the Advisory Committee an individual to serve as the Chairperson, who may be the Director of the Long Island Sound Office of the Environmental Protection Agency.

(5) COMPLETION OF APPOINTMENTS.—The Administrator shall complete the appointment of all members of the Advisory Committee by not later than 180 days after the date of enactment of this Act.

(A) VACANCIES.—A vacancy on the Advisory Committee—

(i) shall be filled not later than 90 days after the vacancy occurs;

(ii) shall not affect the powers of the Advisory Committee; and

(iii) shall be filled in the same manner as the original appointment was made.

(c) TERM.—

(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 4 years.

(2) MULTIPLE TERMS.—An individual may be appointed as a member of the Advisory Committee for more than 1 term.

(D) POWERS.—The Advisory Committee may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Advisory Committee considers advisable to carry out this Act.

(e) MEETINGS.—

(1) IN GENERAL.—The Advisory Committee shall meet at the call of the Chairperson, but no fewer than 4 times each year.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Advisory Committee have been appointed, the Chairperson shall call the initial meeting of the Advisory Committee.

(3) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(f) ADAPTIVE MANAGEMENT.—

(1) IN GENERAL.—The Advisory Committee shall use an adaptive management framework to identify the best policy initiatives and actions through—

(A) definition of strategic goals;

(B) definition of policy options for methods to achieve strategic goals;

(C) establishment of measures of success;

(D) identification of uncertainties;

(E) development of informative models of policy implementation;

(F) separation of the landscape into georaphic units;

(G) monitoring key responses at different spatial and temporal scales; and

(H) evaluation of outcomes and incorporation into management strategies.

(2) APPLICATION OF ADAPTIVE MANAGEMENT FRAMEWORK.—The Advisory Committee shall apply the adaptive management framework to the process for making recommendations under subsections (b) through (f) of section 6 to the Administrator regarding sites that should be designated as stewardship sites.

(3) ADAPTIVE MANAGEMENT.—The adaptive management framework required by this subsection shall consist of a scientific process—

(A) for—

(i) developing predictive models;

(ii) making management policy decisions based upon the model outputs;

(iii) revising the management policies as data become available with which to evaluate the policies; and

(iv) acknowledging uncertainty, complexity, and variance in the spatial and temporal aspects of natural systems; and

(B) that requires that management be viewed as experimental.

(g) TERMINATION OF ADVISORY COMMITTEE.—The Advisory Committee shall terminate on December 31, 2011.

SEC. 9. REPORTS.

(a) ADMINISTRATOR.—The Administrator shall publish and make available to the public on the Internet and in paper form—

(1) not later than 1 year after the date of enactment of this Act, a report that—

(A) assesses the role of this Act in protecting the Long Island Sound;

(B) establishes in coordination with the Advisory Committee gllidelines, criteria, schedules, and due dates for evaluating information to designate stewardship sites;

(C) includes information about any grants that are available for the purchase of land or property rights to protect stewardship sites; and

(D) accounts for funds received and expended during the previous fiscal year;

(2) an update of such report, at least every other year; and

(3) information on funding and any new stewardship sites more frequently than every other year.

(b) ADVISORY COMMITTEE.—

(1) REPORT.—For each of fiscal years 2007 through 2011, the Advisory Committee shall submit to the Administrator and the decisionmaking body of the Long Island Sound Study Management Conference established under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330), an annual report that contains—

(A) a detailed statement of the findings and conclusions of the Advisory Committee since the last report under this subsection;

(B) a description of all sites recommended by the Advisory Committee to the Administrator for designation as stewardship sites;

(C) the recommendations of the Advisory Committee for such legislation and administrative actions as the Advisory Committee considers appropriate; and

(D) in accordance with paragraph (2), the recommendations of the Advisory Committee for the awarding of grants.

(2) RECOMMENDATION FOR GRANTS.—

(A) IN GENERAL.—The Advisory Committee shall recommend that the Administrator award grants to qualified applicants to help to secure and improve the open space, public access, or ecological values of stewardship sites, through—

(i) purchase of the property of a stewardship site;

(ii) purchase of relevant property rights to a stewardship site; or

(iii) entering into any other binding legal arrangement that ensures that the values of a stewardship site are sustained, including entering into an arrangement with a land manager or property owner to develop or implement a management plan that is necessary for the conservation of natural resources.

(B) EQUITABLE DISTRIBUTION OF FUNDS.—The Advisory Committee shall exert due diligence to ensure that its recommendations result in an equitable distribution of funds between the States.

SEC. 10. PRIVATE PROPERTY PROTECTION; NO REGULATORY AUTHORITY.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to the private property; or

(2) modifies the application of any provision of Federal, State, or local law with regard to public access to or use of private property, except as entered into by voluntary agreement of the owner or custodian of the property.

(b) LIABILITY.—Establishment of the Region does not create any liability, or have any effect on any liability under any other law, of any private property owner with respect to any person injured on the private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act modifies the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS NOT REQUIRED.—Nothing in this Act requires the owner of any private property located within the boundaries of the Region to participate in any land conservation, financial or technical assistance, or other programs established under this Act.

(e) PURCHASE OF LAND OR INTEREST IN LAND FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this Act may be used to purchase land or interests in land only from willing sellers.

(f) MANNER OF ACQUISITION.—All acquisitions of land under this Act shall be made in a voluntary manner and shall not be the result of forced takings.

(g) EFFECT OF ESTABLISHMENT.—

(1) IN GENERAL.—The boundaries of the Region represent the area within which Federal funds appropriated for the purpose of this Act may be expended.

(2) REGULATORY AUTHORITY.—The establishment of the Region and the boundaries of the Region do not provide any regulatory authority not in existence immediately before the enactment of this Act on land use in the Region by any management entity, except for such property rights as may be purchased from or donated by the owner of the property (including public lands donated by a State or local government).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Administrator $25,000,000 for each of fiscal years 2007 through 2011 to carry out this Act, including for—

(1) acquisition of land and interests in land;

(2) development and implementation of site management plans;

(3) site enhancements to reduce threats or promote stewardship; and

(4) administrative expenses of the Advisory Committee and the Administrator.

(b) USE OF FUNDS.—Amounts made available to the Administrator under this section each fiscal year shall be used by the Administrator after reviewing the recommendations included in the annual reports of the Advisory Committee under section 9.

(c) AUTHORIZATION OF GIFTS, DEVISES, AND BEQUESTS FOR SYSTEM.—In furtherance of the purpose of this Act, the Administrator may accept and use any gift, devise, or bequest of real or personal property, proceeds therefrom, or interests therein, to carry out this Act. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are considered by the Administrator to be in accordance with law and compatible with the purpose for which acceptance is sought.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Of the amount available each fiscal year to carry out this Act, not more than 8 percent may be used for administrative costs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

I would urge my colleagues to support this legislation, sponsored by Congressman ROB SIMMONS, which would establish the Long Island Sound Stewardship Initiative. This initiative allows the administrator of the Environmental Protection Agency to provide grants to protect and restore land around the Long Island Sound in the States of Connecticut and New York. This bill acknowledges the collaborative efforts among the many public and private partners in the region and allows for a ground-up approach to managing and maintaining the long-term ecological health and public enjoyment of Long Island Sound.

I urge an "aye" vote on H.R. 5160.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield such time as he may consume to one of the chief sponsors and leaders of this important piece of legislation, my good friend and distinguished gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank my friend from Wisconsin for yielding.

Mr. Speaker, I want to thank Chairman POMBO and Ranking Member RAHALL for bringing this bill to the floor today. I also want to thank my colleague from Connecticut, Representative SIMMONS, and the rest of the members of the Long Island Sound Caucus for their very hard work on this legislation and their ongoing efforts to preserve and protect the Long Island Sound. I have the privilege of serving as co-chair of the Congressional Long Island Sound Caucus with the gentleman from Connecticut (Mr. SIMMONS) and we have worked together for many years in the hope that this bill would become a reality. I was proud to introduce it with the gentleman from Connecticut, and I am proud of the Long Island Caucus for standing behind it every step of the way.

This bill is bipartisan. It is bicoastal. It is bicameral. It is one of the most important initiatives that we can take to protect the Long Island Sound, to identify and enhance sites with ecological, educational, and recreational value in Connecticut and New York. And it does so in a way that is consistent with the vision put forward by a consortium of local groups who have been working for over a decade to save the sound.

The Long Island Sound is one of our Nation's great natural wonders. It sustains a diversity of birds, wildlife, and marine organisms. It is a very important part of the national economy. It remains a vital component of our identity, our way of life.

Today over 8 million people live in the sound's watershed and 20 million people live within 50 miles of its shores. The sound alone contributes $5 billion to the regional economy through sport and commercial fishing, recreation and tourism.

Mr. Speaker, I served for 8 years as a member of the Huntington Town Board, and I worked with our local baymen and worked with different organizations to preserve the Long Island Sound, and I am acutely aware of the many environmental challenges that confront our community. In fact, my town and many others initiated bond acts, asking local taxpayers to come up with a few more dollars to support and protect the Long Island Sound. And I always believed that the Federal Government should be more of a partner with local townships. And tonight we take the first big step in that new partnership.

This bill creates a purely voluntary process to protect coastal areas along the Long Island Sound. It creates a process that will bring together stakeholders on a committee, including Connecticut and New York representatives from the Federal Government, the State government, local governments, nongovernment organizations, academic, private and development interests. This is a critically important step.

And, Mr. Speaker, before I close, I just want to mention that, in fact, this bill has been the product of cooperation at all levels of government with advocacy groups in both New York and Connecticut, and I am grateful to all of them for their input.

On a personal note, I have been very fortunate to have a wonderful staff for working on this legislation for most of the last 4 years. And I want to thank Karen Agostisi, who devoted so much of her time to this effort and helped navigate this bill through the sometimes choppy and turbulent waters of the Long Island Sound. I was privileged to work with the gentleman from Connecticut.

This is a very important step for this Federal and local partnership. I urge a "yes" vote on this bill. And again I thank the gentleman for his cooperation. I thank my colleagues for their consideration.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to again commend my good friend from New York (Mr. ISRAEL) for his leadership that he has shown on this piece of legislation. It has been many years that they have been working on this. But I also want to take a moment to commend my good friend and colleague, the gentleman from New York, TIM BISHOP, for the leadership and the work that he has put into this legislation; along with the gentlewoman from Connecticut, ROSA DELAURO, who has also been very involved; as well as 15 original cosponsors, Democratic cosponsors, from the New York delegation.

I urge an "aye" vote on this important bill to restore and preserve the Long Island Sound and encourage its adoption this evening.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, understanding the full risk of filibuster, I yield such time as he may consume to the gentleman from Connecticut, the sponsor of the bill, Mr. SIMMONS.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding.

We have already heard many good words about this legislation, and I would like to associate myself with those words.

Quite simply, this legislation represents many years of effort between two States, New York and Connecticut; between the House and the Senate; and, of course, a bipartisan effort by Republicans and Democrats.

The Long Island Sound is a unique estuary, with economic and environmental assets. It generates about $6 billion annually to the regional economy and is a cherished environmental resource for over 28 million people who live within 50 miles of the shore.

Four generations of my family have enjoyed Long Island Sound, and we have lived on Long Island Sound. And yet with the increase in population, with land development, and other pressures, some of the assets of this unique estuary are being lost. And that is why this bipartisan legislation has been introduced.

It originally passed the Senate a couple of years ago in a somewhat different form and then Senator LIEBERMAN and I reintroduced it last year at the beginning of the 109th Congress. I have worked with Chairman POMBO. I have worked with subcommittee Chairman GILCHREST, and my colleagues across the aisle to make sure that the language of this bill respects property rights but also allows us to use science-based mechanisms to identify properties that can be acquired and preserved and protected for future generations.

Again, we don't infringe on property rights because the bill seeks to create and does create, we believe, a purely voluntary process to protect important sites along the sound.

The committee that we are creating is advisory in nature and has no authority to seize lands or to mandate action on private property. It simply recommends sites and allows an administrator to allocate funds to purchase or enter into legal arrangements to secure these properties. The legislation provides for transparency and accountability and is responsible, in a fiduciary manner, for the dollars that are authorized by the law.

I thank my colleagues for their bipartisan support of this wonderful piece of legislation.

Mr. Speaker, I rise today in strong support of H.R. 5160, the "Long Island Sound Stewardship Act of 2006."

I want to thank Chairman RICHARD POMBO and Chairman WAYNE GILCHREST—as well as their capable staff—for their leadership and work on this important legislation. I also would like to thank my co-chair of the Long Island Sound Caucus, Representative STEVE ISRAEL and the rest of the caucus for their work to promote the importance of Long Island Sound.

The Long Island Sound is a unique estuary with economic and ecological importance to the region and to the Nation. The Sound contributes approximately $6 billion annually to the regional economy and is a cherished resource for the 28 million people living within 50 miles of its shores. The Sound is heavily used for recreation and for commerce by residents of Connecticut and New York as well as numerous visitors from across the country each year. This treasure deserves our utmost support.

Senator LIEBERMAN and I originally introduced the Long Island Stewardship Act (LISSA) in the 108th Congress. H.R. 5160 is the product of bipartisan cooperation among legislators from Connecticut and New York and local groups that have been working together to protect the Sound. Without infringing on private property rights of local landowners, the bill seeks to create a purely voluntary process to protect important sites along the Sound through the creation of the Long Island Sound Advisory Committee. Chaired by the director of the Environmental Protection Agency's Long Island Sound Office and comprised of representatives from Federal, State, and local governments and nongovernmental organizations, the Committee will assess potential stewardship sites along the coast and work to preserve them.

To ensure private property rights, the Committee was made advisory in nature and would not have the authority to seize lands or to mandate action on private property. Instead, the Committee would be required to recommend sites for stewardship and submit its findings to the EPA Administrator. The Administrator would then allocate funds to purchase relevant property rights or enter into binding legal arrangements that ensure the value of the sites is maintained in accordance with the Committee's recommendations.

In an effort to provide maximum transparency and accountability, the EPA Administrator would then be required to produce a biannual report that assesses the status of the Long Island Sound and that notifies the public of the program activities. To maintain the bistate partnership, the Committee would be required to exert due diligence to ensure that it recommends an equitable distribution of funds between Connecticut and New York.

Mr. Speaker, the use of Federal dollars requires careful scrutiny. My bill would authorize $25 million annually for 5 years to advance this important initiative. This figure represents a reduction from an initial draft of the bill during the 108th Congress, at the recommendation of Senate and House committee chairmen. And if we consider the precedent for Federal funds authorized and appropriated for estuarine ecosystem restoration programs elsewhere in the country, we'll find $25 million to be an appropriate amount. This is especially true when one considers the cost of real estate in the Long Island Sound region.

Mr. Speaker, thank you for bringing this legislation before the House. I am gratified to have the support of my colleagues in passing this bill.

Mr. SHAYS. Mr. Speaker, as an original cosponsor of th1s legislation, I rise in strong support of H.R. 5160, the Long Island Sound Stewardship Act. I recognize the vital role the Long Island Sound plays in the Fourth Congressional District as well as all of Connecticut.

The Long Island Sound contributes more than $5 billion annually to the regional economy and is one of the most populated and visited areas of our country. In fact, approximately 10 percent of the American population lives within the Long Island Sound watershed.

It is a source of livelihood, nourishment, and recreation for many in Connecticut and elsewhere, and it is critical that we treat it well.

This legislation would authorize $25 million to protect and preserve areas along the Sound's shorelines with significant ecological, recreational, or educational value. The Long Island Sound Stewardship Act gives those most familiar with the Sound's precious and diverse resources the tools necessary to continue their conservation efforts, and applies the most effective methods available to identify, protect, and enhance sites with ecological, educational, and recreation value in Connecticut and New York.

Protecting and preserving the environment is one of the most important jobs I have as a Member of Congress. We simply will not have a world to live in if we continue our neglectful ways.

The Long Island Sound is our Yellowstone. I urge passage of this legislation so that we may continue its conservation and protection.

Mr. ACKERMAN. Mr. Speaker, I rise in support of this legislation, which will help ensure that future generations of New Yorkers and all Americans will enjoy a clean, well-preserved Long Island Sound.

The Long Island Sound is critically important to our Nation and vital to the health and well-being of the communities I represent. As an Estuary of National Significance, the Sound provides habitat for a wide array of plant and animal life, and contributes an estimated $5.5 billion to the regional economy from boating, fishing and tourism-related commerce. Boating and fishing are deeply enmeshed in the culture and traditions of Long Island, and the Sound has long been our region's gateway to the seas.

Unfortunately, the effects of millions of people living adjacent to the Sound's shore have been profound. At the turn of the millennium, lobster catch rates plummeted by 90%, costing our local economy between $30 and $50 million. Dangerous levels of toxins continue to threaten the well-being of the Sound's diverse habitats and wildlife breeding areas, as well as the livelihoods of those who depend on these resources for their livelihood.

The Long Island Sound Stewardship Act supplements conservation and preservation efforts along the shoreline of Long Island and Connecticut, and authorizes $25 million in federal appropriations over the next 4 fiscal years.

Mr. Speaker, this bill is not perfect. I strongly support and will continue to advocate for funding at the original proposed level of $40 million annually. Properly conceived, the legislation should include wetlands and underwater lands within the authority of the Long Island Sound Stewardship Initiative, which will be established by this legislation. Additionally, I strongly support fully funding conservation and preservation offshore via the Long Island Sound Restoration Act, which has fallen victim to the Majority's budget cuts.

The Long Island Sound, however, is a national treasure and I believe that any preservation efforts to conserve any part of the Sound should be embraced. I do support this legislation and I would like to thank my colleague from New York, the co-chair of the Long Island Sound Caucus, Mr. ISRAEL, for all of his efforts to bring this bill to the floor and to preserve the Long Island Sound.

Mr. PEARCE. Mr. Speaker, appreciating the bipartisan nature of this, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 5160, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UTAH RECREATIONAL LAND EXCHANGE ACT OF 2006

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2069) to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Recreational Land Exchange Act of 2006".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the area surrounding the Colorado River in Grand and San Juan Counties, Utah, and Dinosaur National Monument and the Book Cliffs in Uintah County, Utah, contains nationally recognized scenic vistas, significant archaeological and historic resources, valuable wildlife habitat, and outstanding opportunities for public recreation that are enjoyed by hundreds of thousands of people annually;

(2) the State of Utah owns multiple parcels of land in the area that were granted to the State under the Act of July 16, 1894 (28 Stat. 107, chapter 138), to be held in trust for the benefit of the public school system and other public institutions of the State;

(3) the parcels of State trust land are largely scattered in checkerboard fashion amid the Federal land comprising the area of the Colorado River corridor, the Dinosaur National Monument, and the Book Cliffs;

(4) the State trust land in the area of the Colorado River corridor, Dinosaur National

Monument, and the Book Cliffs includes significant natural and recreational features, including—

(A) portions of Westwater Canyon of the Colorado River;

(B) the nationally recognized Kokopelli and Slickrock trails;

(C) several of the largest natural rock arches in the United States;

(D) multiple wilderness study areas and proposed wilderness areas; and

(E) viewsheds for Arches National Park and Dinosaur National Monument;

(5) the large presence of State trust land located in the Colorado River corridor, Dinosaur National Monument, and the Book Cliffs area makes land and resource management in the area more difficult, costly, and controversial for the United States and the State of Utah;

(6) although the State trust land was granted to the State to generate financial support for public schools in the State through the sale or development of natural resources, development of those resources in the Colorado River corridor, Dinosaur National Monument, and the Book Cliffs area may be incompatible with managing the area for recreational, natural, and scenic resources;

(7) the United States owns land and interests in land in other parts of the State of Utah that can be transferred to the State in exchange for the State trust land without jeopardizing Federal management objectives or needs; and

(8) it is in the public interest to exchange federally owned land in the State for the Utah State trust land located in the Colorado River Corridor, Dinosaur National Monument, and the Book Cliffs area, on terms that are fair to the United States and the State of Utah.

(b) PURPOSE.—It is the purpose of this Act to direct, facilitate, and expedite the exchange of certain Federal land and non-Federal land in the State to further the public interest by—

(1) exchanging Federal land that has limited recreational and conservation resources; and

(2) acquiring State trust land with important recreational, scenic, and conservation resources for permanent public management and use.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term "Federal land" means the land located in Grand, San Juan, and Uintah Counties, Utah, that is identified on the maps as—

(A) "BLM Subsurface only Proposed for Transfer to State Trust Lands";

(B) "BLM Surface only Proposed for Transfer to State Trust Lands"; and

(C) "BLM Lands Proposed for Transfer to State Trust Lands".

(2) GRAND COUNTY MAP.—The term "Grand County Map" means the map prepared by the Bureau of Land Management entitled "Utah Recreational Land Exchange Act Grand County" and dated September 22, 2006.

(3) MAPS.—The term "maps" means the Grand County Map and the Uintah County Map.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means the land in Grand, San Juan, and Uintah Counties, Utah, that is identified on the maps as—

(A) "State Trust Land Proposed for Transfer to BLM"; and

(B) "State Trust Minerals Proposed for Transfer to BLM".

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Utah, as trustee under the Utah State School and Institutional Trust Lands Management Act (Utah Code Ann. 53C–1–101 et seq.).

(7) UINTAH COUNTY MAP.—The term "Uintah County Map" means the map prepared by the Bureau of Land Management entitled "Utah Recreational Land Exchange Act Uintah County" and dated September 22, 2006.

SEC. 4. EXCHANGE OF LAND.

(a) IN GENERAL.—If, not later than 30 days after the date of enactment of this Act, the State offers to convey to the United States title to the non-Federal land, the Secretary shall—

(1) accept the offer; and

(2) on receipt of acceptable title to the non-Federal land and subject to valid existing rights, convey to the State all right, title, and interest of the United States in and to the Federal land.

(b) CONVEYANCE OF PARCELS IN PHASES.—

(1) IN GENERAL.—Notwithstanding that appraisals for all of the parcels of Federal land and non-Federal land may not have been completed under section 5, parcels of the Federal land and non-Federal land may be exchanged under subsection (a) in 3 phases beginning on the date on which the appraised values of the parcels included in the applicable phase are approved under section 5(b)(5).

(2) PHASES.—The 3 phases referred to in paragraph (1) are—

(A) phase 1, consisting of the non-Federal land identified as "phase one" land on the Grand County Map;

(B) phase 2, consisting of the non-Federal land identified as "phase two" land on the Grand County Map and the Uintah County Map; and

(C) phase 3, consisting of any remaining non-Federal land that is not identified as "phase one" land or "phase two" land on the Grand County Map or the Uintah County Map.

(3) NO AGREEMENT ON EXCHANGE.—If agreement has not been reached with respect to the exchange of an individual parcel of Federal land or non-Federal land, the Secretary and the State may agree to set aside the individual parcel to allow the exchange of the other parcels of Federal land and non-Federal land to proceed.

(c) APPURTENANT WATER RIGHTS.—Any conveyance of a parcel of Federal land or non-Federal land under this Act shall include the conveyance of water rights appurtenant to the parcel conveyed.

(d) TIMING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the exchange of land authorized by subsection (a) shall be completed not later than 330 days after the date on which the State makes the Secretary an offer to convey the non-Federal land under that subsection.

(2) EXCEPTION.—The deadline established under paragraph (1) shall not apply to a parcel of land, the value of which is being determined under section 5(b)(6)(C).

(3) EXTENSION.—The Secretary and the State may mutually agree to extend the deadline specified in paragraph (1).

(e) COMPLIANCE.—Except as otherwise provided in this Act, the exchange of land shall be carried out in compliance with all laws and regulations applicable to the exchange of Federal land for non-Federal land.

SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The value of the Federal land and non-Federal land to be exchanged under this Act—

(1) shall be equal; or

(2) shall be made equal in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The value of the Federal land and the non-Federal land shall be determined by appraisals conducted in accordance with—

(A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(B) section 2201.3 of title 43, Code of Federal Regulations (or successor regulations).

(2) SELECTION OF APPRAISER.—The appraisals of the Federal land and non-Federal land shall be conducted by 1 or more independent third-party appraisers selected jointly by the Secretary and the State.

(3) COSTS.—

(A) IN GENERAL.—The Secretary and the State shall share third-party appraisal costs equally.

(B) ADJUSTMENT.—The Secretary and the State may agree to adjust the relative value of the Federal land and non-Federal land to be exchanged under this Act if the Secretary or the State has paid a disproportionate share of the third-party appraisal costs.

(4) VALUATION OF UNLEASED FEDERAL LAND; REVENUE SHARING.—

(A) IN GENERAL.—Any parcel of Federal land that, as of the date of appraisal, is not leased under the Mineral Leasing Act (30 U.S.C. 181 et seq.), shall be appraised without regard to the presence of minerals subject to lease under that Act, if, after conveyance of the applicable parcel to the State, the State agrees to pay to the United States

(i) 50 percent of any bonus or rental payments (in the form of money or other consideration) that the State receives for the disposition of any interest in the minerals after the date of conveyance; and

(ii) an amount equal to—

(I) the fraction of gross proceeds from mineral production (in the form of money or other consideration) to which the United States would have been entitled as a production royalty if the land had been—

(aa) retained by the United States; and

(bb) leased under the provisions of that Act in effect on the date of this Act; minus

(II) the portion of production royalties that would otherwise be payable to the State under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(B) OBLIGATION AS COVENANT.—The obligation of the State to pay bonus, rental, and royalty revenues to the United States under subparagraph (A) shall be a permanent covenant running with the applicable parcel of Federal land conveyed to the State.

(C) SPECIAL ACCOUNT.—All revenues received by the United States under this paragraph shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—

(i) the equalization of values as provided in subsection (c)(1);

(ii) the purchase of lands or interests therein within the State of Utah that are otherwise eligible for purchase under the Federal Lands Transaction Facilitation Act (43 U.S.C. 2301 et. seq.); or

(iii) the purchase of lands or interests therein owned by the State of Utah as trustee under the Utah State School and Institutional Trust Lands Management Act that are determined by the Secretary to have outstanding characteristics for outdoor recreation, wildlife habitat, wilderness, or other natural resources.

(D) ACQUISITION.—Any land acquired under this section shall be—

(i) from a willing seller;

(ii) contingent on the conveyance of title acceptable to the Secretary, using title standards of the Attorney General;

(iii) at a price not to exceed fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions; and

(iv) managed as part of the unit within which it is contained.

(5) REVIEW AND APPROVAL.—

(A) IN GENERAL.—Not later than 120 days after the date on which the appraiser is selected under paragraph (2), the appraiser shall submit to the Secretary and the State a copy of the completed appraisals for review.

(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date of receipt of an appraisal under subparagraph (A), the Secretary and the State shall independently approve or disapprove the appraisal.

(6) DETERMINATION OF VALUE.—

(A) DETERMINATION BY SECRETARY AND STATE.—If the Secretary and the State are unable to agree on the value of a parcel of land, the value of the parcel may be determined by the Secretary and the State in accordance with paragraphs (2) and (4) of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) VALUATION OF LEASED FEDERAL LAND.—

(i) IN GENERAL.—If value is attributed to any parcel of Federal land because of the presence of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 191 et seq.), and the parcel is subject to an existing lease under that Act, the value of the parcel shall be equal to the value of the parcel as determined under this section, as adjusted under clause (ii).

(ii) ADJUSTMENT.—

(I) IN GENERAL.—The value of the parcel subject to a lease under clause (i) shall be reduced by the percentage of the Federal revenue sharing obligation under section 35(a) of the Mineral Leasing Act (30 U.S.C. 191(a)).

(II) NO PROPERTY RIGHT.—An adjustment under subclause (I) shall not be considered to be a property right of the State.

(C) DETERMINATION BY COURT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary and the State have not agreed on the value of a parcel by the date that is 1 year after the date of enactment of this Act, a Federal district court (including the United States District Court for the District of Utah, Central Division) shall have jurisdiction to determine the value of the parcel.

(ii) LIMITATION.—An action to determine the value of a parcel under clause (i) shall be brought not earlier than 1 year, but not more than 3 years, after the date of enactment of this Act.

(D) AVAILABILITY OF APPRAISALS.—

(i) IN GENERAL.—All final appraisals, appraisal reviews, and determinations of value for land to be exchanged under this Act shall be available for public review at the Utah State Office of the Bureau of Land Management at least 30 days before the conveyance of the applicable parcels.

(ii) PUBLICATION.—The Secretary shall publish in a newspaper of general circulation in Salt Lake County, Utah, a notice that the appraisals are available for public inspection.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—If after completion of the appraisal and dispute resolution process under subsection (b), the value of the non-Federal land exceeds the value of the Federal land the Secretary shall, in partial exchange for the non-Federal land, provide for payment to the State of the amount necessary to equalize values from funds made available under the special account established by subsection (b)(4)(C). The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State.

(2) SURPLUS OF FEDERAL LAND.—If after completion of the appraisal and dispute resolution process under subsection (b), the value of the Federal land exceeds the value of the non-Federal land, the value of the Federal land and non-Federal land may be equalized by—

(A) the Secretary, after consultation with the State, removing parcels of Federal land from the exchange until the value is equal; or

(B) the Secretary and the State adding additional State trust land to the non-Federal land, if—

(i) the additional land has been appraised in accordance with an ongoing Federal acquisition process or program; and

(ii) the appraised value (as determined under clause (i)) has been accepted by the Secretary.

(3) NOTICE AND PUBLIC INSPECTION.—

(A) IN GENERAL.—If the Secretary and the State determine to add or remove land from the exchange, the Secretary shall—

(i) publish in a newspaper of general circulation in Salt Lake County, Utah, a notice that identifies when and where a revised exchange map will be available for public inspection; and

(ii) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a copy of the revised exchange map.

(B) LIMITATION.—The Secretary and the State shall not add or remove land from the exchange until at least 20 days after the date on which the notice is published under subparagraph (A)(i) and the map is transmitted under subparagraph (A)(ii).

(d) RESOURCE REPORT.—

(1) IN GENERAL.—With respect to each parcel of Federal land to be conveyed to the State, the Secretary shall prepare a report, based on land management plans, resource inventories, and surveys existing on the date on which the report is prepared, that identifies any significant resource values, issues, or management concerns associated with the parcel.

(2) NOTICE AND INSPECTION.—A report shall be subject to the public notice and inspection in accordance with subsection (b)(6)(D).

SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) ADMINISTRATION OF NON-FEDERAL LAND.—

(1) IN GENERAL.—Subject to paragraph (2) and in accordance with section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), the non-Federal land acquired by the United States under this Act shall become part of, and be managed as part of, the Federal administrative unit or area in which the land is located.

(2) MINERAL LEASING AND OCCUPANCY.—

(A) IN GENERAL.—Subject to valid existing rights, the non-Federal land acquired by the United States under this Act shall be withdrawn from the operation of the mineral leasing and mineral material disposal laws until the later of—

(i) the date that is 2 years after the date of enactment of this Act; or

(ii) the date on which the Record of Decision authorizing the implementation of the applicable resource management plans under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) is signed.

(B) EXCEPTION.—Any land identified on the maps as "Withdrawal Parcels" is withdrawn from the operation of the mineral leasing and mineral material disposal laws.

(3) RECEIPTS.—

(A) IN GENERAL.—Any receipts derived from the non-Federal land acquired under this Act shall be paid into the general fund of the Treasury.

(B) APPLICABLE LAW.—Mineral receipts from the non-Federal land acquired under this Act shall not be subject to section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(b) WITHDRAWAL OF FEDERAL LAND PRIOR TO EXCHANGE.—Subject to valid existing rights, during the period beginning on the date of enactment of this Act and ending on the earlier of the date that is 3 years after the date of enactment of this Act or the date on which the Federal land is conveyed under this Act, the Federal land is withdrawn from—

(1) disposition (other than disposition under section 4) under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) the operation of—

(A) the mineral leasing laws;

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(C) the first section of the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601).

(c) GRAZING PERMITS.—

(1) IN GENERAL.—If land acquired under this Act is subject to a lease, permit, or contract for the grazing of domestic livestock in effect on the date of acquisition, the person or entity acquiring the land shall allow the grazing to continue for the remainder of the term of the lease, permit, or contract, subject to the related terms and conditions of user agreements, including permitted stocking rates, grazing fee levels, access rights, and ownership and use of range improvements.

(2) RENEWAL.—To the extent allowed by Federal or State law, on expiration of any grazing lease, permit, or contract described in paragraph (1), the holder of the lease, permit, or contract shall be entitled to a preference right to renew the lease, permit, or contract.

(3) CANCELLATION.—

(A) IN GENERAL.—Nothing in this Act prevents the Secretary or the State from canceling or modifying a grazing permit, lease, or contract if the land subject to the permit, lease, or contract is sold, conveyed, transferred, or leased for nongrazing purposes by the party.

(B) LIMITATION.—Except to the extent reasonably necessary to accommodate surface operations in support of mineral development, the Secretary or the State shall not cancel or modify a grazing permit, lease, or contract because the land subject to the permit, lease, or contract has been leased for mineral development.

(4) BASE PROPERTIES.—If land conveyed by the State under this Act is used by a grazing permittee or lessee to meet the base property requirements for a Federal grazing permit or lease, the land shall continue to qualify as a base property for the remaining term of the lease or permit and the term of any renewal or extension of the lease or permit.

(d) HAZARDOUS MATERIALS.—

(1) IN GENERAL.—The Secretary and, as a condition of the exchange, the State shall make available for review and inspection any record relating to hazardous materials on the land to be exchanged under this Act.

(2) COSTS.—The costs of remedial actions relating to hazardous materials on land acquired under this Act shall be paid by those entities responsible for the costs under applicable law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

□ 2300

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Utah Regional Land Exchange Act is the culmination of years of analysis and negotiations among representatives of Utah's State School Trust Lands, the Department of the Interior, locally elected officials, environmental groups and Members of Congress.

Congressman CHRIS CANNON should be commended for crafting this bipartisan legislation that will convey and exchange of over 80,000 acres of State and Federal lands for recreation, scenic and development purposes. This creative and significant exchange will be of great benefit to Utah's schools, recreationists, communities, and to all Americans who care about the proper care and management of Federal lands and in protecting important natural and scenic areas.

I urge passage of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the chairman of the subcommittee has adequately explained the purpose of the legislation. I would just note, however, that the lands involved do lie within the Congressional district represented by my good friend and colleague, JIM MATHESON from Utah. I commend his leadership and involvement in the passage of this legislation.

I would encourage its adoption this evening.

Madam Speaker, the majority has already explained the purpose of H.R. 2069. I would note that the lands involved lie within the Congressional District represented by my colleague, JIM MATHESON. The gentleman from Utah is to be commended for his advocacy of a land exchange that, as amended, is a win-win for all the involved parties.

Madam Speaker, we appreciate the cooperation shown by the majority, the State of Utah, the BLM, and others in addressing issues that originally existed with the legislation. We support H.R. 2069, as amended, and have no objection to the adoption of the legislation by the House today.

Mr. MATHESON. Mr. Speaker, today I rise in strong support of H.R. 2069, the Utah Recreational Land Exchange Act of 2005.

Since statehood, Utah has held lands in trust to generate funds for public schools. But they are scattered throughout the State in a checkerboard pattern, isolated within federal land holdings. That has made it difficult for either the federal land agencies, or the School and Institutional Trust Lands Administration, to manage them according to their different objectives. Many of the State school trust lands have valuable habitat, watershed, and scenic features that shouldn't be commercially developed.

The Bureau of Land Management, meanwhile, owns land in other parts of my State that are not as environmentally sensitive and could be responsibly developed for the benefit of public schools.

This legislation proposes a land exchange—State school trust lands for BLM lands—that consolidates acreage for ease of management by federal land managers, increases the school trust fund balance, and preserves sensitive land along the world-renowned Colorado River corridor, using an equitable valuation.

Anyone who has rafted the Colorado River, or taken a mountain-biking trip to Moab, understands why these lands need to be open to future generations of Americans to enjoy. This legislation would transfer to the BLM parcels of State land in Westwater Canyon, the nationally-recognized Kokopelli and Slickrock trails, multiple wilderness study areas, and some of the largest natural rock arches in the U.S.

This bill is the result of a truly collaborative process with all stakeholders at the table. It is supported by the counties, by the State of Utah, by the environmental and recreational communities and it has evolved with the Department of the Interior's participation.

I would like to thank Congressman CANNON, all the stakeholders and the Resources Committee for working over the past 2 years to develop the bipartisan, consensus legislation that we have before us today.

I urge my colleagues to support this legislation to protect our treasured public lands and at the same time support public education in Utah.

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 2069, the Utah Recreational Land Exchange Act of 2006, which is also cosponsored by Congressman MATHESON and Congressman BISHOP.

Mr. Speaker, this legislation is the culmination of years of hard work, compromise, and determination involving the Utah School and Institutional Trust Lands Administration, the Counties, the environmental community, the recreation community, the Department of the Interior and of course the Resources Committee staff.

H.R. 2069 authorizes the exchange of approximately 45,000 acres of Utah State school trust lands within and near Utah's Colorado River corridor for approximately 40,000 acres of Federal lands in eastern Utah. This is an equal value exchange that guarantees that the school children of Utah will finally benefit from lands they own.

The Colorado River Corridor is a uniquely scenic area that includes such treasures as the Corona and Morning Glory arches, the Westwater wilderness study area, the Kokopelli and Slickrock trails, the watershed for Castle Valley, the Sand Wash rafting site, and thousands of other acres of red rock beauty. H.R. 2069 will transfer these lands, which are owned by Utah's school children, to the Bureau of Land Management.

Congress established Utah's school trust lands upon statehood for the specific purpose of generating income for Utah's school system. Therefore, in exchange for these beautiful areas, Utah's school children will receive mineral development lands in eastern Utah to provide a much needed revenue stream for the Utah school system.

H.R. 2069 is a balanced piece of legislation that will allow the Bureau of Land Management to fulfill its management mandates along the Colorado River as well as benefit Utah's school children. Revenue from Utah school trust lands—whether from grazing, surface leasing, mineral development or sale—will be placed in the State School Fund, which is a permanent income-producing endowment for the support of Utah's public education system.

H.R. 2069 is an equal value exchange that sets out a transparent and fair appraisal process. Appraisals will be conducted by jointly selected independent appraisers and pursuant to established law and regulations. The Federal Government will retain its current interest in the minerals conveyed to the State and those revenues will be utilized to purchase lands in Utah in the future. The bill also includes public notice provisions to insure that the public is aware of the status of the exchange process.

Madam Speaker, as you are aware, Utah has a long history of working hard to consolidate our school trust lands in a way that allows us to fund our public education system. We are confident and hopeful that H.R. 2069 acts as a blueprint for future exchanges so the people of Utah can continue to receive the revenue they were promised upon becoming a state.

I would like to take a moment to thank the staff that worked on this bill. Personally, I would like to thank from the Committee on Resources: Doug Crandall, Matt Miller and Todd Willens of Chairman POMBO's staff, and Jim Zoia and Rick Healy of Mr. RAHALL's staff; from the Leader's office Anne Thorsen, Greg Maurer and Jay Cranford; and from my staff Rachel Dresen for all their work on this legislation.

I urge my colleagues to support this exchange which is a win for America's Federal lands and is a win for Utah's school system.

Mr. KIND. Madam Speaker, I yield back the balance of our time.

Mr. PEARCE. Madam Speaker, I have no other speakers, and yield back the balance of my time.

The SPEAKER pro tempore (Ms. FOXX). The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 2069, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PUEBLO OF ISLETA SETTLEMENT AND NATURAL RESOURCES RESTORATION ACT OF 2006

Mr. PEARCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5842) to compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

The Clerk read as follows:

H.R. 5842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) there is pending before the United States Court of Federal Claims a civil action filed by the Pueblo against the United States in which the Pueblo seeks to recover damages pursuant to the Isleta Jurisdictional Act;

(2) the Pueblo and the United States, after a diligent investigation of the Pueblo claims, have negotiated a Settlement Agreement, the validity and effectiveness of which is contingent on the enactment of enabling legislation;

(3) certain land of the Pueblo is waterlogged, and it would be to the benefit of the Pueblo and other water users to drain the land and return water to the Rio Grande River; and

(4) there is Pueblo forest land in need of remediation in order to improve timber yields, reduce the threat of fire, reduce erosion, and improve grazing conditions.

(b) Purposes.—The purposes of this Act are—

(1) to improve the drainage of the irrigated land, the health of the forest land, and other natural resources of the Pueblo; and

(2) to settle all claims that were raised or could have been raised by the Pueblo against the United States under the Isleta Jurisdictional Act in accordance with section 5.

SEC. 3. DEFINITIONS.

In this Act:

(1) Isleta jurisdictional act.—The term "Isleta Jurisdictional Act" means Public Law 104–198 (110 Stat. 2418).

(2) Pueblo.—The term "Pueblo" means the Pueblo of Isleta, a federally recognized Indian tribe.

(3) Restoration fund.—The term "Restoration Fund" means the Pueblo of Isleta Natural Resources Restoration Fund established by section 4(a).

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(5) Settlement agreement.—The term "Settlement Agreement" means the Agreement of Compromise and Settlement entered into between the United States and the Pueblo, dated July 12, 2005, as modified by the Extension and Modification Agreement executed by the United States and the Pueblo on June 22, 2006, to settle the claims of the Pueblo in Docket No. 98–166L, a case pending in the United States Court of Federal Claims.

SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RESTORATION TRUST FUND.

(a) Establishment.—There is established in the Treasury a trust fund, to be known as the "Pueblo of Isleta Natural Resources Restoration Fund", consisting of—

(1) such amounts as are transferred to the Restoration Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Restoration Fund under subsection (d).

(b) Transfers to Restoration Fund.—Upon entry of the final judgment described in section 5(b), there shall be transferred to the Restoration Fund, in accordance with conditions specified in the Settlement Agreement and this Act—

(1) $32,838,750 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code; and

(2) in addition to the amounts transferred under paragraph (1), at such times and in such amounts as are specified for that purpose in the annual budget of the Department of the Interior, authorized to be appropriated under subsection (f), and made available by an Act of appropriation, a total of $7,200,000.

(c) Distribution of Amounts From Restoration Fund.—

(1) Appropriated amounts.—

(A) In general.—Subject to paragraph (3), upon the request of the Pueblo, the Secretary shall distribute amounts deposited in the Restoration Fund pursuant to subsection (b)(2) of this section and section V of the Settlement Agreement, in accordance with the terms and conditions of the Settlement Agreement and this Act, on the condition that before any such distribution the Secretary receives from the Pueblo such assurances as are satisfactory to the Secretary that—

(i) the Pueblo shall deliver funds in the amount of $7,100,000 toward drainage and remediation of the agricultural land and rehabilitation of forest and range land of the Pueblo in accordance with section IV(C) and IV(D) of the Settlement Agreement; and

(ii) those funds shall be available for expenditure for drainage and remediation expenses as provided in sections IV(C) and IV(D) of the Settlement Agreement on the dates on which the Secretary makes distributions, and in amounts equal to the amounts so distributed, in accordance with sections IV(A) and IV(B) of the Settlement Agreement.

(B) Use of funds.—Of the amounts distributed by the Secretary from the Restoration Fund under subparagraph (A)—

(i) $5,700,000 shall be available to the Pueblo for use in carrying out the drainage and remediation of approximately 1,081 acres of waterlogged agricultural land, as described in section IV(A) of the Settlement Agreement; and

(ii) $1,500,000 shall be available to the Pueblo for use in carrying out the rehabilitation and remediation of forest and range land, as described in section IV(B) of the Settlement Agreement.

(C) Federal consultation.—Restoration work carried out using funds distributed under this paragraph shall be planned and performed in consultation with—

(i) the Bureau of Indian Affairs; and

(ii) such other Federal agencies as are necessary.

(D) Unused funds.—Any funds, including any interest income, that are distributed under this paragraph but that are not needed to carry out this paragraph shall be available for use in accordance with paragraph (2)(A).

(2) Amounts from judgment fund.—

(A) In general.—Subject to paragraph (3), the amount paid into the Restoration Fund under subsection (b)(1), and interest income resulting from investment of that amount, shall be available to the Pueblo for—

(i) the acquisition, restoration, improvement, development, and protection of land, natural resources, and cultural resources within the exterior boundaries of the Pueblo, including improvements to the water supply and sewage treatment facilities of the Pueblo; and

(ii) for the payment and reimbursement of attorney and expert witness fees and expenses incurred in connection with Docket No. 98–166L of the United States Court of Federal Claims, as provided in the Settlement Agreement.

(B) No contingency on provision of funds by pueblo.—The receipt and use of funds by the Pueblo under this paragraph shall not be contingent upon the provision by the Pueblo of the funds described in paragraph (1)(A)(i).

(3) Expenditures and withdrawal.—

(A) Tribal management plan.—

(i) In general.—Subject to clause (ii), the Pueblo may withdraw all or part of the Restoration Fund on approval by the Secretary of a tribal management plan in accordance with section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022).

(ii) Requirements.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), a tribal management plan described in clause (i) shall require that the Pueblo shall expend any funds withdrawn from the Restoration Fund under this paragraph in a manner consistent with the purposes described in the Settlement Agreement.

(B) Enforcement.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan described in subparagraph (A)(i) to ensure that any funds withdrawn from the Restoration Fund under this paragraph are used in accordance with this Act.

(C) Liability.—If the Pueblo exercises the right to withdraw funds from the Restoration Fund under this paragraph, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the accounting, disbursement, or investment of the funds withdrawn.

(D) Expenditure plan.—

(i) In general.—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portion of the funds in the Restoration Fund made available under this Act that the Pueblo does not withdraw under this paragraph.

(ii) Description.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Pueblo remaining in the Restoration Fund will be used.

(iii) Approval.—On receipt of an expenditure plan under clause (i), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act and the Settlement Agreement.

(E) Annual report.—The Pueblo shall submit to the Secretary an annual report that describes expenditures from the Restoration Fund during the year covered by the report.

(d) Maintenance and Investment of Restoration Fund.—

(1) In general.—The Restoration Fund and amounts in the Restoration Fund shall be maintained and invested by the Secretary of

the Interior pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037, chapter 648).

(2) CREDITS TO RESTORATION FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Restoration Fund shall be credited to, and form a part of, the Restoration Fund.

(e) PROHIBITION ON PER-CAPITA PAYMENTS.—No portion of the amounts in the Restoration Fund shall be available for payment on a per capita basis to members of the Pueblo.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Restoration Fund $7,200,000.

SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF LITIGATION, AND COMPENSATION TO PUEBLO.

(a) RATIFICATION OF SETTLEMENT AGREEMENT.—The Settlement Agreement is ratified.

(b) DISMISSAL.—Not later than 90 days after the date of the enactment of this Act, the Pueblo and the United States shall execute and file a joint stipulation for entry of final judgment in the case of Pueblo of Isleta v. United States, Docket 98-166L, in the United States Court of Federal Claims in such form and such manner as are acceptable to the Attorney General and the Pueblo.

(c) COMPENSATION.—After the date of the enactment of this Act, in accordance with the Settlement Agreement and upon entry of the final judgment described in subsection (b)—

(1) compensation to the Pueblo shall be paid from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code, in the total amount of $32,838,750 for all monetary damages and attorney fees, interest, and any other fees and costs of any kind that were or could have been presented in connection with Docket No. 98–166L of the United States Court of Federal Claims; but

(2) the Pueblo shall retain all rights, including the right to bring civil actions based on causes of action, relating to the removal of ordnance under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Defense Environmental Restoration Program under section 2701 of title 10, United States Code; and

(C) any contract entered into by the Pueblo for the removal of ordnance.

(d) OTHER LIMITATIONS ON USE OF FUNDS.—The Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to funds distributed or withdrawn from the Restoration Fund under this Act.

(e) NO EFFECT ON LAND, RESOURCES, OR WATER RIGHTS.—Nothing in this Act affects the status of land and natural resources or any water right of the Pueblo.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I yield myself such time as I may consume.

H.R. 5842 authored by myself ratifies a settlement agreement pending between the Isleta Pueblo of New Mexico, a federally recognized tribe, and the United States.

This settlement agreement is the result of many years of environmental damage to certain reservation lands by the United States Government. H.R. 5842 would establish a land restoration fund for the Pueblo to acquire, restore and improve the land and natural resources within the exterior boundaries of the reservation.

Passage of this legislation settles all claims by the Pueblo pending in the United States Courts of Federal Claims. We understand that both the administration and the entire New Mexico delegation fully support this settlement and the corresponding legislation.

Madam Speaker, I rise today to support the passage of my bill, H.R. 5842, the "Pueblo of Isleta Settlement and Natural Resources Restoration Act of 2006." I jointly introduced this bill with the support of the entire New Mexico Delegation. While this bill is a settlement of claims against America by a tribal government, the result of this settlement will benefit the Pueblo, the State of New Mexico and all of America. By passing this bill we fulfill our responsibility for the trust and management of these tribal lands.

This bill will settle the Pueblo's claims against the United States for mismanagement damages of the Pueblo's tribal lands. The final settlement to this case was reached in June between the U.S. Departments of Interior and Justice and the tribal leaders and will expire at the end of this session of Congress unless we act.

H.R. 5842 in settling the claims will result in a tremendous victory not just for the Pueblo of Isleta but also for the whole of New Mexico. Specifically, the legislation provides $32.8 million from the Department of Justice judgment fund and an additional $7.2 million to be appropriated.

The victory in the bill is that these funds will be used for the acquisition, restoration, improvement, development and protection of the land, natural resources and cultural resources of the Pueblo. The measure also calls for the Pueblo to invest $7.1 million of its own funds for the drainage and remediation of agricultural lands and the rehabilitation of forest and range land.

This commitment of the tribe shows their willingness to work to restore not just their lands but also a key portion of the Rio Grande Watershed bringing environmental improvements to every water user on the Rio Grande River.

If this bill isn't passed all we will have is more delay, more cost and a situation that benefits no one. Therefore, I urge all my colleagues to join me and help get this settlement agreement completed today. This bill benefits New Mexico, and protects the American taxpayer through a fair comprehensive settlement of the Pueblo's claim.

I want to thank many people for their hard work on making this bill a reality. Specifically, I want to thank Governor Robert Benavides of Isleta for his hard work and leadership in making this settlement such a success for not just his citizens but all of New Mexico.

I want to thank my colleague, Mrs. WILSON for her help and my Chairman Mr. POMBO for his leadership. Finally, I appreciate the hard work of the House Resources staff, Chris Fluhr, Matt Miller, and Todd Willens for helping bring this legislation to the House floor today.

Again, this settlement is good for America and should be passed here today.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have no objection in regards to this legislation. I will encourage its adoption this evening.

Madam Speaker, I yield back the balance of our time.

Mr. PEARCE. Madam Speaker, I have no additional Speakers, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 5842.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DOUGLAS COUNTY, WASHINGTON, PUD CONVEYANCE ACT

Mr. PEARCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4789) to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wells Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington, to the utility district, as amended.

The Clerk read as follows:

H.R. 4789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Douglas County, Washington, PUD Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) PUBLIC LAND.—The term "public land" means the approximately 622 acres of Federal land managed by the Bureau of Land Management and identified for conveyance on the map prepared by the Bureau of Land Management entitled "Douglas County Public Utility District Proposal" and dated March 2, 2006.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) PUD.—The term "PUD" means the Public Utility District No. 1 of Douglas County, Washington.

SEC. 3. CONVEYANCE OF PUBLIC LAND, WELLS HYDROELECTRIC PROJECT, PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY, WASHINGTON.

(a) CONVEYANCE REQUIRED.—Notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), and notwithstanding section 24 of the Federal Power Act (16 U.S.C.

818) and Federal Power Order for Project 2149, and subject to valid existing rights, if not later than 45 days after the date of completion of the appraisal required under subsection (b), the Public Utility District No. 1 of Douglas County, Washington, submits to the Secretary of the Interior an offer to acquire the public land for the appraised value, the Secretary shall convey, not later than 30 days after the date of the offer, to the PUD all right, title, and interest of the United States in and to the public land.

(b) APPRAISAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall complete an appraisal of the public land. The appraisal shall be conducted in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" and the "Uniform Standards of Professional Appraisal Practice".

(c) PAYMENT.—Not later than 30 days after the date on which the public land is conveyed under this section, the PUD shall pay to the Secretary an amount equal to the appraised value of the public land as determined under subsection (b).

(d) MAP AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary shall finalize legal descriptions of the public land to be conveyed under this section. The Secretary may correct any minor errors in the map referred to in section 2 or in the legal descriptions. The map and legal descriptions shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

(e) COSTS OF CONVEYANCE.—As a condition of conveyance, any costs related to the conveyance under this section shall be paid by the PUD.

(f) DISPOSITION OF PROCEEDS.—The Secretary shall deposit the proceeds from the sale in the working capital fund of the Bureau of Land Management established by section 306 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1736).

SEC. 4. SEGREGATION OF LANDS.

(a) WITHDRAWAL.—Except as provided in section 3(a), effective immediately upon enactment of this Act, and subject to valid existing rights, the public land is withdrawn from

(1) all forms of entry, appropriation, or disposal under the public land laws, and all amendments thereto;

(2) location, entry, and patenting under the mining laws, and all amendments thereto; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

(b) DURATION.—This section expires two years after the date of enactment of this Act or on the date of the completion of the conveyance under section 3, whichever is earlier.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4789 would convey nearly 400 acres of small isolated Bureau of Land Management parcels of land to the Wells Hydroelectric Project located in Anzwell, Washington. The project provides power to large parts of Oregon and Washington.

The small parcels being conveyed are difficult for the BLM to manage and makes management of the Wells Hydroelectric project area difficult for the utility company which manages its area not just for power generation, but also for a variety of public recreation uses.

The land would be conveyed for fair market value and the legislation ensures that recreational opportunities would continue.

I urge passage of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I too support this legislation. I encourage its passage this evening and yield back the balance of our time.

Mr. PEARCE. Madam Speaker, I have no additional speakers and yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 4789, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ARTHUR V. WATKINS DAM ENLARGEMENT ACT OF 2005

Mr. PEARCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3626) to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized, as amended.

The Clerk read as follows:

H.R. 3626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arthur V. Watkins Dam Enlargement Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Arthur V. Watkins Dam is a feature of the Weber Basin Project, which was authorized by law on August 29, 1949.

(2) Increasing the height of Arthur V. Watkins Dam and construction of pertinent facilities may provide additional storage capacity for the development of additional water supply for the Weber Basin Project for uses of municipal and industrial water supply, flood control, fish and wildlife, and recreation.

SEC. 3. AUTHORIZATION OF FEASIBILITY STUDY.

The Secretary of the Interior, acting through the Bureau of Reclamation, is authorized to conduct a feasibility study on raising the height of Arthur V. Watkins Dam for the development of additional storage to meet water supply needs within the Weber Basin Project area and the Wasatch Front. The feasibility study shall include such environmental evaluation as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and a cost allocation as required under the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

SEC. 4. COST SHARES.

(a) FEDERAL SHARE.—The Federal share of the costs of the study authorized in section 3 shall not exceed 50 percent of the total cost of the study.

(b) IN-KIND CONTRIBUTIONS.—The Secretary shall accept, as appropriate, in-kind contributions of goods or services from the Weber Basin Water Conservancy District. Such goods and services accepted under this section shall be counted as part of the non-Federal cost share for the study.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $1,000,000 for the Federal cost share of the study authorized in section 3.

SEC. 6. SUNSET.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3626 introduced by our colleague the esteemed ROB BISHOP from Utah begins the effort to expand water storage in northern Utah to meet growing demands.

This legislation authorizes the Bureau of Reclamation to look at the feasibility of enlarging the Arthur V. Watkins Dam for this purpose. I commend Mr. BISHOP for introducing this forward-thinking and bipartisan bill. I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, we too support passage of this legislation, encourage its adoption, and yield back the reminder of our time.

Mr. PEARCE. Madam Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. BISHOP), the author of the legislation.

Mr. BISHOP of Utah. Madam Speaker, of all of the water-related bills that the Resources Committee has discussed, in my opinion this is still the best dam bill that we have, which would expand the growth of the Arthur Watkins Dam and Willard Bay.

Yesterday the Science Committee produced several bills that came to this body to try and help with the issue of drought. That was the purpose of this bay and dam in 1957 when it was produced, to make sure that we can provide adequate water resources for agriculture, and the growing population in the State of Utah.

Madam Speaker, I want to thank the chairman and the ranking member, and specifically the staff and the subcommittee chairman for bringing this bill to the floor, and to fulfill my commitment to the majority leader, I promised as soon as we passed this bill to get a haircut, no later than Tuesday of next week.

Madam Speaker, I rise today in support of H.R. 3626, the Arthur V. Watkins Dam Enlargement Act of 2005. In terms of water-related bills, this is one of the best dam bills the Committee on Resources has considered this year. H.R. 3626 will authorize the Secretary of the Interior to conduct a feasibility study which will consider enlarging the Arthur V. Watkins dam. In my home county of Box Elder, Utah, this facility is better known as Willard Bay.

Willard Bay is a popular recreation facility, drawing in outdoor enthusiasts from all over Utah. It is known for its great fishing, water skiing and beaches. Willard Bay is the furthest downstream facility operated by the Weber Basin Water Conservancy District. The first phase was constructed between 1957 and 1964, with additional improvements being made as recent as the last decade. Willard Bay is an important water storage facility in my state and district. With its 215,000 acre feet capacity, the water resource in Willard Bay meets the culinary and recreational needs of hundreds of thousands of my constituents in the Top of Utah.

As the population of Northern Utah grows, the need for additional water storage capacity is acute. Utah recently emerged from a 5 year period of drought. Winter of 2005–2006 was favorable and helped to recharge our reservoirs, lakes and aquifers. However, being in the Intermountain West, there's no guarantee that every year will be a good water year. In the high deserts of Utah, every drop of water counts.

The water engineers of the Weber Basin Water Conservancy District are the brightest and hardest working individuals in their field. They have figured out how to use almost every drop of water in the reservoir. However, it is disconcerting to look out over the reservoir during the hot summer months, when there is a drought, and not see any water in the reservoir. By studying the feasibility to increase the storage capacity, we will hopefully be in a better position to meet the water needs of our people, in the next decade.

The administration testified in favor of H.R. 3626 at a congressional hearing last November. H.R. 3626 was subsequently discharged from the House Committee on Resources on a voice vote. It is a good bill and much needed by my constituents. I appreciate Chairman POMBO and his staff for their excellent work in bringing this dam bill—the best of all of them—to the floor today.

Mr. PEARCE. Madam Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 3626, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LOWER REPUBLICAN RIVER BASIN STUDY ACT

Mr. PEARCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4750) to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, as amended.

The Clerk read as follows:

H.R. 4750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Republican River Basin Study Act".

SEC. 2. REPUBLICAN RIVER BASIN FEASIBILITY STUDY.

(a) AUTHORIZATION OF STUDY.—Pursuant to reclamation laws, the Secretary of the Interior, acting through the Bureau of Reclamation and in consultation and cooperation with the States of Nebraska, Kansas, and Colorado, may conduct a study to—

(1) determine the feasibility of implementing a water supply and conservation project that will—

(A) improve water supply reliability in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas, including areas in the counties of Harlan, Franklin, Webster, and Nuckolls in Nebraska and Jewel, Republic, Cloud, Washington, and Clay in Kansas (in this section referred to as the "Republican River Basin");

(B) increase the capacity of water storage through modifications of existing projects or through new projects that serve areas in the Republican River Basin; and

(C) improve water management efficiency in the Republican River Basin through conservation and other available means and, where appropriate, evaluate integrated water resource management and supply needs in the Republican River Basin; and

(2) consider appropriate cost-sharing options for implementation of the project.

(b) COST SHARING.—The Federal share of the cost of the study shall not exceed 50 percent of the total cost of the study, and shall be nonreimbursable.

(c) COOPERATIVE AGREEMENTS.—The Secretary shall undertake the study through cooperative agreements with the State of Kansas or Nebraska and other appropriate entities determined by the Secretary.

(d) COMPLETION AND REPORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 3 years after the date of the enactment of this section the Secretary of the Interior shall complete the study and transmit to the Congress a report containing the results of the study.

(2) EXTENSION.—If the Secretary determines that the study cannot be completed within the 3-year period beginning on the date of the enactment of this Act, the Secretary—

(A) shall, at the time of that determination, report to the Congress on the status of the study, including an estimate of the date of completion; and

(B) complete the study and transmit to the Congress a report containing the results of the study by not later than that date.

(e) SUNSET OF AUTHORITY.—The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4750, sponsored by Congressman Tom Osborne, authorizes the Secretary of the Interior to study the feasibility of a water supply and conservation project in the Republican River Basin.

This legislation would enact into law one requirement of the Republican River Compact Settlement negotiated between the States of Nebraska, Kansas, and Colorado, and approved by the United States Supreme Court in 2003.

The feasibility study would help clarify the opportunities to increase water storage in the river basin, and is needed to increase water availability and encourage more efficient water use.

I urge my colleagues to support this needed legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, we too support passage of this legislation, encourage its adoption and yield back the balance of our time.

Mr. PEARCE. Madam Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE), the author of the legislation.

Mr. OSBORNE. Madam Speaker, I thank the gentleman from New Mexico for yielding me time and bringing this forward, and for the rapidity with which we are moving through the bills tonight. We are sorry to slow you down. But the gentleman from Kansas (Mr. MORAN) and I would like to say a few words about this bill. He was a coauthor with me.

As you mentioned, H.R. 4750 is a study as to how to more efficiently utilize water between Harlan County Dam in Nebraska and Milford Reservoir in Kansas. The reason this is so important is that Nebraska and Kansas signed a compact in 2002, which means that a lot of Nebraska water goes down the Republican River into Kansas, and Nebraska so far has been short. We are 100,000 acre feet short, as a matter of fact, over the last 3 years.

And this has been exacerbated by an extreme drought which we have had for the last 6 years. So this water shortage has made for a very critical situation. So if we can, through this study, allocate water more effectively, save some water, it will help farmers, ranchers, municipalities both in Nebraska and Kansas.

We want to thank you. We want to thank Mr. POMBO and the resources staff for bringing forth this bill on short notice. We think it is very important. We urge its passage. We appreciation the cooperation on both sides of the aisle on this bill.

Mr. PEARCE. Madam Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Madam Speaker, I thank the gentleman from New Mexico. I also thank the gentleman from Wisconsin this evening for being here in support of H.R. 4750. As has been indicated, this is a very important issue for many in both the State of Nebraska and the State of Kansas. I particularly want to express my appreciation to the gentleman from Nebraska (Mr. OSBORNE) and really the cooperation that has existed on very difficult issues between the State of Nebraska and the State of Kansas.

Water is a huge issue in the midwest. It always has been, probably always will be. But it is especially exacerbated by the fact of inadequate rainfall for now, four, five and six years in much of Kansas and much of Nebraska.

An agreement was reached, compact litigation ensued. Ultimately a settlement of that litigation was reached. And that settlement provides for the State of Nebraska and the State of Kansas to come together, provide some money, share with the Federal Government.

The Department of Interior would then conduct a study. The State of Kansas, and I believe the State of Nebraska has appropriated this money for the fiscal year. That is why this legislation is so important to be timely considered and timely approved. All that now remains is for the Federal Government to meet its obligation under the settlement agreement.

The feasibility study is desperately needed to increase the water availability to find out how we do that, and to encourage its efficient use and conservation within our delivery system.

Madam Speaker, the feasibility study authorized by 4750 is not only necessary to ensure the State remains in compliance with that agreement, but to make certain that the economic, agriculture and personal use of water is done in a very efficient and effective way.

I urge Members of Congress to approve this legislation.

Mr. PEARCE. Madam Speaker, I would remind the Members that this is a very bipartisan bill, everything being bipartisan except the name of the river basin being studied. I would urge passage.

Madam Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 4750, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 2315

LAS CIENEGAS ENHANCEMENT ACT

Mr. PEARCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5016) to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Las Cienegas Enhancement Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term "Federal land" means the Sahuarita parcel of land consisting of approximately 1,280 acres, as depicted on the map entitled "Las Cienegas Enhancement Act—Federal Land" and dated May 9, 2006.

(2) LANDOWNER.—The term "landowner" means Las Cienegas Conservation, LLC.

(3) NON-FEDERAL LAND.—The term "non-Federal land" means the Empirita-Simonson parcel of land consisting of approximately 2,392 acres, as depicted on the map entitled "Las Cienegas Enhancement Act—Non-Federal Land" and dated May 9, 2006.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. LAND EXCHANGE, BUREAU OF LAND MANAGEMENT LAND IN PIMA COUNTY, ARIZONA.

(a) EXCHANGE AUTHORIZED.—If the landowner offers to convey to the Secretary title to the non-Federal land, the Secretary shall accept the offer and convey to the landowner all, right, title, and interest of the United States in and to the Federal land.

(b) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) EQUAL VALUE EXCHANGE.—The value of the Federal land and the non-Federal land to be exchanged under this section shall be equal. If the values are not equal, the values shall be equalized in accordance with paragraph (3).

(2) APPRAISAL.—To determine the value of the Federal land and the non-Federal land, the Federal land and the non-Federal land shall be subject to an appraisal by an independent, qualified appraiser agreed to by the Secretary and landowner. The appraiser shall consider the value of the Federal land and the non-Federal land as of the date of the enactment of this Act. The appraisal shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisition and the Uniform Standards of Professional Appraisal Practice. Not later than 180 days after the date of enactment of this Act, the appraisal shall be submitted to the Secretary and landowner for approval.

(3) EQUALIZATION OF VALUES.—If the values of the Federal land and non-Federal land are not equal, their values may be equalized—

(A) by reducing the acreage of the non-Federal land or the Federal land to be exchanged, as appropriate; or

(B) by the payment by the landowner or the Secretary of a cash equalization payment, which, in the case of a cash equalization payment made by the landowner, may exceed 25 percent of the value of the Federal land, notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(4) DISPOSITION AND USE OF PROCEEDS.—Any cash equalization payment received by the Secretary under paragraph (3) shall be deposited in the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)). Amounts so deposited shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land and interests in land in southern Arizona.

(c) PROTECTION OF VALID EXISTING RIGHTS.—The exchange of the Federal land and the non-Federal land shall be subject to any easements, rights-of-way, and other valid encumbrances on the land in existence on the date of enactment of this Act.

(d) TIME FOR COMPLETION OF EXCHANGE.—The exchange of the Federal land and non-Federal land under this section shall be completed—

(1) except as provided in paragraph (2), not later than one year after the date of the enactment of this Act; or

(2) if there is a dispute concerning an appraisal of the Federal land or non-Federal land or appraisal issue arising under subsection (b), before the expiration of the 90-day period beginning on the date the dispute is resolved.

(e) ADMINISTRATIVE COSTS.—As a condition of the conveyance of the Federal land to the landowner, the landowner shall pay the costs of carrying out the exchange of the Federal land and non-Federal land under this section, including any direct costs relating to any environmental reviews and mitigation of the Federal land.

(f) CORRECTION OF ERRORS; MINOR BOUNDARY ADJUSTMENTS.—The Secretary and landowner may mutually agree—

(1) to correct minor errors in the legal descriptions of the Federal land and non-Federal land to be exchanged under this section; or

(2) to make minor adjustments to the boundaries of the Federal land and non-Federal land.

(g) ROAD ACCESS.—Not later than 18 months after the date on which the non-Federal land is acquired by the Secretary, the Secretary shall provide to the Secretary of Agriculture a right-of-way through the non-Federal land for motorized public road access to the boundary of the Coronado National Forest. The right-of-way shall be provided in accordance with section 507 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1767).

(h) ADMINISTRATION OF LAND ACQUIRED BY THE UNITED STATES.—On acquisition of the non-Federal land by the Secretary, the Secretary shall—

(1) include the acquired land as part of the Las Cienegas National Conservation Area; and

(2) administer the acquired land in accordance with Public Law 106-538 (16 U.S.C. 460ooo et seq.), which established the Las Cienegas National Conservation Area, and other applicable laws.

SEC. 4. MODIFICATION OF LAS CIENEGAS NATIONAL CONSERVATION AREA BOUNDARY.

The boundary of the Las Cienegas National Conservation Area is modified to exclude the 40-acre tract that, as of the date of the enactment of this Act, is leased by the Bureau of Land Management to the town of Elgin, Arizona, for a sanitary landfill.

SEC. 5. LAND CONVEYANCE, PIMA COUNTY, ARIZONA.

As an additional condition of the conveyance of the Federal land to the landowner under section 3, the landowner shall convey, without consideration, to Pima County, Arizona, a parcel of land consisting of approximately 98 acres, *as depicted on the map referred to in section 2(1) as "land to be conveyed to Pima County".*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 5016, introduced by Mr. KOLBE, would consolidate lands within the Las Cienegas National Conservation Area located 50 miles south of Tucson. The area consists of 42,000 acres managed by the Bureau of Land Management.

This legislation would add 2,490 acres of private land to the conservation area in exchange for 1,280 acres of isolated BLM lands. The bill would also modify the boundary of the conservation area to exclude a 40-acre tract of land for a sanitary landfill. This area was inadvertently included in the original boundary.

I would urge support for this bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I, too, support passage of this legislation and would encourage its adoption, and I yield back the remainder of our time.

Mr. PEARCE. Madam Speaker, before I depart, I would like to thank the gentleman from Wisconsin for his great work here. I think we have set a modern land speed record on these bills, and I thank him very much.

Mr. KOLBE. Madam Speaker, I rise today in support of H.R. 5016, the Las Cienegas Enhancement Act.

I would like to thank Chairman POMBO of the Resources Committee and Chairman WALDEN of the Forests and Forest Health Subcommittee for their leadership and support of this measure.

The land exchange in this legislation releases an urban parcel of federal land in the path of development, and it puts into federal hands an outlying area important for its natural beauty and proximity to the Las Cienegas National Conservation Area and the Coronado National Forest. It will provide hunters and visitors much-needed road access to the Whetstone Mountains, a "sky island" that is being surrounded by development.

This exchange proposal has been developed through a 4-year consultative process. The exchange has the support of the Governor of Arizona, the City Manager of Tucson, the Arizona Game and Fish Department, conservationists and private landowners. The Pima County Board of Supervisors also supports the bill for helping protect open space in the Cienega Valley.

The two parcels of land proposed in exchange are located near Tucson in the eastern half of Pima County.

The Bureau of Land Management parcel is a Federal inholding of 1,280 acres located near Corona de Tucson, a community on the urbanized fringe of greater Tucson.

The private parcel offered for exchange consists of 2,707 acres of upland Sonoran desert adjacent to the Coronado National Forest and close to both the Las Cienegas National Conservation Area and the Cienega Creek Natural Preserve, which are administered by Pima County.

Land appraisals will follow statutory procedures and be subject to approval by the Secretary of the Interior.

Madam Speaker, I believe that this bill stands as a shining example of what can be achieved when local community groups and the BLM work together to maximize both the recreation and conservation goals of our federal lands, allowing the enhancement and protection of our lands, rivers, creeks, and wildlife that enrich our lives in the West.

In sum, I am pleased to offer this bill as a capstone to my resource conservation efforts during 11 terms in Congress.

Mr. PEARCE. Madam Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 5016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

"COLUMBIA" SPACE SHUTTLE MEMORIAL STUDY ACT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5692) to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle *Columbia* on parcels of land in the State of Texas, as amended.

The Clerk read as follows:

H.R. 5692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Columbia Space Shuttle Memorial Study Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMORIAL.—The term "memorial" means a memorial to the Space Shuttle Columbia that is subject to the study in section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. STUDY OF SUITABILITY AND FEASIBILITY OF ESTABLISHING MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available, the Secretary shall conduct a special resource study to determine the feasibility and suitability of establishing a memorial as a unit or units of the National Park System to the Space Shuttle Columbia on land in the State of Texas described in subsection (b) on which large debris from the Shuttle was recovered.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are

(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

(2) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

(4) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

(c) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas relating to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

H.R. 5692, introduced by myself, would authorize the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle *Columbia* in the State of Texas and for its inclusion as a unit in the National Park System.

Madam Speaker, I rise today to properly commemorate and memorialize one of this Nation's most heroic, yet heartbreaking, tragedies, the disintegration of the Space Shuttle *Columbia* as it reentered earth's atmosphere in the spring of 2003.

This legislation will serve to begin the process of appropriately honoring the bravery and sacrifice not only of the seven heroic souls of her crew and their families, but also of the numerous citizens that lent a hand in the recovery effort following the catastrophe by initiating a study of the Secretary of the Interior to determine the suitability and feasibility of establishing memorials to the Space Shuttle *Columbia* on parcels of land in East Texas where the major debris from the shuttle was recovered.

Tragically, it was strewn over hundreds of miles in my district. The commitment by my constituents in the effort to recover as much of the wreckage as possible was pivotal in determining the cause of the incident. These contributions, as well as those made by the crew of the *Columbia*, deserve this recognition.

I urge my colleagues to vote "yes" on H.R. 5692 and commemorate ultimately the sacrifice by Commander Rick Husband, Pilot William McCool, Payload Commander Michael Anderson, Mission Specialist David Brown, Mission Specialist Kalpana Chalwa, Mission Specialist Laurel Blair Salton Clark, and Payload Commander Ilan Ramon deserve a memorial befitting their devotion to their fellow man, their spirit of exploration and discovery, along with their courage.

I urge adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I commend the leadership the gentleman from Texas has shown on this important initiative, and we continue to mourn the loss of the crew of the Space Shuttle *Columbia*. It is our hope this evening that the study we authorize today will help guide efforts to appropriately memorialize the brave explorers who lost their lives in that great tragedy.

Again, I thank my friend from Texas for his leadership and initiative and encourage passage of this legislation.

Madam Speaker, I yield back the remainder of our time.

Mr. GOHMERT. Madam Speaker, I thank the gentleman. I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 5692, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle *Columbia* in the State of Texas and for its inclusion as a unit of the National Park System.".

A motion to reconsider was laid on the table.

RIO GRANDE NATURAL AREA ACT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 56) to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

The Clerk read as follows:

S. 56

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Natural Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Rio Grande Natural Area Commission established by section 4(a).

(2) NATURAL AREA.—The term "Natural Area" means the Rio Grande Natural Area established by section 3(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT OF RIO GRANDE NATURAL AREA.

(a) IN GENERAL.—There is established the Rio Grande Natural Area in the State of Colorado to conserve, restore, and protect the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(b) BOUNDARIES.—The Natural Area shall include the Rio Grande River from the southern boundary of the Alamosa National Wildlife Refuge to the New Mexico State border, extending ¼ mile on either side of the bank of the River.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Natural Area.

(2) EFFECT.—The map and legal description of the Natural Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Natural Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ESTABLISHMENT OF THE COMMISSION.

(a) ESTABLISHMENT.—There is established the Rio Grande Natural Area Commission.

(b) PURPOSE.—The Commission shall—

(1) advise the Secretary with respect to the Natural Area; and

(2) prepare a management plan relating to non-Federal land in the Natural Area under section 6(b)(2)(A).

(c) MEMBERSHIP.—The Commission shall be composed of 9 members appointed by the Secretary, of whom—

(1) 1 member shall represent the Colorado State Director of the Bureau of Land Management;

(2) 1 member shall be the manager of the Alamosa National Wildlife Refuge, ex officio;

(3) 3 members shall be appointed based on the recommendation of the Governor of Colorado, of whom—

(A) 1 member shall represent the Colorado Division of Wildlife;

(B) 1 member shall represent the Colorado Division of Water Resources; and

(C) 1 member shall represent the Rio Grande Water Conservation District; and

(4) 4 members shall—

(A) represent the general public;

(B) be citizens of the local region in which the Natural Area is established; and

(C) have knowledge and experience in the fields of interest relating to the preservation, restoration, and use of the Natural Area.

(d) TERMS OF OFFICE.—

(1) IN GENERAL.—Except for the manager of the Alamosa National Wildlife Refuge, the term of office of a member of the Commission shall be 5 years.

(2) REAPPOINTMENT.—A member may be reappointed to the Commission on completion of the term of office of the member.

(e) COMPENSATION.—A member of the Commission shall serve without compensation for service on the Commission.

(f) CHAIRPERSON.—The Commission shall elect a chairperson of the Commission.

(g) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of the chairperson.

(2) PUBLIC MEETINGS.—A meeting of the Commission shall be open to the public.

(3) NOTICE.—Notice of any meeting of the Commission shall be published in advance of the meeting.

(h) TECHNICAL ASSISTANCE.—The Secretary and the heads of other Federal agencies shall, to the maximum extent practicable, provide any information and technical services requested by the Commission to assist in carrying out the duties of the Commission.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—For purposes of carrying out the management plan on non-Federal land in the Natural Area, the Commission may enter into a cooperative agreement with the State of Colorado, a political subdivision of the State, or any person.

(2) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) shall establish procedures for providing notice to the Commission of any action proposed by the State of Colorado, a political subdivision of the State, or any person that may affect the implementation of the management plan on non-Federal land in the Natural Area.

(3) EFFECT.—A cooperative agreement entered into under paragraph (1) shall not enlarge or diminish any right or duty of a Federal agency under Federal law.

(c) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Commission may not acquire any real property or interest in real property.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Commission shall assist the Secretary in implementing the management plan by carrying out the activities described in paragraph (2) to preserve and interpret the natural, historic, cultural, scientific, scenic, wildlife, and recreational resources of the Natural Area.

(2) AUTHORIZED ACTIVITIES.—In assisting with the implementation of the management plan under paragraph (1), the Commission may—

(A) assist the State of Colorado in preserving State land and wildlife within the Natural Area;

(B) assist the State of Colorado and political subdivisions of the State in increasing public awareness of, and appreciation for, the natural, historic, scientific, scenic, wildlife, and recreational resources in the Natural Area;

(C) encourage political subdivisions of the State of Colorado to adopt and implement land use policies that are consistent with—

(i) the management of the Natural Area; and

(ii) the management plan; and

(D) encourage and assist private landowners in the Natural Area in the implementation of the management plan.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary and the Commission, in coordination with appropriate agencies in the State of Colorado, political subdivisions of the State, and private landowners in the Natural Area, shall prepare management plans for the Natural Area as provided in subsection (b).

(b) DUTIES OF SECRETARY AND COMMISSION.—

(1) SECRETARY.—The Secretary shall prepare a management plan relating to the

management of Federal land in the Natural Area.

(2) COMMISSION.—

(A) IN GENERAL.—The Commission shall prepare a management plan relating to the management of the non-Federal land in the Natural Area.

(B) APPROVAL OR DISAPPROVAL.—

(i) IN GENERAL.—The Commission shall submit to the Secretary the management plan prepared under subparagraph (A) for approval or disapproval.

(ii) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan submitted under clause (i), the Secretary shall—

(I) notify the Commission of the reasons for the disapproval; and

(II) allow the Commission to submit to the Secretary revisions to the management plan submitted under clause (i).

(3) COOPERATION.—The Secretary and the Commission shall cooperate to ensure that the management plans relating to the management of Federal land and non-Federal land are consistent.

(c) REQUIREMENTS.—The management plans shall—

(1) take into consideration Federal, State, and local plans in existence on the date of enactment of this Act to present a unified preservation, restoration, and conservation plan for the Natural Area;

(2) with respect to Federal land in the Natural Area—

(A) be developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

(B) be consistent, to the maximum extent practicable, with the management plans adopted by the Director of the Bureau of Land Management for land adjacent to the Natural Area; and

(C) be considered to be an amendment to the San Luis Resource Management Plan of the Bureau of Land Management; and

(3) include—

(A) an inventory of the resources contained in the Natural Area (including a list of property in the Natural Area that should be preserved, restored, managed, developed, maintained, or acquired to further the purposes of the Natural Area); and

(B) a recommendation of policies for resource management, including the use of intergovernmental cooperative agreements, that—

(i) protect the resources of the Natural Area; and

(ii) provide for solitude, quiet use, and pristine natural values of the Natural Area.

(d) PUBLICATION.—The Secretary shall publish notice of the management plans in the Federal Register.

SEC. 7. ADMINISTRATION OF NATURAL AREA.

(a) IN GENERAL.—The Secretary shall administer the Federal land in the Natural Area—

(1) in accordance with—

(A) the laws (including regulations) applicable to public land; and

(B) the management plan; and

(2) in a manner that provides for—

(A) the conservation, restoration, and protection of the natural, historic, scientific, scenic, wildlife, and recreational resources of the Natural Area;

(B) the continued use of the Natural Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Natural Area is established;

(C) the protection of the wildlife habitat of the Natural Area;

(D) a prohibition on the construction of water storage facilities in the Natural Area; and

(E) the reduction in the use of or removal of roads in the Natural Area and, to the maximum extent practicable, the reduction in or prohibition against the use of motorized vehicles in the Natural Area (including the removal of roads and a prohibition against motorized use on Federal land in the area on the western side of the Rio Grande River from Lobatos Bridge south to the New Mexico State line).

(b) CHANGES IN STREAMFLOW.—The Secretary is encouraged to negotiate with the State of Colorado, the Rio Grande Water Conservation District, and affected water users in the State to determine if changes in the streamflow that are beneficial to the Natural Area may be accommodated.

(c) PRIVATE LAND.—The management plan prepared under section 6(b)(2)(A) shall apply to private land in the Natural Area only to the extent that the private landowner agrees in writing to be bound by the management plan.

(d) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Natural Area is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral leasing laws (including geothermal leasing laws).

(e) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary may acquire from willing sellers by purchase, exchange, or donation land or an interest in land in the Natural Area.

(2) ADMINISTRATION.—Any land or interest in land acquired under paragraph (1) shall be administered in accordance with the management plan and this Act.

(f) APPLICABLE LAW.—Section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)) shall not apply to the Natural Area.

SEC. 8. EFFECT.

Nothing in this Act—

(1) amends, modifies, or is in conflict with the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat 785, ch. 155);

(2) authorizes the regulation of private land in the Natural Area;

(3) authorizes the imposition of any mandatory streamflow requirements;

(4) creates an express or implied Federal reserved water right;

(5) imposes any Federal water quality standard within or upstream of the Natural Area that is more restrictive than would be applicable had the Natural Area not been established; or

(6) prevents the State of Colorado from acquiring an instream flow through the Natural Area under the terms, conditions, and limitations of State law to assist in protecting the natural environment to the extent and for the purposes authorized by State law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 10. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 10 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

S. 56 would restore and protect the riparian zone of the Rio Grande River in southern Colorado without creating a management structure that would conflict with long-standing water uses and agricultural uses in the San Luis Valley. Federal, State and community groups, as well as private property owners, have worked collaboratively to develop a proposal for a Federal designation that protects the resources of concern, property rights and existing uses. S. 56 will establish a 33-mile natural area along the river consistent with these goals.

I urge the passage of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I, too, support passage of this legislation and encourage its adoption this evening, and I yield back the remainder of our time.

Mr. GOHMERT. Madam Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the Senate bill, S. 56.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 2006

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2430) to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study, as amended.

The Clerk read as follows:

S. 2430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Fish and Wildlife Restoraton Act of 2006".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

(3) it is in the national interest to undertake activities in the Great Lakes Basin that support sustainable fish and wildlife resources of common concern provided under the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force);

(4) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin;

(5) as of the date of enactment of this Act, actions are not funded that are considered essential to meet the goals and objectives in managing the fish and wildlife resources, and the habitats upon which the resources depend, in the Great Lakes Basin; and

(6) the Great Lakes Fish and Wildlife Restoration Act (16 U.S.C. 941 et seq.) allows Federal agencies, States, and tribes to work in an effective partnership by providing the funding for restoration work.

SEC. 3. DEFINITIONS.

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

(1) by striking paragraphs (1), (4), and (12);

(2) by redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), (13), and (14) as paragraphs (1), (2), (3), (4), (5), (6), (7), (9), (10), (11), and (12), respectively;

(3) in paragraph (4) (as redesignated by paragraph (2)), by inserting before the semicolon at the end the following: ", and that has Great Lakes fish and wildlife management authority in the Great Lakes Basin"; and

(4) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:

"(8) the term 'regional project' means authorized activities of the United States Fish and Wildlife Service related to fish and wildlife resource protection, restoration, maintenance, and enhancement impacting multiple States or Indian Tribes with fish and wildlife management authority in the Great Lakes basin;".

SEC. 4. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

"SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.

"(a) In General.—Subject to subsection (b)(2), the Director—

"(1) shall encourage the development and, subject to the availability of appropriations, the implementation of fish and wildlife restoration proposals and regional projects based on the results of the Report; and

"(2) in cooperation with the State Directors and Indian Tribes, shall identify, develop, and, subject to the availability of appropriations, implement regional projects in the Great Lakes Basin to be administered by Director in accordance with this section.

"(b) Identification of Proposals and Regional Projects.—

"(1) Request by the director.—The Director shall annually request that State Directors and Indian Tribes, in cooperation or partnership with other interested entities and in accordance with subsection (a), submit proposals or regional projects for the restoration of fish and wildlife resources.

"(2) Requirements for proposals and regional projects.—A proposal or regional project under paragraph (1) shall be—

"(A) submitted in the manner and form prescribed by the Director; and

"(B) consistent with—

"(i) the goals of the Great Lakes Water Quality Agreement, as amended;

"(ii) the 1954 Great Lakes Fisheries Convention;

"(iii) the 1980 Joint Strategic Plan for Management of Great Lakes Fisheries, as revised in 1997, and Fish Community Objectives for each Great Lake and connecting water as established under the Joint Strategic Plan;

"(iv) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.);

"(v) the North American Waterfowl Management Plan and joint ventures established under the plan; and

"(vi) the strategies outlined through the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

"(3) Sea lamprey authority.—The Great Lakes Fishery Commission shall retain authority and responsibility to formulate and implement a comprehensive program to eradicate or minimize sea lamprey populations in the Great Lakes Basin.

"(c) Review of Proposals.—

"(1) Establishment of committee.—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the United States Fish and Wildlife Service.

"(2) Membership and appointment.—

"(A) In general.—The Committee shall consist of 2 representatives of each of the State Directors and Indian Tribes, of whom—

"(i) 1 representative shall be the individual appointed by the State Director or Indian Tribe to the Council of Lake Committees of the Great Lakes Fishery Commission; and

"(ii) 1 representative shall have expertise in wildlife management.

"(B) Appointments.—Each representative shall serve at the pleasure of the appointing State Director or Tribal Chair.

"(C) Observer.—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

"(D) Recusal.—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

"(3) Functions.—The Committee shall—

"(A) meet at least annually;

"(B) review proposals and regional projects developed in accordance with subsection (b) to assess the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of this title; and

"(C) recommend to the Director any of those proposals and regional projects that should be funded and implemented under this section.

"(d) Implementation of Proposals and Regional Projects.—

"(1) In general.—After considering recommendations of the Committee and the goals specified in section 1006, the Director shall—

"(A) select proposals and regional projects to be implemented; and

"(B) subject to the availability of appropriations and subsection (e), fund implementation of the proposals and regional projects.

"(2) Selection criteria.—In selecting and funding proposals and regional projects, the Director shall take into account the effectiveness and appropriateness of the proposals and regional projects in fulfilling the purposes of other laws applicable to restoration of the fish and wildlife resources and habitat of the Great Lakes Basin.

"(e) Cost Sharing.—

"(1) In general.—Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (excluding the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

"(2) Regional projects.—Regional projects selected under subsection (d) shall be exempt from cost sharing if the Director determines that the authorization for the project does not require a non-Federal cost-share.

"(3) Exclusion of federal funds from non-federal share.—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by any entity to be a contribution by a non-Federal source for purposes of this subsection.

"(4) Effect on certain indian tribes.—Nothing in this subsection affects an Indian tribe affected by an alternative applicable cost sharing requirement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).".

SEC. 5. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

Section 1006 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941d) is amended by striking paragraph (1) and inserting the following:

"(1) Restoring and maintaining self-sustaining fish and wildlife resources.".

SEC. 6. ESTABLISHMENT OF OFFICES.

Section 1007 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941e) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Great Lakes Coordination Office.—

"(1) In general.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the 'Great Lakes Coordination Office'.

"(2) Functional responsibilities.—The functional responsibilities of the Great Lakes Coordination Office shall include—

"(A) intra- and interagency coordination;

"(B) information distribution; and

"(C) public outreach.

"(3) Requirements.—The Great Lakes Coordination Office shall—

"(A) ensure that information acquired under this Act is made available to the public; and

"(B) report to the Director of Region 3, Great Lakes Big Rivers.";

(2) in subsection (b)—

(A) in the first sentence, by striking "The Director" and inserting the following:

"(1) In general.—The Director";.

(B) in the second sentence, by striking "The office" and inserting the following:

"(2) Name and location.—The office"; and

(C) by adding at the end the following:

"(3) Responsibilities.—The responsibilities of the Lower Great Lakes Fishery Resources Office shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes."; and

(3) in subsection (c)—

(A) in the first sentence, by striking "The Director" and inserting the following:

"(1) In general.—The Director";.

(B) in the second sentence, by striking "Each of the offices" and inserting the following:

"(2) NAME AND LOCATION.—Each of the offices"; and

(C) by adding at the end the following:

"(3) RESPONSIBILITIES.—The responsibilities of the Upper Great Lakes Fishery Resources Offices shall include operational activities of the United States Fish and Wildlife Service related to fishery resource protection, restoration, maintenance, and enhancement in the Upper Great Lakes.".

SEC. 7. REPORTS.

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

"SEC. 1008. REPORTS.

"(a) IN GENERAL.—Not later than December 31, 2011, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

"(1) actions taken to solicit and review proposals under section 1005;

"(2) the results of proposals implemented under section 1005; and

"(3) progress toward the accomplishment of the goals specified in section 1006.

"(b) PUBLIC ACCESS TO DATA.—For each of fiscal years 2007 through 2012, the Director shall make available through a public access website of the Department information that describes—

"(1) actions taken to solicit and review proposals under section 1005;

"(2) the results of proposals implemented under section 1005;

"(3) progress toward the accomplishment of the goals specified in section 1006;

"(4) the priorities proposed for funding in the annual budget process under this title; and

"(5) actions taken in support of the recommendations of the Great Lakes Regional Collaboration authorized under Executive Order 13340 (69 Fed. Reg. 29043; relating to the Great Lakes Interagency Task Force).

"(c) REPORT.—Not later than June 30, 2007, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives the 2002 report required under this section as in effect on the day before the date of enactment of the Great Lakes Fish and Wildlife Restoration Act of 2006.".

SEC. 8. CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.

The Director of the United States Fish and Wildlife Service—

(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

(2) may reassess and update, as necessary, the findings and recommendations of the report entitled "Great Lakes Fishery Resources Restoration Study", submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

"SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Director for each of fiscal years 2007 through 2012—

"(1) $14,000,000 to implement fish and wildlife restoration proposals as selected by the Director under section 1005(e), of which—

"(A) not more than the lesser of 33⅓ percent or $4,600,000 may be allocated to implement regional projects by the United States Fish and Wildlife Service, as selected by the Director under section 1005(e); and

"(B) the lesser of 5 percent or $700,000 shall be allocated to the United States Fish and Wildlife Service to cover costs incurred in administering the proposals by any entity; and

"(2) $2,000,000, which shall be allocated for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and the Lower Great Lakes Fishery Resources Office under section 1007.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

S. 2430 is an important piece of conservation legislation which would extend the Great Lakes Fish and Wildlife Restoration Act of 1990.

S. 2430 continues the coordination between the numerous management entities, Federal, local, regional, State and tribal, involved in the Great Lakes region. In addition, the bill will continue the efforts to improve and restore fish and wildlife resources and important habitat areas.

S. 2430 is sponsored by Senator MIKE DEWINE, and I commend the senator for his tireless leadership on behalf of the Great Lakes region and, in particular, his Ohio constituents.

I urge an "aye" vote on this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield such time as he might consume to the gentleman from Michigan (Mr. KILDEE), one of the real champions and leaders in the reauthorization of this Great Lakes Fish and Wildlife Restoration Act, my good friend.

Mr. KILDEE. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I strongly support S. 2430, the Great Lakes Fish and Wildlife Restoration Act, companion legislation to the House bill introduced by myself and Congressman MARK KIRK.

The changes made by the Senate in S. 2430 are very positive, and I strongly urge my colleagues to support passage of the bill.

Madam Speaker, the Great Lakes are at a tipping point. These lakes, which comprise 20 percent of the earth's fresh water and 95 percent of North America's fresh water, are nothing less than in peril. It is vital this Congress do everything we can to ensure their protection and restoration.

There are thousands of different species of fish and wildlife and 130 globally endangered or rare plants and animal species that have been identified within the Great Lakes ecosystem. S. 2430 will reauthorize and improve research and conservation programs aimed at protecting and restoring this fragile ecosystem.

Our bill is the product of a long and collaborative process, and this bipartisan legislation is supported by a wide range of groups and organizations working to protect and restore the Great Lakes ecosystem.

Our bill increases the authorization level for fish and wildlife restoration projects and makes legislative changes that improve upon the Act.

Madam Speaker, while I certainly support passage of S. 2430, I believe this should only be the beginning of our efforts on behalf of the Great Lakes. This Congress must fulfill its commitment by increasing appropriations for Great Lakes' restoration and other important activities.

If funding were increased for projects under the Great Lakes Fish and Wildlife Restoration Act, our local communities and their partners could really make a difference in reversing the downward spiral of the Great Lakes.

With just a small amount of money through this program, we were able to restore the walleye population in Saginaw Bay in my congressional district. This project was a success story, and we could have many more with increased dollars from this Congress and administration.

Madam Speaker, the Great Lakes are our national treasure, and we must treat them as such. This bipartisan effort that has brought S. 2430 to the floor today shows us that many Members of Congress care about what happens to our Great Lakes.

I have enjoyed working with Representatives MARK KIRK, SHERROD BROWN, VERN EHLERS, MARCY KAPTUR, DAVID HOBSON, RAHM EMANUEL, STEVE LATOURETTE, and RON KIND, just to name a few.

Let us pass S. 2430 so we can move forward in our efforts to protect and restore the Great Lakes, and I thank the gentleman for yielding.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just want to take a moment to commend my good friend from Michigan, again, for the leadership that he has shown on this piece of legislation. We just recently had another hearing in the Resources Committee, of which he was an active participant.

This has been a bipartisan effort with great collaboration from the Federal, State and local level, and obviously for those of us in the upper Midwest area, this does touch and affect us a little bit closer than perhaps the rest of the Nation.

But the legislation does mirror the companion House bill that was introduced earlier, H.R. 4953, which was sponsored by our friend Mr. KILDEE from Michigan, along with 31 other House Members that were sponsors of the legislation, including myself, as well as the gentleman from Ohio (Mr. BROWN) and also the gentleman from Michigan (Mr. DINGELL) who has been also a champion on this issue.

S. 2430 would reauthorize and improve a valuable conservation program administered by the U.S. Fish and Wildlife Service.

Mr. KILDEE just mentioned some of the success stories that have been garnered from this original bill, but as we know all too well in this chamber that we could pass the best authorized bill in the world, but if it is not supported by adequate funding, they cannot do anything with it. Unfortunately, the history of this bill has been a lot of support in both the public and private sector but not enough funding in order to accomplish the goals and really achieve the success that I know we can make in the upper Great Lakes area.

The five Great Lakes are the crown jewels of our Nation's natural resources. They are the largest group of fresh water lakes in the entire world. This has an incredible ecosystem impact but also economic impact throughout the entire region.

That is why we feel it is important to move forward on reauthorization, hopefully to get the support for funding the reauthorized bill in future years as we try to implement its provisions. I certainly encourage its passage tonight.

Madam Speaker, I yield back the remainder of our time.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

We do thank not only Senator DEWINE for his work on this but also Mr. KILDEE from Michigan and also not only was our friend from Wisconsin a tremendous asset in being quarterback of the congressional team last week, but his quarterbacking this legislation through. I urge my colleagues to vote "aye" on this bill.

Mr. WALSH. Madam Speaker, I rise in support of S. 2430, the Great Lakes Fish and Wildlife Restoration Act of 2006. This is a strong, bi-partisan bill that deserves the support of all members.

As many of you know, my district is home to the Lake Ontario shoreline. From its recreational use to its natural beauty, Lake Ontario directly affects a majority of my constituents.

Areas on Lake Ontario like the Sodus Bay Chimney Bluffs and Irondequoit Bay, to the various trout streams and wetland marshes, all shape the landscape of this unique area. But this diverse landscape and its ecosystem are in need of attention. All the Great Lakes are in need of repair. This legislation allows us to begin the much needed restoration of the Great Lakes.

Unfortunately, I must admit that nearly half of the original wetlands of the Great Lakes have been lost due to adverse threats like non-point source pollution and invasive species. These lost wetlands were the home to the sensitive ecosystem that is the building block of the larger Great Lakes basin. The basin is home to ⅕ of the earth's fresh water and it commands our attention. This legislation helps get us there.

Lastly, this legislation is the first step in implementing the Great Lakes Regional Collaboration strategy that President Bush commissioned in 2004. Since that time, the findings and recommendations have been used to develop an all encompassing piece of legislation, H.R. 5100, the Great Lakes Collaboration Implementation Act. This bill includes a coordinated effort to clean up sewage treatment plants as well as the polluted waters and toxic waste water left over from the industrial boom of past generations. H.R. 5100 includes funding for permanent barriers to protect Lake Michigan and the basin from the invasive Asian Carp species.

Similar to our Nation's successful efforts in the Everglades and the Chesapeake Bay, we must do the same for the Great Lakes. Congress must implement H.R. 5100, and the passage of S. 2430 is a critical first step.

Streams, rivers, marshes and wetlands all over the basin are polluted and in dire need of attention. We know that restoration, protection and conservation can restore the Great Lakes much like the Everglades and Chesapeake Bay. The fish and wildlife that call these areas home must be restored to protect the magnificence of the lakes for generations to come.

Mr. EHLERS. Madam Speaker, I rise in strong support of S. 2430, the Great Lakes Fish & Wildlife Restoration Act. This important bill reauthorizes the Great Lakes Fish and Wildlife Restoration grant program first enacted in 1990 and renewed in 1998. It builds upon the successes of the program and ensures that both fish and wildlife resources will receive attention. It also expands the scope of the initiative to include grants for regional restoration work undertaken by Federal, State, and tribal partnerships. The funds authorized in this legislation are critical to the widespread efforts to restore the vitality and water quality of the Great Lakes basin.

This bill is one small piece of the broader package of restoration priorities contained in the Great Lakes Regional Collaboration (GLRC) Strategy, released in December 2005. It is also largely the same as Title II of my bill, H.R. 5100, the Great Lakes Regional Collaboration Implementation Act. I am pleased that we are moving forward to enact some of the changes recommended by the GLRC in its comprehensive strategic action plan. I strongly encourage my colleagues to not only provide the necessary authorizations for conducting restoration activities in the Great Lakes, but also to provide the funding required as well. It is unfortunate that this program has received paltry levels of funding in recent years; much more is needed to accomplish the goals laid out in the GLRC Strategy.

I thank Senator DEWINE, Congressman KILDEE, Congressman KIRK, and all the other Members who sponsored and supported this legislation. Today is a victory for the Great Lakes and for the thousands of good people working to protect and restore fish and wildlife resources there.

Mr. KIRK. Madam Speaker, I rise in strong support of S. 2430, the Great Lakes Fish and Wildlife Restoration Act. I would like to thank Mr. KILDEE (D–MI) for his leadership on this critical effort to restore one of our nation's most precious natural resources.

The Great Lakes Fish and Wildlife Restoration Act reauthorizes the Fish and Wildlife Service to double the annual grants to States and tribes for the enhancement, conservation and restoration of fish and wildlife habitats in the Great Lakes. Since 1998, $3.9 million in federal funds and $2.7 million in non-federal matching funds were directed toward these efforts. The Act clearly draws vast participation from the Great Lakes communities in restoring this tremendous resource.

A key component of this legislation is wetland restoration. In Illinois, wetlands provide protective habitats for the forty percent of the state's endangered species and help stave off major flooding. Unfortunately, a staggering ninety percent of Illinois' wetlands have been destroyed. Through grants provided by the Great Lakes Fish and Wildlife Restoration Act, 68 acres of rare wetlands in the northeastern Illinois' Nature Preserves were restored. Another eight wetland restoration projects were undertaken in the Chicago area. We must provide the authorization and management to continue such restoration and reverse the rapid rate of wetland destruction around the Great Lakes.

I want to thank Chad Lord from the Healing Our Waters—Great Lakes Coalition, Cameron Davis of the Alliance for the Great Lakes, and all the other organizations that work tirelessly on behalf of our environment and the Great Lakes. I urge my colleagues to support this bipartisan legislation so that we may continue our mission to provide for the long-term sustainability of this treasured ecosystem.

Mr. STRICKLAND. Madam Speaker, I would like to take this opportunity to express my strong support for S. 2430, the Great Lakes Fish and Wildlife Restoration Act of 2006 (GLFWRA), which passed the House yesterday. This important legislation makes available critical federal dollars allowing state and tribal management agencies to take significant strides to address the challenges threatening Great Lakes' fish and wildlife resources and habitats. This bipartisan bill passed the Senate by unanimous consent and I am hopeful will be signed by the President soon. I believe the reauthorization of the GLFWRA will go a long way to help protect the environmental and economic health of one of our nation's most unique and splendid natural treasures: the Great Lakes.

In both size and ecological diversity, there is no other freshwater system which matches that of the Great Lakes Basin. The Great Lakes are simply magical. They offer outstanding recreational and tourism opportunities. The Great Lakes are a source of drinking water for millions of residents and provide a safe and efficient mode of transportation in the region. Obviously, the Great Lakes also provide habitat for our fisheries and wildlife. Ohioans know what Lake Erie means for the state's economy. Lake Erie alone produces more fish for human consumption each year than the other four lakes combined. And, Lake Erie supports a $1 billion a year sport-fishing industry and one of the largest freshwater commercial fisheries in the world. There is no question that restoration and protection of one of our nation's most unique and precious resources, the Great Lakes, warrants the level of federal commitment reauthorized under S. 2430.

I am pleased that S. 2430 is consistent with the Great Lakes Regional Collaboration's (GLRC) Strategy to Restore and Protect the Great Lakes. The GLRC is a tremendous effort to coordinate the pathway forward for the restoration, protection, and sustainable use of our Great Lakes. I am pleased that passage of the Great Lakes Fish and Wildlife Restoration Act will advance the GLRC goals which were developed through extensive collaboration of federal, state, tribal, and local partners.

The challenges facing the Great Lakes will not be solved overnight, but the GLRC process has designed a unifying strategy forward, and I strongly support S. 2430 as one part of that strategy to restore and protect our invaluable Great Lakes.

Mr. GOHMERT. Madam Speaker, I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the Senate bill, S. 2430, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 2330

OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 2006

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5690) to adjust the boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas.

The Clerk read as follows:

H.R. 5690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ouachita National Forest Boundary Adjustment Act of 2006".

SEC. 2. BOUNDARY ADJUSTMENT, OUACHITA NATIONAL FOREST, OKLAHOMA AND ARKANSAS.

(a) Boundary Adjustment.—The boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas are hereby modified as generally depicted on the following maps, all dated May 15, 2001, and more particularly delineated and described according to the final boundary adjustment maps and boundary descriptions filed in the Office of the Chief of the Forest Service:

(1) The map entitled "Ouachita National Forest Boundary Extension for the Broken Bow Area".

(2) The map entitled "Ouachita National Forest Boundary Extension for the Southern Tiak Area".

(3) The map entitled "Ouachita National Forest Boundary Extension for the Northern Ouachita Area".

(4) The map entitled "Ouachita National Forest Boundary Extension for the Southern Ouachita Area".

(5) The map entitled "Ouachita National Forest Boundary Extension for the Eastern Ouachita Area".

(b) Availability and Correction.—The maps referred to in subsection (a) shall be on file and available for public inspection in the Office of the Chief of the Forest Service. The Secretary of Agriculture may make minor corrections to the maps.

(c) Management of Acquired Land.—Any federally-owned lands that have been or hereafter may be acquired for National Forest System purposes within the boundaries of the Ouachita National Forest, as modified by subsection (a), shall be managed as lands acquired under the Act of March 1, 1911 (commonly known as the Weeks Act), and in accordance with the other laws and regulations pertaining to the National Forest System. Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ouachita National Forest pursuant to section 11 of such Act (16 U.S.C. 521).

(d) Relation to Land and Water Conservation Fund Act.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as modified by subsection (a), shall be considered to be boundaries of the Ouachita National Forest as of January 1, 1965.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 5690 simply makes a technical correction to section 305 of the Omnibus Parks and Public Lands Management Act of 1996. The Act provided for a land exchange between the Ouachita National Forest and private lands but did not establish the new boundaries for the National Forest. This bill remedies the problem by adjusting the National Forest boundary and also allowing future land management adjustments to proceed without the continuing need for future boundary adjustments.

I urge support for this measure.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield at this time such time as he may consume to the chief sponsor of this important legislation, my good friend from the great State of Oklahoma (Mr. BOREN).

Mr. BOREN. Madam Speaker, I introduced the Ouachita National Forest Boundary Adjustment Act to provide a technical correction to section 305 of the Omnibus Parks and Public Lands Management Act of 1996.

Section 305 provided for a land exchange between the Ouachita National Forest and Weyerhaeuser Timber Company but did not fully establish the new boundaries of the forest. My legislation would make this technical correction so that the boundaries of the forest would accurately reflect the land exchange.

This correction would allow the Forest Service to better manage the land, because the boundaries of the forest would be more uniform and would allow future land management adjustments without the need to continuously adjust the boundaries.

H.R. 5690 has the support of the administration, the local Forest Service office, Weyerhaeuser Timber Company, Plum Creek, and the members of the Arkansas delegation whose district would be affected.

The Forest Service is a valuable partner in preserving and managing the resource for Oklahoma and Arkansas, and I urge my colleagues to support this legislation that will make managing the Ouachita easier for the Forest Service.

Mr. KIND. Madam Speaker, I urge passage of this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. GOHMERT. Madam Speaker, I also urge support for this and would thank the gentleman from Oklahoma. But I can't recognize my dear friend from Oklahoma without commenting that he has also got Texas ties that we are proud of.

Madam Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 5690.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RATIFYING CONVEYANCE OF A PORTION OF THE JICARILLA APACHE RESERVATION TO RIO ARRIBA COUNTY, STATE OF NEW MEXICO

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4876) to ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.

The Clerk read as follows:

H.R. 4876

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this act, the following definitions apply:

(1) JICARILLA APACHE NATION.—The term "Jicarilla Apache Nation" means the Jicarilla Apache Nation, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; popularly known as the Indian Reorganization Act).

(2) 1988 RESERVATION ADDITION.—The term "1988 Reservation Addition" means those lands known locally as the Theis Ranch that were added to the Jicarilla Apache Reservation in the state of New Mexico by the proclamation of the Secretary of the Interior issued on September 1, 1988 pursuant to authority granted by section 7 of the Act of June 18, 1934 (25 U.S.C. 467; popularly known as the Indian Reorganization Act), and published in the Federal Register on September 26, 1988 at 53 F.R. 37355–56.

(3) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement executed by the President of the Jicarilla Apache Nation on May 6, 2003 and executed by the Chairman of the Rio Arriba Board of County Commissioners on May 15, 2003 and approved by the Department of the Interior on June 18, 2003 to settle the Lawsuit.

(4) LAWSUIT.—The term "Lawsuit" means the case identified as Jicarilla Apache Tribe v. Board of County Commissioners, County of Rio Arriba, No. RA 87–2225(C), State of New Mexico District Court, First Judicial District, filed in October 1987.

(5) RIO ARRIBA COUNTY.—The term "Rio Arriba County" means the political subdivision of the state of New Mexico described in Section 4–21–1 and Section 4–21–2, New Mexico Statutes Annotated 1978 (Original Pamphlet).

(6) SETTLEMENT LANDS.—The term "Settlement Lands" means Tract A and Tract B as described in the plat of the "Dependent Resurvey and Survey of Tract within Theis Ranch" within the Tierra Amarilla Grant, New Mexico prepared by Leo P. Kelley, Cadastral Surveyor, United States Department of the Interior, Bureau of Land Management, dated January 7, 2004, and recorded in the office of the Rio Arriba County Clerk on March 8, 2004, in Cabinet C–1, Page 199, Document No. 242411, consisting of 70.75 acres more or less. Title to the Settlement Lands is held by the United States in trust for the Jicarilla Apache Nation.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) DISPUTED COUNTY ROAD.—The term "Disputed County Road" means the county road passing through the 1988 Reservation Addition along the course identified in the judgment entered by the New Mexico District Court in the Lawsuit on December 10, 2001 and the decision entered on December 11, 2001, which judgment and decision have been appealed to the New Mexico Court of Appeals.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) The lands constituting the 1988 Reservation Addition to the Jicarilla Apache Reservation were purchased by the Jicarilla Apache Nation in June 1985 and were conveyed to the United States by a trust deed accepted by the Secretary of the Interior in March 1988 pursuant to authority granted by section 5 of the Act of June 18, 1934 (25 U.S.C. 465; popularly known as the Indian Reorganization Act).

(2) The lands constituting the 1988 Reservation Addition were added to the Jicarilla Apache Reservation in September 1988 by proclamation of the Secretary of the Interior pursuant to authority granted by section 7 of the Act of June 18, 1934 (25 U.S.C. 467; popularly known as the Indian Reorganization Act).

(3) There is pending before the Court of Appeals of the State of New Mexico a lawsuit, filed in October 1987, that involves a claim that a county road passing through the 1988 Reservation Addition had been established by prescription prior to acquisition of the land by the Jicarilla Apache Nation in 1985.

(4) The parties to that lawsuit, the Jicarilla Apache Nation and the County of Rio Arriba, have executed a Settlement Agreement, approved by the Secretary of the Interior, to resolve all claims relating to the disputed county road, which agreement requires ratifying legislation by the Congress of the United States.

(5) The parties to the Settlement Agreement desire to settle the claims relating to the disputed county road on the terms agreed to by the parties, and it is in the best interests of the parties to resolve the claims through the Settlement Agreement and this implementing legislation.

SEC. 3. CONDITION ON EFFECT OF SECTION.

(a) IN GENERAL.—Section 4 of this Act shall not take effect until the Secretary finds the following events have occurred:

(1) The Board of Commissioners of Rio Arriba County has enacted a resolution permanently abandoning the disputed county road and has submitted a copy of that resolution to the Secretary.

(2) The Jicarilla Apache Nation has executed a quitclaim deed to Rio Arriba County for the Settlement Lands subject to the exceptions identified in the Settlement Agreement and has submitted a copy of the quitclaim deed to the Secretary.

(b) PUBLICATION OF FINDINGS.—If the Secretary finds that the conditions set forth in subsection (a) have occurred, the Secretary shall publish such findings in the Federal Register.

SEC. 4. RATIFICATION OF CONVEYANCE; ISSUANCE OF PATENT.

(a) CONDITIONAL RATIFICATION AND APPROVAL.—This Act ratifies and approves the Jicarilla Apache Nation's quitclaim deed for the Settlement Lands to Rio Arriba County, but such ratification and approval shall be effective only upon satisfaction of all conditions in section 3, and only as of the date that the Secretary's findings are published in the Federal Register pursuant to section 3.

(b) PATENT.—Following publication of the notice described in section 3, the Secretary shall issue to Rio Arriba County a patent for the Settlement Lands, subject to the exceptions and restrictive covenants described subsection (c).

(c) CONDITIONS OF PATENT.—The patent to be issued by the Secretary under subsection (b) shall be subject to all valid existing rights of third parties, including but not limited to easements of record, and shall include the following perpetual restrictive covenant running with the Settlement Lands for the benefit of the lands comprising the Jicarilla Apache Reservation adjacent to the Settlement Lands: "Tract A shall be used only for governmental purposes and shall not be used for a prison, jail or other facility for incarcerating persons accused or convicted of a crime. For purposes of this restrictive covenant, 'governmental purposes' shall include the provision of governmental services to the public by Rio Arriba County and the development and operation of private businesses to the extent permitted by applicable State law.".

SEC. 5. BOUNDARY CHANGE.

Upon issuance of the patent authorized by section 4, the lands conveyed to Rio Arriba County in the patent shall cease to be a part of the Jicarilla Apache Reservation and the exterior boundary of the Jicarilla Apache Reservation shall be deemed relocated accordingly.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 4876 settles a lawsuit between the Jicarilla Apache tribe and the county of Rio Arriba in the State of New Mexico. In 1987, the tribe challenged the validity of a county road located on land owned by the Apache tribe. In 2003, the tribe and the county entered into a settlement agreement to resolve all claims that were raised in the lawsuit. Accordingly, H.R. 4876 ratifies this settlement agreement and authorizes the conveyance of a portion of the Apache reservation to the county. Changes to the exterior boundary of the reservation will be made accordingly. As a result, this long-standing, nearly 20-year-old lawsuit will be resolved.

I urge support for the bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I would like to yield at this time such time as he may consume to the chief sponsor of this legislation, my good friend from the State of New Mexico, Mr. TOM UDALL.

Mr. UDALL of New Mexico. Madam Speaker, this legislation will bring long overdue resolution to a dispute between the Jicarilla Apache Nation and Rio Arriba County in the State of New Mexico. Both parties and the Secretary of the Interior have already executed the terms agreed to within the settlement agreement. All that stands between the parties to this dispute and the long-overdue resolution is congressional approval.

This legislation upholds Congress' trust responsibility to the Jicarilla Nation by placing restrictive covenants on the trust land transferred to the county. As a result of the transferred land's proximity to the reservation, certain uses of the transferred land would have a detrimental effect on the remaining reservation. Therefore, this legislation allows the county to use the land only for governmental purposes and specifically prohibits the county from using the land for prisons, jails, or other incarcerated persons, and other purposes.

Madam Speaker, I urge my colleagues to support passage of this important legislation. Both the Nation and the county have waited years for this agreement to be implemented.

The dispute concerns the ownership of a road on a parcel of land formerly referred to as the Theis Ranch. The Theis Ranch property became part of the Jicarilla Nation Reservation in September of 1988.

A lawsuit was filed in October 1987 to determine the ownership status of a disputed road. In the original lawsuit, Rio Arriba County sought to establish that the County acquired the disputed road by prescription and, therefore, that the County was the road's rightful owner. However, the Jicarilla Nation contended that the Nation owned the road because the road was, and continues to be, within the boundaries of the expanded 1988 Jicarilla Reservation. On December 10, 2001, the District Court found in favor of the Jicarilla Nation, determining that the disputed road traversed the Jicarilla Reservation in several locations. Rio Arriba County appealed the District Court decision, and the appeal is currently pending before the Court of Appeals of the State of New Mexico.

In an effort to settle the road dispute amicably, the Jicarilla Nation and Rio Arriba County entered into mediation. The parties successfully reached a settlement. Representatives of the Secretary of the Interior approved the settlement on June 18, 2003. The settlement agreement, which would be implemented by this legislation, provided that the Jicarilla Nation would transfer approximately 70.5 acres of land located with the expanded 1988 Jicarilla Reservation to Rio Arriba County. In exchange for the Jicarilla Nation's land conveyance, Rio Arriba County agreed to permanently abandon any and all claims to the disputed road.

The settlement also provides that the terms of the agreement do not take effect until all parties complete their respective promises in the agreement and the United States, pursuant to federal law, approves of the conveyance of this particular Jicarilla trust land to Rio Arriba County.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just want to take a moment to again commend my colleague from New Mexico (Mr. UDALL) for his determination in getting this legislation before us today. Some of the more difficult and contentious issues that we deal with in this place are often issues involving property lines, jurisdictions of towns, private landowners, and Indian tribes. Mr. UDALL has never shied away from such matters, especially when they affect the Indian tribes in New Mexico, and I commend him for his leadership on this issue and encourage adoption of this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. GOHMERT. Madam Speaker, we are also grateful to Mr. UDALL from New Mexico for his hard work in resolving this dispute. As a former judge, there is nothing that looks better than when all the parties can come together and agree, and I appreciate the gentleman's hard work in making that happen.

Madam Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 4876.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ALLOWING FOR RENEGOTIATION OF PAYMENT SCHEDULE OF CONTRACTS BETWEEN SECRETARY OF INTERIOR AND REDWOOD VALLEY COUNTY WATER DISTRICT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5516) to allow for the renegotiation of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley County Water District, and for other purposes.

The Clerk read as follows:

H.R. 5516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENEGOTIATION OF PAYMENT SCHEDULE.

Section 15 of Public Law 100–516 (102 Stat. 2573) is amended as follows:

(1) By amending paragraph (2) of subsection (a) to read as follows:

"(2) If, as of January 1, 2006, the Secretary of the Interior and the Redwood Valley County Water District have not renegotiated the schedule of payment, the District may enter into such additional non-Federal obligations as are necessary to finance procurement of dedicated water rights and improvements necessary to store and convey those rights to provide for the District's water needs. The renegotiated schedule of payments shall commence when such additional obligations have been financially satisfied by the District. The date of the initial payment owed by the District to the United States shall be regarded as the start of the District's repayment period and the time upon which any interest shall first be computed and assessed under section 5 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).".

(2) By striking subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 5516, sponsored by Congressman MIKE THOMPSON, amends Public Law 100-516 and allows for the renegotiation of the payment schedule of water contracts between the Secretary of the Interior and the Redwood Valley County Water District in northern California.

I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I, too, want to commend my colleague from the First Congressional District of California, Mr. THOMPSON, for the hard work and leadership that he has shown on this important piece of legislation.

We, too, support it and encourage its adoption.

Madam Speaker, I yield back the balance of my time.

Mr. GOHMERT. Madam Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 5516.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TO MODIFY A LAND GRANT PATENT ISSUED BY THE SECRETARY OF THE INTERIOR

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3606) to modify a land grant patent issued by the Secretary of the Interior.

The Clerk read as follows:

H.R. 3606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.

Patent Number 61-2000-0007, issued by the Secretary of the Interior to the Great Lakes Shipwreck Historical Society, Chippewa County, Michigan, pursuant to section 5505 of division A of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009–516) is amended in paragraph 6, under the heading "SUBJECT ALSO TO THE FOLLOWING CONDITIONS" by striking "Whitefish Point Comprehensive Plan of October 1992, or a gift shop" and inserting "Human Use/Natural Resource Plan for Whitefish Point, dated December 2002, permitted as the intent of Congress".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3606 is a simple measure that updates a land patent reference to an outdated management plan currently being used by the Great Lakes Shipwreck Historical Society.

This 8-acre property was obtained in 1992 from the Department of the Interior under a land grant patent. Under the new resource management plan, the museum will be able to greatly improve its visitor access to wildlife areas and expand its facilities to accommodate additional shipwreck exhibits.

I urge an "aye" vote on this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such the time as I may consume.

Madam Speaker, I appreciate the majority's support for this legislation and commend my good friend from the upper peninsula of Michigan, BART STUPAK, for introducing this legislation, and I encourage its adoption.

Mr. STUPAK. Madam Speaker, I want to thank the Chairman and Ranking Member and their staffs on the Committee for assisting in moving this legislation forward.

H.R. 3606 is a straightforward, non-controversial bill that would allow the Great Lakes Shipwreck Historical Society to implement the new Human Use/Natural Resource Management Plan for the Great Lakes Shipwreck Museum in Chippewa County, Michigan.

The Great Lakes Shipwreck Historical Society is a nonprofit organization dedicated to preserving the history of shipwrecks in the Great Lakes.

Since 1992, the Great Lakes Shipwreck Historical Society has operated the Great Lakes Shipwreck Museum to educate the public about shipwrecks in the region.

The Museum provides exhibits on several shipwrecks in the area, including an in-depth exhibit on the *Edmund Fitzgerald*, which was lost with her entire crew of 29 men near Whitefish Point, Michigan on November 10, 1975. Among the items on display is the 200 pound bronze bell recovered from the wreckage in 1995, as a memorial to her lost crew.

In 2002, the Great Lakes Shipwreck Historical Society, working with the U.S. Fish and Wildlife Service, the local chapter of the Audubon Society, and the local community, finalized a new management plan for the Museum to improve the experience at the Museum.

The new management plan developed by these groups will allow the Historical Society to enhance the visitor's experience by expanding the Museum's exhibits and improving parking and access to surrounding wildlife opportunities.

The new management plan represents a consensus of all associated parties, and will improve the enjoyment of the historical and ecological resources in Chippewa County, Michigan.

However, because the original land grant patent references the previous management plan, legislation to amend the patent is necessary before the new management plan can be implemented.

In response, I introduced H.R. 3606, which would amend the land grant patent to allow the new plan to be implemented. This legislation would simply change the land grant patent to include the new management plan, which has been agreed upon by all of the necessary stakeholders.

Congressman CAMP has joined me in cosponsoring this legislation, recognizing the importance of increasing visitors to our state and its economy. I thank him for his support of this legislation.

The Great Lakes Shipwreck Historical Society has continuously improved the experience at the Museum since it was established in 1992. With the approval of H.R. 3606, Congress will allow additional developments at the Great Lakes Shipwreck Museum, improving this cultural and historical resource.

I encourage my colleagues to support this simple legislation, which will improve the opportunities available to visitors of Chippewa County, Michigan and the Great Lakes Shipwreck Museum.

Mr. KIND. Madam Speaker, I yield back the remainder of my time.

Mr. GOHMERT. Madam Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 3606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMISSION TO STUDY THE POTENTIAL CREATION OF A NATIONAL MUSEUM OF AMERICAN LATINO HERITAGE ACT OF 2006

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2134) to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes, as amended.

The Clerk read as follows:

H.R. 2134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission to Study the Potential Creation of a National Museum of American Latino Heritage Act of 2006".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) In General.—There is established the Commission to Study the Potential Creation of a National Museum of American Latino Heritage (hereafter in this Act referred to as the "Commission").

(b) Membership.—The Commission shall consist of 23 members appointed not later than 6 months after the date of the enactment of this Act as follows:

(1) The President shall appoint 7 voting members.

(2) The Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall each appoint 3 voting members.

(3) In addition to the members appointed under paragraph (2), the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall each appoint 1 nonvoting member.

(c) Qualifications.—Members of the Commission shall be chosen from among individuals, or representatives of institutions or entities, who possess either—

(1) a demonstrated commitment to the research, study, or promotion of American Latino life, art, history, political, or economic status, or culture, together with—

(A) expertise in museum administration;

(B) expertise in fundraising for nonprofit or cultural institutions;

(C) experience in the study and teaching of Latino culture and history at the post-secondary level;

(D) experience in studying the issue of the Smithsonian Institution's representation of American Latino art, life, history, and culture; or

(E) extensive experience in public or elected service; or

(2) experience in the administration of, or the planning for the establishment of, museums devoted to the study and promotion of the role of ethnic, racial, or cultural groups in American history.

SEC. 3. FUNCTIONS OF THE COMMISSION.

(a) Plan of Action for Establishment and Maintenance of Museum.—The Commission shall submit a report to the President and the Congress containing its recommendations with respect to a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, DC (hereafter in this Act referred to as the "Museum").

(b) Fundraising Plan.—The Commission shall develop a fundraising plan for supporting the creation and maintenance of the Museum through contributions by the American people, and a separate plan on fundraising by the American Latino community.

(c) Report on Issues.—The Commission shall examine (in consultation with the Secretary of the Smithsonian Institution), and submit a report to the President and the Congress on, the following issues:

(1) The availability and cost of collections to be acquired and housed in the Museum.

(2) The impact of the Museum on regional Hispanic- and Latino-related museums.

(3) Possible locations for the Museum in Washington, DC and its environs, to be considered in consultation with the National Capital Planning Commission and the Commission of Fine Arts, the Department of the Interior and Smithsonian Institution.

(4) Whether the Museum should be located within the Smithsonian Institution.

(5) The governance and organizational structure from which the Museum should operate.

(6) How to engage the American Latino community in the development and design of the Museum.

(7) The cost of constructing, operating, and maintaining the Museum.

(d) Legislation to Carry Out Plan of Action.—Based on the recommendations contained in the report submitted under subsection (a) and the report submitted under subsection (c), the Commission shall submit for consideration to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on House Administration of the House of Representatives, the Committee on Rules and

Administration of the Senate, the Committee on Resources of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate recommendations for a legislative plan of action to create and construct the Museum.

(e) NATIONAL CONFERENCE.—In carrying out its functions under this section, the Commission may convene a national conference on the Museum, comprised of individuals committed to the advancement of American Latino life, art, history, and culture, not later than 18 months after the commission members are selected.

SEC. 4. ADMINISTRATIVE PROVISIONS.

(a) FACILITIES AND SUPPORT OF DEPARTMENT OF THE INTERIOR.—The Department of the Interior shall provide from funds appropriated for this purpose administrative services, facilities, and funds necessary for the performance of the Commission's functions. These funds shall be made available prior to any meetings of the Commission.

(b) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government may receive compensation for each day on which the member is engaged in the work of the Commission, at a daily rate to be determined by the Secretary of the Interior.

(c) TRAVEL EXPENSES.—Each member shall be entitled to travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Commission is not subject to the provisions of the Federal Advisory Committee Act.

SEC. 5. DEADLINE FOR SUBMISSION OF REPORTS; TERMINATION.

(a) DEADLINE.—The Commission shall submit final versions of the reports and plans required under section 3 not later than 24 months after the date of the Commission's first meeting.

(b) TERMINATION.—The Commission shall terminate not later than 30 days after submitting the final versions of reports and plans pursuant to subsection (a).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for carrying out the activities of the Commission $2,100,000 for the first fiscal year beginning after the date of the enactment of this Act and $1,100,000 for the second fiscal year beginning after the date of the enactment of this Act.

Amend the title so as to read: "A bill to establish the Commission to Study the Potential Creation of a National Museum of American Latino Heritage to develop a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, DC, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2134 would create a commission to study and report on the potential creation of a National Museum of American Latino Heritage. The commission would be comprised of 23 members appointed by the President, the Speaker, the House Minority Leader, the Senate Majority Leader, and the Senate Minority Leader. The commission would issue a report on the cost of the museum, fund-raising, its impact on other Hispanic- and Latino-related museums, the possible location, and how the museum should be operated.

I appreciate the cooperation of Chairman EHLERS of the Committee on House Administration to allow this bill to be scheduled today, and I urge adoption of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I would like to yield at this time such time as he may consume to the chief sponsor of this legislation, the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Madam Speaker, I would like to first begin by thanking our managers of the time for their patience and indulgence in moving forward so many good pieces of legislation.

I want to thank, first and foremost, the principal co-chair of this legislation, Ms. ILEANA ROS-LEHTINEN of Florida, for her efforts in trying to help move this legislation forward. And while I have a written statement, which I will submit for the RECORD, I also want to thank the work of the committee chairman and ranking members here, not only the full committee members, Mr. POMBO, and Mr. RAHALL, the ranking member, but also our National Parks chairman, Mr. PEARCE, and ranking member Mrs. CHRISTENSEN for their work in moving this bill through the Resources Committee. And, of course, the chairman, Mr. EHLERS, and ranking member, Ms. MILLENDER-MCDONALD, from the Committee on House Administration for also moving the bill through their committee.

□ 2345

I certainly want to thank them very much for the work of the leadership to place this bill on the suspension calendar.

Madam Speaker, I thank my colleagues, the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN) for their work in support of H.R. 2134, the National American Latino Heritage Museum Commission Act.

I am also grateful to the leadership and members of the House Committee on Resources and the Committee on House Administration for bringing this legislation to the floor today.

I first sponsored this legislation with my good friend, Representative ILEANA ROS-LEHTINEN, during Hispanic Heritage Month nearly three years ago. Since then, we have been hearing from many supporters, not just in the Latino community, but throughout the nation. The Senate version of this bill was sponsored by Senator KEN SALAZAR and Senator MEL MARTINEZ.

We have a good, bipartisan group of cosponsors, but I would like to emphasize that this is non-partisan legislation that will benefit all Americans. Our national museums have great influence over what Americans know and believe about our collective history and cultural life. When the children of America visit the capital to learn what our museums have to teach them, they go home believing that they have an understanding about what it means to be an American. H.R. 2134 would bring light to the issue of whether our national museums are doing all they can to provide future generations a more complete portrayal of American Latino contributions to American life, by showing that American Latinos are and always have been a part of the American experience.

The bipartisan Commission created by this bill ("Commission") would be charged with examining and reporting to Congress and the President their recommendations on whether and how to establish a new museum dedicated to the art, history, and culture of the American Latino population of the United States. The Commission would be comprised of experts from the national art and museum communities as well as individuals with experience in administration and development of cultural institutions. Commissioners would be appointed in a bipartisan manner by the President and the leaders of the House and Senate.

Along with the question of whether a new museum is warranted, the Commission would examine such issues as the capacity for fundraising for a new museum, the availability of a collection to exhibit, whether a new museum should be part of the Smithsonian Institution or independent, the cost of establishing and maintaining a museum, and where a museum might be located in Washington, D.C. or its environs. Congress then may choose whether to act on the recommendations as it sees fit.

American Latinos will play an ever increasing role in the whole of our society. Americans of Latino heritage are a very youthful population and are projected to be more integral to the nation's economy, workforce, and electorate. Almost half of American Latinos are under the age of 25. American Latinos have a higher proportion of preschool aged children among their population then any other group. Similarly, 11 percent of the Latino population is under the age of five. Among our nation's school-age population, about every fifth student is Latino. In fact, the Census Bureau tells us that every fifth child born today in the United States is an American of Latino heritage.

Americans of Latino heritage have been part of American history since before the founding of the United States. They were present on the American continent for more than two centuries prior to the Declaration of Independence. Spanish colonists founded the first permanent settlement in the territorial United States in St. Augustine, Florida in 1565, four decades before Jamestown and Plymouth Rock. The first church in North America was constructed by the Spanish in 1598 at San Juan Pueblo, 30 miles north of Santa Fe. One of the sixteen windows in the Colorado State Capitol depicts Casimiro Barela, a Hispano and former Governor and member of the state senate from 1876 to 1914, who was instrumental in the state's decision to publish all laws in English, German and Spanish.

During the American Revolutionary War, General Washington's army was successful at Yorktown in part because of support from a multiethnic army led by Spanish General Bernardo de Galvez on a southern front against the British, driving them out of the Gulf of Mexico, fighting them on the Mississippi and in Florida. The town of Galveston, Texas is named for him.

In every subsequent military conflict, American Latino soldiers fought alongside their American brethren. One of the first U.S. soldiers to die in Iraq, Jose Gutierrez, was an orphaned Guatemalan who at the time of his death was not even an American citizen. American Latino participation in our armed forces is not a new phenomenon. More than 10,000 Americans of Latino heritage fought for both the North and the South during the civil war. It has been estimated that anywhere from 250,000 to 500,000 American Latinos served in the armed forces during World War II. Over 53,000 Puerto Ricans served in World War II during the period 1940–1946.

According to the Pew Hispanic Center, while Latinos make up 9.5 percent of the actively enlisted forces, they are over-represented in the categories that get the most dangerous assignments (infantry, gun crews and seamanship) and make up over 17.5 percent of the front lines. This is likely the reason why, as a proportion of their total numbers, American Latinos have earned more Congressional Medals of Honor than any other ethnic group.

Presently, Latinos have one of the highest retention rates in military service. Their dedication is rooted in their deep belief in protecting American values demonstrated by post enlistment surveys which illustrate that Latino recruits note "patriotism" and "service to country" as the top two reasons for joining, as well as "duty" and "honor."

The richness of American culture also has benefited greatly from contributions made by the American Latino community.

New Orleans jazz legend Jelly Roll Morton said that our quintessential American music, jazz, was born with a "Spanish tinge." The famous jazz saxophonist Stan Getz released several albums in the 1950s that integrated Brazilian samba into traditional jazz, and used the paintings of a Latina, Olga Abizu, for his album covers.

Many of our old American icons were also influenced by American Latino culture. The term "buckaroo" is derived form the Spanish word "vaquero" or cowman, from which we also got the word "cowboy." Cowboy garb, boots and wide brimmed hats are all derived from the traditions of the northern Mexican charros and caballeros.

In science, the ground-controlled radar systems used for aircraft landings, and the meteorite theory of dinosaur extinction were both discovered by an American Latino, Californian Luis Walter Alvarez. Without American Latino ingenuity in bringing large-scale irrigation systems, or acequias, to the Southwest, the semiarid climate would not have supported the crops that allowed colonization. The earliest acequias in Texas were dug by Pueblo Indians in 1680, portions of this system which were still in use in the early 1990s.

The civil rights era was a time in which American Latinos also made contributions. Before Brown v. Board of Education, California schools were desegregated by Mendez v. Westminster School District, a federal lawsuit brought by the parents of Mexican American students.

American Latinos also are investing mightily in the American economy. American Latino purchasing power nationally will top $1.08 trillion by 2010, up 413 percent from $212 billion in 1990—a gain far greater than the 177 percent increase in the buying power of all U.S. consumers in the same period. From 1997–2002, the number of businesses owned by American Latinos grew by 31 percent, three times the national average. These are indicators that American Latinos will be increasingly vital to the nation's economic well-being.

These examples show that the American Latino experience is integral to the nation's past and future. Yet scarcely any of the exhibits in our national museums in the nation's capital portray American Latino contributions to American life.

H.R. 2134 would take the next step toward ensuring that the lessons taught by our premier institutions for the arts, humanities, and American history include a better representation of Latino contributions. We hope that we will soon be able to say that the nation's capital truly exhibits America's rich cultural diversity.

I urge all of my colleagues to support this legislation.

Ms. MILLENDER-McDONALD. Madam Speaker, as Ranking Member of the Committee on House Administration, which favorably reported this important legislation along with the Resources Committee, I urge my colleagues to move quickly so that the bill can become law this year and we can begin the process of planning a National Museum of American Latino Heritage here in Washington, D.C. I congratulate Rep. BECERRA and Rep. ROS-LEHTINEN for their leadership in introducing this legislation and for their hard work in pushing it forward.

Persons of Hispanic, or Latino, descent have lived in the Western Hemisphere since the 16th Century. In the United States, they have become the largest minority group, and their impact will only grow stronger in the future. The culture of the Americas reflects a unique mixture of what was inherited from Europe, retained from the indigenous Native American inhabitants, contributed by Africans brought here during the era of slavery, and stirred in the melting pot of interaction with later immigrants from all around the world.

I am pleased to support consideration of a Latino Museum which I hope would undertake serious scholarly research as well as create and display exhibits to tell the story of the American Latino to an ever growing population, which will be increasingly exposed to such cultural influences in the years ahead. This is a project which all Americans can enthusiastically embrace.

Our Committee on House Administration worked for years with the gentleman from Georgia, Rep. JOHN LEWIS, to establish the Smithsonian African American Museum which finally became law in 2003. That legislation worked its way through Congress over a period of 17 years, passing the House and the Senate in different forms during that time, and then being successfully revived and studied by a Commission appointed by the President and Congress.

Madam Speaker, that Commission worked through 2002 and early 2003 to compile information and recommendations for Congress to use in considering whether to finally establish the Museum, and in what form. While we did not accept all of the Commission's recommendations, I found that it provided invaluable focus and momentum in moving the project forward.

H.R. 2134, and any future legislation to establish a new Museum which may spring from it, will hopefully enjoy a less tortuous path to a successful conclusion. The Commission to be created by this bill relating to the Museum of American Latino Heritage is largely patterned after the African American Museum Commission, and this time we are considering establishing the Commission at the beginning of the process of studying a Museum rather than near the end.

The new Commission will examine, among other issues, whether this new Museum should be part of the Smithsonian Institution, as is the new African American Museum. The Smithsonian has unique expertise in both museum governance and successfully presenting information which tells a story in both educational and entertaining ways.

Madam Speaker, I urge passage of this legislation.

Ms. ROS-LEHTINEN. Madam Speaker, I rise in strong support tonight of H.R. 2134—the Commission to Study the Potential Creation of a National Museum of the American Latino Community Act.

I would like to commend Chairman POMBO for his leadership in bringing this important legislation to the floor, as well as the bill's author Congressman XAVIER BECERRA for his support.

As the Republican lead of this legislation, I am pleased that this bill would take the next step toward ensuring that our premier institutions for the arts and humanities include a greater representation of Hispanic-American cultural contributions.

The commission created by this bill would have the responsibility of examining and reporting to Congress and the President a plan to establish a new museum dedicated to the art, history, and culture of the Hispanic-American community.

There are nearly 40 million United States residents who share a cultural heritage which is not fully represented by any of the permanent exhibits in Washington museums.

It is only fitting that this bill is brought to the floor of this body during Hispanic Heritage Month.

As the first Hispanic-American woman to be elected to the U.S. Congress, I have been proud to represent my diverse South Florida constituency for over 16 years.

Americans of Hispanic heritage are a youthful population and are projected to play an increasing role in the Nation's economy and workforce.

As Hispanic-Americans, we have come a long way.

We are contributing in record numbers in the fields of business, education, healthcare, and at all levels of government service.

As a legislative body, Congress is committed to continue to propel thousands of Hispanic-Americans across the Nation into the realization of the American dream.

A stronger, healthier, and more educated Hispanic American population contributes to the greatness of this wonderful nation making us competitive in the global market.

The Hispanic-American community is one of America's largest growing populations. Congress should continue to provide opportunities for the Hispanic-American community to continue succeeding and to showcase the wealth of talent that abounds.

A museum for the Hispanic-American community would honor all Americans.

The great diversity of ethnicities and nationalities of the people in the United States is a testament to the power of America's great tradition as a Nation that embraces all walks of life.

This National Museum will symbolize our country's commitment to proudly display America's rich cultural diversity.

Therefore, I ask my colleagues to join me in support of this important legislation to ensure that visitors to our Nation's capital gain a more complete understanding of who we are as Americans.

Mr. KIND. Madam Speaker, again I want to congratulate and commend my colleague for his leadership and encourage adoption, and I yield back the balance of my time.

Mr. GOHMERT. Madam Speaker, we are grateful to the gentleman from California (Mr. BECERRA) for his work.

We have no additional speakers, and yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 2134, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the Commission to Study the Potential Creation of a National Museum of American Latino Heritage to develop a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, DC, and for other purposes.".

A motion to reconsider was laid on the table.

UPPER MISSISSIPPI RIVER BASIN PROTECTION ACT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5340) to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Upper Mississippi River Basin Protection Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Reliance on sound science.

TITLE I—SEDIMENT AND NUTRIENT MONITORING NETWORK

Sec. 101. Establishment of monitoring network.
Sec. 102. Data collection and storage responsibilities.
Sec. 103. Relationship to existing sediment and nutrient monitoring.
Sec. 104. Collaboration with other public and private monitoring efforts.
Sec. 105. Reporting requirements.
Sec. 106. National Research Council assessment.

TITLE II—COMPUTER MODELING AND RESEARCH

Sec. 201. Computer modeling and research of sediment and nutrient sources.
Sec. 202. Use of electronic means to distribute information.
Sec. 203. Reporting requirements.

TITLE III—AUTHORIZATION OF APPROPRIATIONS AND RELATED MATTERS

Sec. 301. Authorization of appropriations.
Sec. 302. Cost-sharing requirements.
Sec. 303. Sunset.

SEC. 2. DEFINFTIONS.

In this Act:

(1) The terms "Upper Mississippi River Basin" and "Basin" mean the watershed portion of the Upper Mississippi River and Illinois River basins, from Cairo, Illinois, to the headwaters of the Mississippi River, in the States of Minnesota, Wisconsin, Illinois, Iowa, and Missouri. The designation includes the Kaskaskia watershed along the Illinois River and the Meramec watershed along the Missouri River.

(2) The terms "Upper Mississippi River Stewardship Initiative" and "Initiative" mean the activities authorized or required by this Act to monitor nutrient and sediment loss in the Upper Mississippi River Basin.

(3) The term "sound science" refers to the use of accepted and documented scientific methods to identify and quantify the sources, transport, and fate of nutrients and sediment and to quantify the effect of various treatment methods or conservation measures on nutrient and sediment loss. Sound science requires the use of documented protocols for data collection and data analysis, and peer review of the data, results, and findings.

SEC. 3. RELIANCE ON SOUND SCIENCE.

It is the policy of Congress that Federal investments in the Upper Mississippi River Basin must be guided by sound science.

TITLE I—SEDIMENT AND NUTRIENT MONITORING NETWORK

SEC. 101. ESTABLISHMENT OF MONITORING NETWORK.

(a) ESTABLISHMENT.—As part of the Upper Mississippi River Stewardship Initiative, the Secretary of the Interior shall establish a sediment and nutrient monitoring network for the Upper Mississippi River Basin for the purposes of—

(1) identifying and evaluating significant sources of sediment and nutrients in the Upper Mississippi River Basin;

(2) quantifying the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water;

(3) quantifying the transport of those sediments and nutrients to and through the Upper Mississippi River Basin;

(4) recording changes to sediment and nutrient loss over time;

(5) providing coordinated data to be used in computer modeling of the Basin, pursuant to section 201; and

(6) identifying major sources of sediment and nutrients within the Basin for the purpose of targeting resources to reduce sediment and nutrient loss.

(b) ROLE OF UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior shall carry out this title acting through the office of the Director of the United States Geological Survey.

SEC. 102. DATA COLLECTION AND STORAGE RESPONSIBILITIES.

(a) GUIDELINES FOR DATA COLLECTION AND STORAGE.—The Secretary of the Interior shall establish guidelines for the effective design of data collection activities regarding sediment and nutrient monitoring, for the use of suitable and consistent methods for data collection, and for consistent reporting, data storage, and archiving practices.

(b) RELEASE OF DATA.—Data resulting from sediment and nutrient monitoring in the Upper Mississippi River Basin shall be released to the public using generic station identifiers and hydrologic unit codes. In the case of a monitoring station located on private lands, information regarding the location of the station shall not be disseminated without the landowner's permission.

(c) PROTECTION OF PRIVACY.—Data resulting from sediment and nutrient monitoring in the Upper Mississippi River Basin is not subject to the mandatory disclosure provisions of section 552 of title 5, United States Code, but may be released only as provided in subsection (b).

SEC. 103. RELATIONSHIP TO EXISTING SEDIMENT AND NUTRIENT MONITORING.

(a) INVENTORY.—To the maximum extent practicable, the Secretary of the Interior shall inventory the sediment and nutrient monitoring efforts, in existence as of the date of the enactment of this Act, of Federal, State, local, and nongovernmental entities for the purpose of creating a baseline understanding of overlap, data gaps and redundancies.

(b) INTEGRATION.—On the basis of the inventory, the Secretary of the Interior shall integrate the existing sediment and nutrient monitoring efforts, to the maximum extent practicable, into the sediment and nutrient monitoring network required by section 101.

(c) CONSULTATION AND USE OF EXISTING DATA.—In carrying out this section, the Secretary of the Interior shall make maximum use of data in existence as of the date of the enactment of this Act and of ongoing programs and efforts of Federal, State, tribal, local, and nongovernmental entities in developing the sediment and nutrient monitoring network required by section 101.

(d) COORDINATION WITH LONG-TERM ESTUARY ASSESSMENT PROJECT.—The Secretary of the Interior shall carry out this section in coordination with the long-term estuary assessment project authorized by section 902 of the Estuaries and Clean Waters Act of 2000 (Public Law 106–457; 33 U.S.C. 2901 note).

SEC. 104. COLLABORATION WITH OTHER PUBLIC AND PRIVATE MONITORING EFFORTS.

To establish the sediment and nutrient monitoring network, the Secretary of the Interior shall collaborate, to the maximum extent practicable, with other Federal, State, tribal, local and private sediment and nutrient monitoring programs that meet guidelines prescribed under section 102(a), as determined by the Secretary.

SEC. 105. REPORTING REQUIREMENTS.

The Secretary of the Interior shall report to Congress not later than 180 days after the date *of the enactment of this Act on the development of the sediment and nutrient monitoring network.*

SEC. 106. NATIONAL RESEARCH COUNCIL ASSESSMENT.

The National Research Council of the National Academy of Sciences shall conduct a comprehensive water resources assessment of the Upper Mississippi River Basin.

TITLE II—COMPUTER MODELING AND RESEARCH

SEC. 201. COMPUTER MODELING AND RESEARCH OF SEDIMENT AND NUTRIENT SOURCES.

(a) MODELING PROGRAM REQUIRED.—As part of the Upper Mississippi River Stewardship Initiative, the Director of the United States Geological Survey shall establish a modeling program to identify significant sources of sediment and nutrients in the Upper Mississippi River Basin.

(b) ROLE.—Computer modeling shall be used to identify subwatersheds which are significant sources of sediment and nutrient loss and shall be made available for the purposes of targeting public and private sediment and nutrient reduction efforts.

(c) COMPONENTS.—Sediment and nutrient models for the Upper Mississippi River Basin shall include the following:

(1) Models to relate nutrient loss to landscape, land use, and land management practices.

(2) Models to relate sediment loss to landscape, land use, and land management practices.

(3) Models to define river channel nutrient transformation processes.

(d) COLLECTION OF ANCILLARY INFORMATION.—Ancillary information shall be collected in a GIS format to support modeling and management use of modeling results, including the following:

(1) Land use data.

(2) Soils data.

(3) Elevation data.

(4) Information on sediment and nutrient reduction improvement actions.

(5) Remotely sense data.

SEC. 202. USE OF ELECTRONIC MEANS TO DISTRIBUTE INFORMATION.

Not later than 90 days after the date of the enactment of this Act, the Director of the United States Geological Survey shall establish a system that uses the telecommunications medium known as the Internet to provide information regarding the following:

(1) Public and private programs designed to reduce sediment and nutrient loss in the Upper Mississippi River Basin.

(2) Information on sediment and nutrient levels in the Upper Mississippi River and its tributaries.

(3) Successful sediment and nutrient reduction projects.

SEC. 203. REPORTING REQUIREMENTS.

(a) MONITORING ACTIVITIES.—Commencing one year after the date of the enactment of this Act, the Director of the United States Geological Survey shall provide to Congress and make available to the public an annual report regarding monitoring activities conducted in the Upper Mississippi River Basin.

(b) MODELING ACTIVITIES.—Every three years, the Director of the United States Geological Survey shall provide to Congress and make available to the public a progress report regarding modeling activities.

TITLE III—AUTHORIZATION OF APPROPRIATIONS AND RELATED MATTERS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) UNITED STATES GEOLOGICAL SURVEY ACTIVITIES.—There is authorized to be appropriated to the United States Geological Survey $6,250,000 each fiscal year to carry out this Act (other than section 106). Of the amounts appropriated for a fiscal year pursuant to this authorization of appropriations, one-third shall be made available for the United States Geological Survey Cooperative Water Program and the remainder shall be made available for the United States Geological Survey Hydrologic Networks and Analysis Program.

(b) WATER RESOURCE AND WATER QUALITY MANAGEMENT ASSESSMENT.—There is authorized to be appropriated $650,000 to allow the National Research Council to perform the assessment required by section 106.

SEC. 302. COST-SHARING REQUIREMENTS.

*Funds made available for the United States Geological Survey Cooperative Water Program under section 301(a) shall be subject to the same cost sharing requirements as specified in the last proviso under the heading "**UNITED STATES GEOLOGICAL SURVEY–SURVEYS, INVESTIGATIONS, AND RESEARCH**" of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 510; 43 U.S.C. 50).*

SEC. 303. SUNSET.

The authority of the Secretary of the Interior to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, under H.R. 5340, the U.S. Geological Survey will supplement, coordinate and manage data collection on sediments and nutrients in the Upper Mississippi River Basin. The data would be used to provide the baseline data and modeling tools needed to make the scientifically sound and cost-effective river management decisions.

The House passed a similar version of this bill in the 108th Congress, and I urge my colleagues to support the bill at this time.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield such myself such time as may consume.

Madam Speaker, I want to thank the majority for their support for this legislation this evening. This is legislation that I drafted and supported over the last couple of years with the support of many my colleagues in a bipartisan fashion. I want to commend the colleagues who have been active participants in the bipartisan Mississippi River Caucus.

This bill, the Upper Mississippi River Basin Protection Act, would develop a coordinated public-private approach to reducing nutrient and sediment flows in the Upper Mississippi River Basin.

The Mississippi River, Madam Speaker, is one of the great national treasures that we have and one of the great diverse ecosystems that flows right through the heart of America. It is North America's largest migratory route, with 40 percent of the water fowl species using this corridor during their annual migration every year. It is also the bread basket of America, which provides a lot of fertile acres are for the agricultural lands that we enjoy in the Midwest. It is also the primary drinking source to close to 30 million Americans.

But its greatest risk and challenge today is the amount of nutrients and sediments that are flowing into the basin area. The problem is multiple. Soil erosion reduces the long-term sustainability and the income of the typical farmer in middle America. Collectively, farmers annually lose more than $300 million of applied nitrogen due to runoff which ultimately enters the basin area.

Sediment fills the main shipping channel of the Mississippi River, costing the taxpayers roughly $100 million each year in dredging costs just to maintain the safe shipping channels for the navigation industry that takes and delivers many of the products to market.

Sediment fills in these valuable wetlands along the Mississippi River Basin, reducing wildlife habitat, affecting and destroying numerous acres of wetlands every year.

The loss of side channel habitat threaten the River's $1.2 recreation and $6.6 billion tourism industry impact in the Upper Mississippi River region alone. And there is inadequate scientific data on the amounts and sources of sediments and nutrients flowing into the Upper Mississippi River Basin at scales useful to land manager.

So what this legislation is attempting to do is put the science in place, allow the USGS to be the lead agency where they have developed competence in water quality and monitoring, set up a sub-basin monitoring system and develop computer models so we can do a better job of tracking the sediment and nutrient flows that enter the basin area, identify the hot spots, and better target the limited resources and voluntary and incentive-based land and water conservation programs to hopefully reduce that impact in the river basin.

What we are proposing is entirely consistent with the hypoxia study that took place in the Gulf of Mexico with the recommendations that they submitted to the Congress back in January of 2001. In fact, 40 percent of the nutrients that ultimately flow into the Gulf of Mexico creating this so-called dead zone or oxygen depletion zone, which is growing every year, has their origin in the Upper Mississippi River Basin.

This has received wide bipartisan support, both in Congress and at home. The five Upper Mississippi State governors have endorsed this proposal, along with the legislatures, and there have been countless public and private entities that have endorsed this approach too of trying to get the science in place so we can start the long-term data collection and establish the baseline so we know how to react to this great challenge that is affecting the great treasure that we know as the Mississippi River.

I want to especially commend the staff on committee for their help with this legislation, and my own staff, who has devoted countless hours on this project. I want to thank the support of the administration that has supported the legislation, along with numerous private entities throughout the Upper Midwest that have supported it and offered recommendations on how we can make this work for private landowners and public entities alike.

I want to especially thank Barry Drazkowski, who teaches at St. Mary's University at Winona, Minnesota, for the work he has done on water quality issues and for many of the ideas we have incorporated in this legislation.

Hopefully the third time is a charm. Hopefully we will get cooperation in the Senate to move this vitally important piece of legislation, because, again, the greatest threat that the Mississippi River Basin is facing today are the amount of sediments and nutrients that are flowing in, and I think there is a lot that we can do by maximizing the investment that we can make based on the science we are trying to put in place with this legislation here tonight in order to maintain the preservation and the protection of this great natural resource.

Again, I want to thank my colleague and the support we received on the Resources Committee, and encourage my colleagues to adoption this legislation this evening.

Madam Speaker, I yield back the balance of my time.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, last week we witnessed Mr. KIND from Wisconsin as the quarterback of the Congressional team run and pass doing amazing feats on the football field, and now we have seen him run with this legislation, and I urge my colleagues to help him pass this bill.

Mr. NUSSLE. Madam Speaker, I rise today in support of the Upper Mississippi River Basin Protection Act. This legislation takes a commonsense approach to reduce nutrient and sediment loss in the Upper Mississippi watershed by coordinating existing public and private water monitoring initiatives. I believe that such a partnership promotes the river's health and is beneficial the communities and people of eastern Iowa.

Most of the farm families I represent live and make their living either along the Mississippi, or its many tributaries. Soil erosion is a problem for farmers by reducing long-term sustainability and income potential of their acres. It is my understanding that farmers in the Upper Mississippi River Basin lose more than $300 million annually in applied nitrogen to soil erosion. In addition, sediment fills the main shipping channel of the Mississippi that family farmers depend on to get their commodities to markets.

Farmers live close to the land, and are committed to being good stewards. This legislation helps farmers and local conservation groups assess where problems are occurring in their watershed, and how to efficiently and effectively solve the problem.

I believe this legislation is beneficial in mending our environment along the river, and better protecting it in the future. Sediment is a threat to the Mississippi's fish, birds, and other wildlife by filling wetlands. Sediment reduces wetlands' ability to be an adequate water filter and provide habitat to the creatures that live all along the Mississippi River. It is estimated that the Upper Mississippi contributes 31 percent of the nitrogen that impairs the water quality of the Lower Mississippi basin.

Part of the Upper Mississippi Wildlife Refuge is in my district. I believe this refuge is an important treasure for Iowa. What makes this area special is, of course, the unique wildlife that lives there. This legislation helps promote wildlife by monitoring and computer modeling data to ensure scientifically sound and cost-effective decisions in promoting water quality.

Additionally, a healthy Mississippi River is very important to the communities of eastern Iowa. The Mississippi is recognized throughout the United States and abroad as "America's River". The Quad Cities area is a popular destination of international travelers who want to see and touch the water. For the residents of the Quad Cities area, the riverfront is the center of social life, with a historic district, baseball diamond, and several annually held festivals.

The City of Dubuque boasts over one million visitors thanks to the Mississippi. This community has chosen to make its story of the river the cornerstone of its urban renewal with a million dollar investment in the revitalization of the riverfront. The America's River project and historic Port of Dubuque represent the community's dedication to growing its tourism industry.

Madam Speaker, the Upper Mississippi's health and water quality essential to growing the economies of the larger river cities of Bettendorf, Davenport, Clinton, and Dubuque, and the picturesque river towns of Guttenberg, LeClair, Bellevue, and Marquette. All of these communities, along with farmers and conservationists, have invested much time and effort in promoting a clean river. I believe this legislation helps to insure these investments by coordinating the many interests of those living in the Upper Mississippi River Basin. Accordingly, I am a proud sponsor of this bill, and I urge my colleagues to join me in supporting this legislation.

Mr. GOHMERT. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 5340, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RIO ARRIBA COUNTY LAND CONVEYANCE ACT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 213) to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

The Clerk read as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Arriba County Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term "County" means the County of Rio Arriba, New Mexico.

(2) MAP.—The term "map" means the map entitled "Alcalde Proposed Land Transfer" and dated September 23, 2004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 171 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

(c) REVERSION.—If any portion of the land conveyed under subsection (a) ceases to be used for public purposes the land shall, at the option of the Secretary, revert to the United States.

(d) CONDITIONS ON SALES.—If the County sells any portion of the land conveyed to the County under subsection (a)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the County shall pay to the Secretary an amount equal to the gross proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of New Mexico, without further appropriation.

(e) COSTS.—The County shall pay any costs associated with the conveyance of land under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, S. 213 would convey 171 acres of Bureau of Land Management lands located on the Sebastian

Martin Land Grant to Rio Arriba County. The land is needed for county facilities, a cemetery for a local parish and a new public school.

Representative HEATHER WILSON, as well as the two Senators from New Mexico, are also supportive of this bill. I urge the passage of this measure.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield such time as he may consume to the champion of this legislation, my good friend from the State of New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Madam Speaker, I thank the gentleman from Wisconsin.

Madam Speaker, I rise today to urge the passage of S. 213, the Rio Arriba County Land Conveyance Act. S. 213 will convey to the County of Rio Arriba approximately 171 acres of Bureau of Land Management land. The county intends to use this land for a new public school, county facilities and a cemetery for the local parish.

Rio Arriba County in northern New Mexico is a vast, beautiful county with significant amounts of Federal land. The growing population of Rio Arriba has led to an increased demand for public services but no municipal lands on which to site them.

Under most circumstances, this sort of transfer would be conducted administratively under the provisions of the Recreation and Public Purposes Act and authorizing legislation would not be required. This bill is before us today only because these lands are located on the Sebastian Martin Land Grant and were acquired by the Federal Government under the Bankhead-Jones Act. The Recreation and Public Lands Act does not apply to acquired lands, but the legislation is in keeping with provisions of that act.

The Rio Arriba County Manager, Lorenzo Valdez, and members of the Rio Arriba Board of County Supervisors worked hard on this and diligently. School Board Chairman Joe Guillen and School Board members Leroy Salazar, Ralph Medina and Isaac Medina worked tirelessly to raise the money necessary to construct the new school.

Father Terry Brennan, the Pastor of San Juan Pueblo Parish, helped on this effort in order to ensure that his parish would have the land necessary for a cemetery.

Madam Speaker, I urge my colleagues to support this bill.

Mr. KIND. Madam Speaker, we encourage adoption of this legislation, and yield back the remainder of our time.

Mr. GOHMERT. Madam Speaker, I have no additional speakers. We urge adoption and yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the Senate bill, S. 213.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

COLORADO NORTHERN FRONT RANGE MOUNTAIN BACKDROP PROTECTION STUDY ACT

Mr. GOHMERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2110) to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests in Colorado, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Colorado Northern Front Range Mountain Backdrop Protection Study Act".

(b) FINDINGS.—Congress finds the following:

(1) Rising dramatically from the Great Plains, the Front Range of the Rocky Mountains provides a scenic mountain backdrop to many communities in the Denver metropolitan area and elsewhere in Colorado. The portion of the range within and adjacent to the Arapaho and Roosevelt National Forests also includes a diverse array of wildlife habitats and provides many opportunities for outdoor recreation.

(2) The open space character of this mountain backdrop is an important esthetic and economic asset for adjoining communities, making them attractive locations for homes and businesses.

(3) Rapid population growth in the northern Front Range area of Colorado is increasing recreational use of the Arapaho and Roosevelt National Forests and is also placing increased pressure for development of other lands within and adjacent to that national forest.

(4) Efforts by local governments and other entities have provided important protection for portions of this mountain backdrop, especially in the northern Denver metropolitan area. However, some portions of the mountain backdrop in this part of Colorado remain unprotected and are at risk of losing their open space qualities.

(5) It is in the national interest for the Federal Government, in collaboration with local communities, to assist in identifying options for increasing the protection of the mountain backdrop in the northern Front Range area of Colorado.

(c) PURPOSE.—The purpose of this Act is to identify options that may be available to assist in maintaining the open space characteristics of lands that are part of the mountain backdrop of communities in the northern section of the Front Range area of Colorado.

SEC. 2. COLORADO NORTHERN FRONT RANGE MOUNTAIN BACKDROP STUDY.

(a) STUDY AND REPORT.—The Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the State and local officials and agencies specified in subsection (c), shall review the lands within the study area and, not later than one year after the date of the enactment of this Act, shall report to such officials and to Congress regarding the following:

(1) The present ownership of such lands.

(2) Which undeveloped land may be at risk of development.

(3) Actions that could be taken by the United States, the State of Colorado or a political subdivision of such State, or any other parties to preserve the open and undeveloped character of such lands.

(b) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) STUDY AREA.—The term "study area" means those lands in southern Boulder, northern Jefferson, and northern Gilpin Counties, Colorado, that are situated west of Colorado State Highway 93, south and east of Colorado State Highway 119, and north of Colorado State Highway 46, excluding lands within the city limits of the cities of Boulder or Golden, Colorado, as generally depicted on the map entitled "Northern Front Range Mountain Backdrop Study Area" dated April, 2006.

(2) UNDEVELOPED LAND.—The term "undeveloped land" means land that—

(A) is located within the study area;

(B) is free or primarily free of structures; and

(C) the development of which is likely to adversely affect the scenic, wildlife, or recreational value of the study area.

(c) CONSULTATIONS.—In implementing this Act, the Secretary shall consult with the following:

(1) The Colorado Department of Natural Resources.

(2) Colorado State Forest Service.

(3) Colorado State Conservation Board.

(4) Great Outdoors Colorado.

(5) The Boards of County Commissioners of Boulder, Jefferson, and Gilpin Counties, Colorado.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as authorizing the Secretary of Agriculture to take any action that would affect the use of any lands not owned by the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2110 would require the Forest Service to review lands in or adjacent to the Arapaho and Roosevelt National Forest and report to the Congress on the present ownership of the lands, which undeveloped lands may be risk of development, and what appropriate actions could be taken to preserve the open and undeveloped character of the lands. This study involves how best to protect the open space between the western Denver metro area and the National Forest from development.

This bill was amended in committee to address issues raised by the Forest Service, and we urge its support.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we too encourage adoption of this legislation. I want to commend my good friend and colleague from the State of Colorado, Mr. Mark Udall, for his leadership on this important legislation. Mr. UDALL has been a leader in the effort to protect and preserve open space in Colorado and this legislation will help advance this cause. We would encourage its adoption and thank the majority for their cooperation.

Mr. UDALL of New Mexico. Madam Speaker, I rise in strong support of H.R. 210, the Colorado Northern Front Range Mountain Backdrop Protection Study bill.

The bill is intended to help local communities identify ways to protect the Front Range Mountain Backdrop in the northern sections of the Denver-metro area, especially the region just west of what will soon be the Rocky Flats National Widlife Refuge.

The Arapaho-Roosevelt National Forest includes much of the land in this backdrop area, but there are other lands as well.

Rising dramatically from the Great Plains, the Front Range of the Rocky Mountains provides a scenic mountain backdrop to many communities in the Denver metropolitan area and elsewhere in Colorado.

The portion of the range addressed in this bill also includes a diverse array of wildlife habitats and provides many opportunities for outdoor recreation.

Its open-space character is an important esthetic and economic asset for adjoining communities, making them attractive locations for homes and businesses.

But rapid population growth in the northern Front Range area of Colorado is increasing recreational use of the Arapaho-Roosevelt National Forest and is also placing increased pressure for development of other lands.

We can see this throughout Colorado and especially along the Front Range.

Homes and shopping centers are spreading up the valleys and along the highways. This development then spreads out along the ridges and mountain tops that make up the backdrop.

The result is potential loss of many of the very qualities that attract new residents.

This bill is designed to help provide a better understanding of what steps might be done to lessen that risk.

Already, local governments and other entities have provided important protection for portions of this mountain backdrop.

The bill acknowledges their good work and aims to assist further efforts along the same lines.

The bill does not interfere with the authority of local authorities regarding land use planning. And it does not infringe on private property rights.

Instead, it will bring the land protection experience of the Forest Service to the table to assist local efforts to protect areas that comprise the backdrop.

Under the bill, the Forest Service will work in collaboration with local communities, the state, nonprofit groups, and other parties.

I think this is in the national interest.

The backdrop both beckoned settlers westward and was a daunting challenge to their progress. Their first exposure to the harshness and humbling majesty of the Rocky Mountain West helped define a region, and the pioneers' independent spirit and respect for nature still lives with us to this day.

We need to work to maintain the mountain backdrop as a cultural and natural heritage for ourselves and generations to come.

This bill is intended to assist in that effort, and I urge its approval.

Mr. KIND. Madam Speaker, I yield back the balance of our time.

Mr. GOHMERT. Madam Speaker, I yield back the balance of my time and urge adoption.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 2110, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOHMERT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD on the 21 bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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HONORING RUFUS JOHNSON

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Madam Speaker, I rise tonight to speak in recognition of the accomplishments of Rufus Johnson of Kerrville, Texas. Of African American and Cherokee descent, Mr. Johnson was born in Maryland in May of 1911 and faced adversity at a very early age. He lost his mother when he was 4 years old, but he never allowed any situation to dictate his path.

After his mother passed away, Mr. Johnson was sent to live with his aunt and uncle in Pennsylvania. As a boy in Pennsylvania, he was forbidden to swim in the city pool. This cost him the much-coveted Boy Scouts of America Eagle rank because he could not earn the swimming merit badge. Mr. Johnson never forgot this missed opportunity; and, ironically, it was this missed opportunity that led him on his path to historical significance.

Among his many life achievements, Mr. Johnson worked in the White House of President Franklin Delano Roosevelt, served in the United States Army during World War II, and became a successful attorney.

Immediately after enrolling at Howard University in Washington, D.C., he joined the Reserve Officers Training Corps, took swimming lessons and became a certified lifeguard.

Mr. Johnson's certification won him a job as the White House pool lifeguard during FDR's Presidency. Having earned the respect and admiration of FDR, Mr. Johnson became his butler as well, a position that often included lifting the President from his chair. Mr. Johnson recalls with great respect the pride and independence of President Roosevelt.

Mr. Johnson earned a place in White House history when a bowl of soup on a tray he was carrying tipped over and spilled on the President's lap. According to Mr. Johnson, it was Roosevelt himself who intentionally, but secretly, tipped the tray and caused the bowl to land on himself during the meeting. Mr. Johnson said FDR continued the conversation without pause and earned the respect of his adversary sitting at the dinner table with him.

When First Lady Roosevelt learned that Mr. Johnson was preparing to take the bar exam, she had a desk set up in the White House to allow him to study for 2 hours every day.

In October of 1942, he was called to active duty as a captain in the 92nd Infantry Division of African American soldiers. Mr. Johnson earned the admiration and respect of all who served with him and was awarded the Bronze Star, the Purple Heart, and the Combat Infantry Badge, and received a special regimental citation for bravery. He was called to duty and served again during the Korean war, where he attained the rank of lieutenant colonel.

After his service in the military, Mr. Johnson set up a law practice in California and also performed pro bono work. He argued successfully before the California Supreme Court in defense of the first amendment rights of American Indians. He won the decision, and it still stands today.

Mr. Johnson relocated to Kerrville in 1994, where he still resides with his stepdaughter, Yvonne Smith. He turned 95 last May, and the Texas State Legislature and the White House paid tribute to him on his birthday. Tonight, I pay tribute to Rufus Johnson for his years of service to our Nation. He is a respected member of his community, and he has a life story that deserves to be remembered.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEAVER (at the request of Ms. PELOSI) for today on account of official business.

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today until 6:30 p.m.

Mr. MEEHAN (at the request of Ms. PELOSI) for the week of September 25 on account of a death in the family.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for September 25 and 26 on account of official business.

ENROLLED BILLS SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

H.R. 5074. An act to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the Treasury, and for other purposes.

H.R. 5187. An act to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

S. 3525. An act to amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.

ADJOURNMENT

Mr. GOHMERT. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 3 minutes a.m.), the House adjourned until today, Thursday, September 28, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9634. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Importation of Table Grapes From Namibia [Docket No. APHIS-2006-0025] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9635. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Brucellosis in Cattle; State and Area Classifications; Wyoming [Docket No. APHIS-2006-0138] received September 18, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9636. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Storage, Handling, and Ginning Requirements for Cotton Marketing Assistance Loan Collateral (RIN: 0560-AH48) received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9637. A letter from the Dierctor, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Noninsured Crop Disaster Assistance Program — Tropical Regions (RIN: 0560-AH19) received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9638. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Endothall; Pesticide Tolerance [EPA-HQ-OPP-0018; FRL-8080-7] received August 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9639. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Trifloxystrobin; Pesticide Tolerance [EPA-HQ-OPP-2005-0299; FRL-8093-8] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9640. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Propiconazole; Pesticide Tolerance [EPA-HQ-OPP-2006-0347; FRL-8092-1] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9641. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenbuconazole; Pesticide Tolerances [EPA-HQ-OPP-2005-0053; FRL-8093-9] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9642. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenamindone; Pesticide Tolerance for Emergency Exemption [EPA-HQ-OPP-2006-0773; FRL-8093-3] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9643. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Ethaboxam; Pesticide Tolerance [EPA-HQ-OPP-2005-0058; FRL-8091-5] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9644. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Buprofezin; Pesticide Tolerance [EPA-HQ-OPP-2006-0170; FRL-8092-2] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9645. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Endosulfan, Fenarimol, Imazalil, Oryzalin, Sodium Acifluorfen, Trifluralin, and Ziram; Tolerance Actions [EPA-HQ-OPP-2005-0459; FRL-8077-9] received September 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9646. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Difenoconazole; Pesticide Tolerance [EPA-HQ-OPP-2006-0024; FRL-8085-1] received September 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9647. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Eucalyptus Oil; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2006-0695; FRL-8089-7] received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9648. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Epoxiconazole; Pesticide Tolerance [EPA-HQ-OPP-2005-0071; FRL-8080-9] received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9649. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pantoea Agglomerans Strain E325; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2006-0617; FRL-8091-6] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9650. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Metrafenone; Pesticide Tolerance [EPA-HQ-OPP-2006-0324; FRL-8093-7] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9651. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Etofenprox; Pesticide Tolerances for Emergency Exemptions [EPA-HQ-OPP-2006-0613; FRL-8089-2] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9652. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dithianon; Pesticide Tolerance [EPA-HQ-OPP-2006-0623; FRL-8090-5] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9653. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Utah; Revised Definitions of Volatile Organic Compounds and Clearing Index; Direct Final Rule [EPA-R08-OAR-2006-0210; FRL-8220-5] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9654. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Vermont; Negative Declaration [R01-OAR-2006-0668; FRL-8219-2] received September 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9655. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the Huntington, West Virginia Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan [EPA-R03-OAR-2006-0485; FRL-8219-9] received September 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9656. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Alabama: Final Authorization of State Hazardous Waste Management Program Revision [EPA-R04-RCRA-2006-0575; FRL-8219-5] received September 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9657. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — TSCA Inventory Update Reporting Rule; Electronic Reporting [EPA-HQ-OPP-2005-0059; FRL-7752-8] (RIN: 2070-AC61) received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9658. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Reportable Quantity Adjustment for Isophorone Diisocyanate [EPA-HQ-SFUND-2005-0520; FRL-8217-4] (RIN: 2050-AG32) received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9659. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Michigan: Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference [MI-87-1; FRL-8214-1] received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9660. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Preliminary Assessment Information Reporting Rule and Health and Safety Data Reporting Rule; Revision of Effective Dates [EPA-HQ-OPPT-2005-0014 and EPA-HQ-OPPT-2005-0055; FRL-8094-8] (RIN: 2070-AB08) received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9661. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Methods for Measurement of Visible Emissions [EPA-OAR-2004-0510; FRL-8221-4] (RIN: 2060-AF83) received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9662. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution fom New Motor Vehicles; Second Amendment to the Tier 2 Gasline Sulfur Regulations [EPA-HQ-OPP-2004-0508; FRL-8221-2] (RIN: 2060-AJ71) received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9663. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin [EPA-R05-OAR-2006-0543; FRL-8217-8] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9664. A letter from the Chief, Policy and Rules Divison, OET, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems [ET Docket No. 04-37] Carrier Current Systems, including Broadband over Power Line Systems [ET Docket No. 03-104] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9665. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Brawley and Campo, California) [MB Docket No. 05-219; RM-11249] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9666. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Willcox, Arizona) [MB Docket No. 04-84; RM-10879] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9667. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. [MB Docket No. 04-361; RM-11074] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9668. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Garwood, Texas) [MB Docket No. 05-304; RM-11230] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9669. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Hagerstown and Myersville, Maryland) [MB Docket No. 05-4; RM-11133] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9670. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Southwest City, Missouri and Gravette, Arkansas) [MB Docket No. 06-59; RM-11319] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9671. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Loretta, Tennessee, and Killen, Alabama) [MB Docket No. 05-124; RM-11174] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9672. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Frisco City, Alabama) [MB Docket No. 06-51; RM-11317] received September 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9673. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting reports in accordance with Section 36(a) of the Arms Export Control Act, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. House Resolution 985. Resolution directing the Secretary of State to provide to the House of Representatives certain documents in the possession of the Secretary of State relating to the report submitted to the Committee on International Relations of the House of Representatives on July 28, 2006, pursuant to the Iran and Syria Nonproliferation Act (Rept. 109-689). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 1045. Resolution providing for consideration of motions to suspend the rules (Rept. 109-690). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 1046. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109-691). Referred to the House Calendar.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 1047. Resolution providing for consideration of the bill (H.R. 4772) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law, and for other purposes (Rept. 109-692). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. VISCLOSKY (for himself and Mr. SANDERS):

H.R. 6196. A bill to prohibit business enterprises that lay-off a greater percentage of their United States workers than workers in other countries from receiving any Federal assistance, and for other purposes; to the Committee on Government Reform.

By Mr. TIBERI (for himself, Mr. MCKEON, Mr. OSBORNE, Mr. WILSON of South Carolina, Mrs. MCMORRIS RODGERS, Mr. BOUSTANY, Mr. GEORGE MILLER of California, Mr. HINOJOSA, Mr. WU, Mr. HOLT, Mr. DAVIS of Illinois, Mr. SCOTT of Virginia, Mr. RYAN of Ohio, Mr. LOBIONDO, and Mr. MCHUGH):

H.R. 6197. A bill to amend the Older American Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes; to the Committee on Education and the Workforce.

By Ms. ROS-LEHTINEN (for herself, Mr. LANTOS, Mr. HYDE, and Mr. ACKERMAN):

H.R. 6198. A bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the

Speaker, in each case for consideration .of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GINNY BROWN-WAITE of Florida (for herself and Mr. CAMP of Michigan):

H.R. 6199. A bill to improve the quality of, and access to, long-term care; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH (for himself, Ms. CORRINE BROWN of Florida, Mr. CLAY, Mr. CONYERS, Mr. FILNER, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Ms. LEE, Mr. McDERMOTT, Ms. McKINNEY, Mrs. MALONEY, Ms. SOLIS, Ms. WATERS, and Ms. WOOLSEY):

H.R. 6200. A bill to amend the Help America Vote Act of 2002 to require States to conduct Presidential elections using paper ballots and to count those ballots by hand, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILBRAY (for himself and Mr. PETERSON of Minnesota):

H.R. 6201. A bill to provide a biennial budget for the United States Government and to reform earmarking in the Congress; to the Committee on the Budget, and in addition to the Committees on Rules, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASE:

H.R. 6202. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating the Ka'u Coast on the island of Hawaii as a unit of the National Park System; to the Committee on Resources.

By Mrs. BIGGERT (for herself, Mr. BOEHLERT, Mr. GORDON, Mr. SMITH of Texas, Mr. McCAUL of Texas, Mr. REICHERT, Mr. WELDON of Pennsylvania, Mr. BARTLETT of Maryland, Mr. CALVERT, Mr. EHLERS, Mr. INGLIS of South Carolina, Mr. AL GREEN of Texas, Mr. WAMP, Mr. ROHRABACHER, Mr. MARIO DIAZ-BALART of Florida, Mr. HALL, Mr. SCHWARZ of Michigan, Mr. GILCHREST, Mr. JOHNSON of Illinois, and Ms. GRANGER):

H.R. 6203. A bill to provide for Federal energy research, development, demonstration, and commercial application activities, and for other purposes; to the Committee on Science.

By Mr. AKIN:

H.R. 6204. A bill to establish the Small Business Information Security Task Force; to the Committee on Small Business.

By Mr. DAVIS of Illinois:

H.R. 6205. A bill to amend the Internal Revenue Code of 1986 to provide an ex-offender low-income housing credit to encourage the provision of housing, job training, and other essential services to ex-offenders through a structured living environment designed to assist the ex-offenders in becoming self-sufficient; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. AKIN, Mr. SKELTON, and Mr. CLAY):

H.R. 6206. A bill to revise the calculation of interest on investments of the Harry S. Truman Memorial Scholarship Fund; to the Committee on Education and the Workforce.

By Mr. ENGLISH of Pennsylvania:

H.R. 6207. A bill to amend the Internal Revenue Code of 1986 to treat income earned by mutual funds from exchange-traded funds holding precious metal bullion as qualifying income; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 6208. A bill to amend the Trade Act of 1974 to make certain modifications to the trade adjustment assistance program; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. GREEN of Wisconsin, Mr. WILSON of South Carolina, Mr. SOUDER, Mr. KENNEDY of Minnesota, Mr. GINGREY, Mr. AKIN, Mr. MILLER of Florida, Mr. McCOTTER, Mr. SAM JOHNSON of Texas, Mrs. MUSGRAVE, and Mr. FORTUÑO):

H.R. 6209. A bill to protect the religious freedom of providers of adoption or foster care services; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 6210. A bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar saving by the self-employed, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH:

H.R. 6211. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, a credit for individuals who care for those with long-term care needs, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HIGGINS (for himself, Mr. HINCHEY, Mrs. NAPOLITANO, Ms. CORRINE BROWN of Florida, and Ms. JACKSON-LEE of Texas):

H.R. 6212. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to produce ethanol in high-consumption, low-production States, and for other purposes; to the Committee on Ways and Means.

By Mr. JOHNSON of Illinois:

H.R. 6213. A bill to authorize the conveyance of a portion of the campus of the Illiana Health Care System of the Department of Veterans Affairs to Danville Area Community College of Vermilion County, Illinois; to the Committee on Veterans' Affairs.

By Mr. KENNEDY of Rhode Island:

H.R. 6214. A bill to increase awareness of and research on autoimmune diseases, which are a major women's health problem, affect as many as 22 million Americans, and encompass more than 100 interrelated diseases, such as lupus, mulitple sclerosis, rheumatoid arthritis, Sjogren's syndrome, polymyositis, pemphigus, myasthenia gravis, Wegener's granulomatosis, psoriasis, celiac disease, autoimmune platelet disorders, scleroderma, alopecia areata, vitiligo, autoimmune-thyroid disease, sarcoidosis, and fibromyalgia, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LARSON of Connecticut (for himself, Mr. LEWIS of Georgia, Ms. DeLAURO, Ms. WATSON, Ms. McCOLLUM of Minnesota, Mr. BACA, Mr. GRIJALVA, Mr. SCOTT of Georgia, Mr. KENNEDY of Rhode Island, Ms. SLAUGHTER, Mr. WAXMAN, Mr. ROTHMAN, Ms. LEE, Mr. CLEAVER, Ms. MATSUI, Mr. OWENS, Mr. CONYERS, Ms. WOOLSEY, Mr. BERMAN, Mr. SERRANO, Mr. MOORE of Kansas, Ms. JACKSON-LEE of Texas, Ms. SOLIS, Mr. STARK, Mr. KUCINICH, Ms. LINDA T. SÁNCHEZ of California, Ms. CARSON, Mr. HASTINGS of Florida, and Mr. SCHIFF):

H.R. 6215. A bill to authorize the Secretary of Health and Human Services to award grants to eligible entities to prevent or alleviate the effects of youth violence in eligible urban communities by providing violence-prevention education, mentoring, counseling, and mental health services to children and adolescents in such communities; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DANIEL E. LUNGREN of California (for himself and Ms. ZOE LOFGREN of California):

H.R. 6216. A bill to establish the Daniel Webster Congressional Fellowship Program for qualified graduates of law schools to serve in temporary positions in offices of the House of Representatives and Senate, and for other purposes; to the Committee on House Administration.

By Mrs. MALONEY:

H.R. 6217. A bill to amend the Child Nutrition Act of 1966 to provide vouchers for the purchase of educational books for infants and children participating in the special supplemental nutrition program for women, infants, and children under that Act; to the Committee on Education and the Workforce.

By Mr. GEORGE MILLER of California:

H.R. 6218. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program projects, and for other purposes; to the Committee on Resources.

By Mr. PALLONE (for himself, Ms. SOLIS, Mr. ALLEN, Ms. BERKLEY, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Mr. CUMMINGS, Ms. DeGETTE, Mr. DOGGETT, Mr. ENGEL, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOLT, Mr. HONDA, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Ms. MATSUI, Mr. McDERMOTT, Mr. McGOVERN, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. NADLER, Mr. OWENS, Mr. PAYNE, Mr. SABO, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ of Pennsylvania, Mr. SERRANO, Mr. WAXMAN, Ms. WOOLSEY, Mr. WEXLER, Mr. CONYERS, Ms. MCCOLLUM of Minnesota, Mr. ACKERMAN, Mr. STARK, Mr. INSLEE, Mr. FATTAH, Mr. JEFFERSON, and Mr. BERMAN):

H.R. 6219. A bill to amend the Emergency Planning and Community Right-to-Know Act of 1986 to strike a provision relating to modifications in reporting frequency; to the Committee on Energy and Commerce.

By Mr. PEARCE:

H.R. 6220. A bill to require payment of three times the amount of just compensation whenever private property is taken for private economic development use; to the Committee on the Judiciary.

By Mr. SHAYS (for himself, Mr. MORAN of Virginia, Mr. TOM DAVIS of Virginia, Ms. JACKSON-LEE of Texas, and Mr. FORD):

H.R. 6221. A bill to establish the United States Public Service Academy; to the Committee on Education and the Workforce.

By Ms. SLAUGHTER:

H.R. 6222. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VISCLOSKY:

H.R. 6223. A bill to promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, Armed Services, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself, Mr. TOWNS, Mr. PORTER, Mr. GORDON, Ms. BERKLEY, Ms. ROS-LEHTINEN, Ms. JACKSON-LEE of Texas, and Mr. WYNN):

H.R. 6224. A bill to establish a Federal incentive grant program for States that implement effective measures to prevent and reduce underage consumption of beverage alcohol, to evaluate the effectiveness and efficiency of anti-underage drinking programs funded with Federal dollars, and to provide appropriate reporting of Federal underage drinking data; to the Committee on Energy and Commerce.

By Mr. BOEHNER:

H. Con. Res. 483. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. CROWLEY (for himself, Mr. KUHL of New York, Mrs. MALONEY, Mr. NADLER, Mr. DOGGETT, Mr. BOEHLERT, Mr. HIGGINS, Mr. ISRAEL, Mr. SERRANO, Mr. ENGEL, Mr. ACKERMAN, Mr. HINCHEY, Mr. BISHOP of New York, Mrs. LOWEY, Mr. GEORGE MILLER of California, Mrs. MCCARTHY, Ms. SLAUGHTER, Mr. FOSSELLA, Mr. MEEKS of New York, Mr. TOWNS, and Ms. VELÁZQUEZ):

H. Con. Res. 484. Concurrent resolution commending The New York Institute for Special Education for providing excellent education for students with blindness and visual disabilities for 175 years, and for broadening its mission to provide the same quality education to students with emotional and learning disabilities; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself and Mr. LARSON of Connecticut):

H. Con. Res. 485. Concurrent resolution expressing the sense of the Congress that there should be established a Let's All Play Day; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. PITTS, and Mr. MCINTYRE):

H. Con. Res. 486. Concurrent resolution expressing the sense of Congress that the Government of Turkmenistan should take immediate steps to improve its respect for human rights and democratic practices, in keeping with its international commitments and obligations; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. HINCHEY, Mr. VAN HOLLEN, Ms. WATERS, Mr. WEXLER, Mr. HONDA, Ms. JACKSON-LEE of Texas, Mrs. MALONEY, Ms. CORRINE BROWN of Florida, Mr. PASTOR, Mr. WEINER, Mrs. CAPPS, Mr. RUSH, Ms. ZOE LOFGREN of California, Mr. OLVER, Mr. GRIJALVA, Ms. LINDA T. SÁNCHEZ of California, Mr. SCHIFF, Mrs. CHRISTENSEN, Ms. WOOLSEY, Ms. LEE, Mr. PAYNE, Ms. SCHAKOWSKY, Mr. DAVIS of Illinois, Ms. WATSON, Mr. STARK, Mr. LEWIS of Georgia, Mr. FRANK of Massachusetts, Mr. DEFAZIO, Mr. MARKEY, Ms. NORTON, Mr. EVANS, Mr. SERRANO, Ms. BALDWIN, Mr. DELAHUNT, Mr. FARR, Mr. MCGOVERN, Mr. MEEHAN, Mr. OWENS, Mr. ACKERMAN, Ms. MOORE of Wisconsin, Ms. KILPATRICK of Michigan, Mr. THOMPSON of Mississippi, Mr. BLUMENAUER, Mr. MCDERMOTT, and Mr. BERMAN):

H. Res. 1043. A resolution directing the Director of National Intelligence to submit to the House of Representatives not later than 14 days after the date of the adoption of this resolution, in unclassified form, all documents in the possession of the Director concerning the impact of the war in Iraq on terrorism and terrorist threats, including a National Intelligence Estimated entitled "Trends in Global Terrorism: Implications for the United States" dated on or about April, 2006, and any other actual or pending National Intelligence Estimates concerning Iraq; to the Committee on Intelligence (Permanent Select).

By Mr. ACKERMAN (for himself, Mr. LANTOS, and Mr. HASTINGS of Florida):

H. Res. 1044. A resolution calling for the immediate and unconditional release of Israeli soldiers held captive by Hamas and Hezbollah, and for other purposes; to the Committee on International Relations.

By Mr. HONDA (for himself, Mr. EVANS, Mr. LIPINSKI, Mr. MCDERMOTT, Mr. HYDE, Ms. SCHAKOWSKY, Mr. JACKSON of Illinois, Ms. ZOE LOFGREN of California, Mr. TOWNS, Mr. BRADY of Pennsylvania, Mr. CONYERS, Mr. GONZALEZ, Mr. WYNN, Mr. SCHIFF, and Ms. MATSUI):

H. Res. 1048. A resolution honoring the courageous actions of Minnie Vautrin during the Rape of Nanking during World War II; to the Committee on Government Reform.

By Mr. ORTIZ (for himself, Mr. HALL, Mr. AL GREEN of Texas, Mr. PAUL, Mr. HINOJOSA, Mr. REYES, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, Mr. GONZALEZ, Mr. DOGGETT, Mr. CUELLAR, Mr. GENE GREEN of Texas, and Ms. EDDIE BERNICE JOHNSON of Texas):

H. Res. 1049. A resolution recognizing Ann Richards' extraordinary contributions to Texas and American public life and offering condolences on her passing; to the Committee on Government Reform.

By Ms. SOLIS (for herself, Mrs. CAPPS, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. PELOSI, Ms. NORTON, Ms. WASSERMAN SCHULTZ, Mrs. TAUSCHER, Mrs. MALONEY, Ms. SCHAKOWSKY, Ms. DELAURO, Mrs. MCCARTHY, Ms. BALDWIN, Mrs. DAVIS of California, Ms. ZOE LOFGREN of California, Ms. MATSUI, Mrs. NAPOLITANO, Ms. DEGETTE, Ms. SLAUGHTER, Ms. MCCOLLUM of Minnesota, and Ms. KAPTUR):

H. Res. 1050. A resolution honoring the life and accomplishments of the late Ann Richards, former Governor of Texas; to the Committee on Government Reform.

By Mr. WALSH (for himself, Mr. UDALL of Colorado, Mr. ENGLISH of Pennsylvania, Mr. ROHRABACHER, Mr. BURTON of Indiana, Mr. MCCOTTER, Mr. KOLBE, Mr. FRANK of Massachusetts, Mr. WOLF, Ms. BORDALLO, and Mr. BAIRD):

H. Res. 1051. A resolution expressing support for democracy in Nepal that will require the full participation of the people of Nepal in the political process to hold elections for a constituent assembly and draft a new constitution and calling upon the Communist Party of Nepal-Maoist to adhere to commitments it has made and to respect human rights; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. DOGGETT.

H.R. 97: Ms. BORDALLO.

H.R. 379: Mr. JACKSON of Illinois.

H.R. 450: Mr. CALVERT.

H.R. 517: Mr. MCCAUL of Texas and Mr. HALL.

H.R. 583: Mr. HASTINGS of Florida and Ms. MILLENDER-MCDONALD.

H.R. 602: Mr. JENKINS.

H.R. 611: Ms. JACKSON-LEE of Texas.

H.R. 615: Mr. JACKSON of Illinois and Mr. MORAN of Kansas.

H.R. 772: Mr. WAXMAN and Mr. HIGGINS.

H.R. 874: Mr. NEUGEBAUER, Mr. ISTOOK, Mr. KNOLLENBERG, Mr. STEARNS, and Mr. SHUSTER.

H.R. 898: Mr. FILNER.

H.R. 910: Mr. MORAN of Virginia and Mr. HOLDEN.

H.R. 994: Mr. BILBRAY and Ms. BORDALLO.

H.R. 998: Mr. RUPPERSBERGER.

H.R. 1002: Mr. BOUCHER and Mr. MURPHY.

H.R. 1275: Mr. PRICE of North Carolina.

H.R. 1298: Ms. MILLENDER-MCDONALD and Mr. FOSSELLA.

H.R. 1366: Ms. BORDALLO.

H.R. 1376: Mr. GENE GREEN of Texas, Ms. ESHOO, Mr. DEFAZIO, Mr. LYNCH, Ms. SCHWARTZ of Pennsylvania and Mr. FARR.

H.R. 1498: Mr. DENT.

H.R. 1687: Mr. MEEKS of New York.

H.R. 1902: Mr. RYAN of Ohio, Mr. MARKEY, Mr. CONYERS, and Mr. BISHOP of New York.

H.R. 1951: Mr. SWEENEY, Mr. GENE GREEN of Texas, and Mr. BILBRAY.

H.R. 2014: Mr. MCCOTTER.

H.R. 2051: Ms. KILPATRICK of Michigan.

H.R. 2230: Mr. Foley.

H.R. 2421: Mr. Chandler, Mr. Poe, Mr. Hunter, Mr. Pombo, Mr. Farr, and Ms. Lee.

H.R. 2533: Mr. Olver.

H.R. 2642: Mr. Smith of Washington.

H.R. 2842: Mr. Kirk.

H.R. 2861: Mr. Dent.

H.R. 3111: Mr. Murphy.

H.R. 3186: Mr. Boucher.

H.R. 3326: Mr. Conyers.

H.R. 3427: Mr. Holt and Ms. Lee.

H.R. 3466: Mr. Nussle.

H.R. 3498: Mr. Goodlatte.

H.R. 3559: Mr. Pallone, Mr. Holt, and Mr. Davis of Kentucky.

H.R. 3616: Mr. Olver.

H.R. 3628: Ms. Woolsey.

H.R. 3875: Mr. Udall of Colorado and Mr. Spratt.

H.R. 3931: Mr. Jackson of Illinois.

H.R. 3954: Mr. Berman.

H.R. 4201: Mr. Grijalva.

H.R. 4293: Mr. Lantos, Mr. George Miller of California, and Ms. Zoe Lofgren of California.

H.R. 4341: Mr. Ford.

H.R. 4469: Mr. Meehan.

H.R. 4547: Mr. Sullivan.

H.R. 4597: Mr. Hensarling, Mr. Gillmor, Ms. Matsui, Mr. Pickering, Mr. Ruppersberger, Mr. Salazar, Mr. Crowley, Mr. Boyd, Mr. Israel, Mr. Holden, Mr. Matheson, Mr. Melancon, and Mr. Taylor of Mississippi.

H.R. 4751: Mr. Holt.

H.R. 4800: Mr. Jackson of Illinois.

H.R. 4806: Mr. Holt.

H.R. 4824: Mr. Simmons.

H.R. 4873: Mr. Larson of Connecticut.

H.R. 4903: Mr. Tom Davis of Virginia.

H.R. 4925: Ms. Woolsey.

H.R. 4949: Mr. Sweeney.

H.R. 5011: Mr. Kucinich.

H.R. 5014: Mr. Moore of Kansas.

H.R. 5088: Mr. Serrano and Mr. Grijalva.

H.R. 5099: Mr. Boswell and Mr. Hall.

H.R. 5120: Mr. Feeney.

H.R. 5139: Mr. Meehan.

H.R. 5200: Mr. Boucher and Mr. Larson of Connecticut.

H.R. 5242: Mr. Lewis of Kentucky and Mr. Hall.

H.R. 5280: Mr. Holden.

H.R. 5310: Mrs. Miller of Michigan.

H.R. 5312: Mr. Camp of Michigan.

H.R. 5345: Mr. Stark.

H.R. 5362: Mr. Ford.

H.R. 5363: Mr. Hall, Mr. Peterson of Minnesota, Mrs. Cubin, Mr. Thornberry, and Mr. Pomeroy.

H.R. 5437: Mr. Peterson of Minnesota, Mr. McHugh, Mr. Jefferson, Ms. Bordallo, Mr. Davis of Kentucky, and Mr. Goode.

H.R. 5465: Mr. Saxton.

H.R. 5472: Mr. Burgess and Mr. Camp of Michigan.

H.R. 5479: Mr. Platts.

H.R. 5513: Mr. Dent and Mr. Mollohan.

H.R. 5624: Mr. Ferguson.

H.R. 5642: Mrs. Lowey, Mr. Brady of Pennsylvania, Mr. Evans, Mr. Emanuel, and Ms. DeLauro.

H.R. 5660: Mr. Davis of Alabama, Mr. Bishop of Georgia, and Mr. Boren.

H.R. 5671: Mr. Boren.

H.R. 5674: Mr. Watt.

H.R. 5688: Mr. Scott of Georgia.

H.R. 5703: Mr. Ford.

H.R. 5740: Mr. Weldon of Pennsylvania.

H.R. 5746: Mr. Price of North Carolina and Mr. Grijalva.

H.R. 5755: Mr. Fortenberry.

H.R. 5771: Mr. Boucher, Mr. Ryan of Ohio, Ms. Waters, Ms. Eshoo, Mr. Butterfield, Mr. Davis of Florida, Mr. Sanders, Mr. Costello, Mrs. Tauscher, Ms. Hooley, Mr. Rahall, Mr. Higgins, Ms. Norton, Mr. Levin, Mr. Cuellar, and Mr. Kildee.

H.R. 5772: Mr. Bartlett of Maryland.

H.R. 5784: Mr. Honda and Ms. Corrine Brown of Florida.

H.R. 5791: Mr. Kildee.

H.R. 5834: Mr. Olver, Mr. Doggett, Ms. Millender-McDonald, and Mr. Leach.

H.R. 5862: Mr. Issa.

H.R. 5875: Ms. McCollum of Minnesota.

H.R. 5890: Mr. Goodlatte.

H.R. 5900: Mr. Wolf.

H.R. 5906: Mr. Kline and Ms. McCollum of Minnesota.

H.R. 5916: Mr. Meehan.

H.R. 5965: Mr. Honda, Mr. Doggett, and Mr. Bishop of Georgia.

H.R. 5991: Mr. Grijalva and Ms. Lee.

H.R. 6008: Mr. Hinojosa.

H.R. 6011: Mr. Terry, Ms. Berkley, and Mr. Rehberg.

H.R. 6038: Mr. Grijalva and Mr. Weldon of Florida.

H.R. 6046: Ms. Velázquez, Ms. Solis, Ms. Matsui, Mr. Filner, Mr. Lantos, Mr. George Miller of California, Ms. Eshoo, Mr. Markey, Mr. Neal of Massachusetts, Ms. Slaughter, Mr. Stark, Ms. Corrine Brown of Florida, Ms. Jackson-Lee of Texas, Mr. Pallone, Mr. Oberstar, Mr. Holt, Mr. Andrews, Mr. Pascrell, and Ms. DeLauro.

H.R. 6057: Mr. Dreier, Mr. Goodlatte, Mr. Stearns, Mr. Westmoreland, Mr. Rehberg, Mr. Doolittle, Mr. English of Pennsylvania, Mr. Bonner, Mr. Cannon, Mr. Norwood, Mr. Foley, Mr. Kennedy of Minnesota, Mr. Campbell of California, and Mr. Upton.

H.R. 6067: Mr. Price of North Carolina, Ms. Carson, Ms. McCollum of Minnesota, Mr. Pascrell, and Mr. Doyle.

H.R. 6083: Mr. Rangel, Mr. Stark, Mr. Grijalva, and Mr. Scott of Virginia.

H.R. 6092: Mr. Pearce.

H.R. 6097: Mr. Sullivan and Mr. Ruppersberger.

H.R. 6107: Ms. Millender-McDonald and Mr. Conyers.

H.R. 6122: Mr. Brown of Ohio.

H.R. 6124: Mr. Serrano and Mr. Grijalva.

H.R. 6132: Mr. Tanner, Mr. Stark, Mr. Kennedy of Rhode Island, Mrs. McCarthy, Mr. Norwood, Mr. Gene Green of Texas, Mr. Kuhl of New York, Mr. Foley, and Mr. Cardoza.

H.R. 6135: Mr. Reynolds, Mr. Cardoza, Mr. Doyle, and Mr. Holden.

H.R. 6136: Mr. Manzullo, Mr. Sessions, Mr. Regula, Mr. Walden of Oregon, Mr. Hulshof, Mr. Shadegg, Ms. Foxx, Mr. Daniel E. Lungren of California, Mr. Leach, Mr. McCaul of Texas, Mr. Gutknecht, Mr. Johnson of Illinois, Mr. English of Pennsylvania, Mr. Dent, Mr. Camp of Michigan, Mrs. Capito, Mr. Gingrey, Mr. Marchant, Mr. Peterson of Pennsylvania, Mr. Green of Wisconsin, Mr. Bonilla, Mr. Neugebauer, Mr. Graves, Mr. Beauprez, Mr. LaTourette, Mr. Boehner, Mr. Ferguson, Mr. Radanovich, Mr. McHugh, Mr. Pence, Mr. Reichert, Mr. Terry, Mr. King of New York, Mr. Turner, Mr. Knollenberg, Mr. Schwarz of Michigan, Mr. McIntyre, and Mr. Deal of Georgia.

H.R. 6137: Mr. Sam Johnson of Texas.

H.R. 6140: Mr. Waxman, Mr. Wynn, Mr. Gonzalez, Mr. McNulty, Ms. Berkley, Mrs. Maloney, Mr. Farr, and Mr. Rush.

H.R. 6144: Mr. Moran of Virginia.

H.R. 6149: Mr. Jefferson, Mr. Payne, Mr. Butterfield, Mrs. Jones of Ohio, Mrs. Christensen, Mr. Owens, Mr. Thompson of Mississippi, Mr. Scott of Virginia, Mr. Clay, Mr. Clyburn, Ms. Eddie Bernice Johnson of Texas, Mr. Rush, and Ms. Watson.

H.R. 6169: Mr. Goodlatte, Mr. Hayes, Mrs. Jo Ann Davis of Virginia, Mr. Neugebauer, Mr. Franks of Arizona, Mr. Kennedy of Minnesota, Mr. Wilson of South Carolina, Mr. Fortuño, Mr. Burton of Indiana, Mr. Pearce, Mr. Garrett of New Jersey, Mr. Rohrabacher, Mr. McHenry, Mr. Marchant, and Mr. Ryan of Wisconsin.

H.R. 6175: Mrs. McCarthy and Mr. Gerlach.

H.R. 6191: Mr. Hinchey, Mr. Rush, Mr. Garrett of New Jersey, Ms. Slaughter, Ms. Eshoo, Mr. Crowley, Mr. Ackerman, Mr. Higgins, Mr. Stark, Mr. Doggett, Mrs. Maloney, Mr. Towns, Mr. Meehan, Mr. Abercrombie, Mr. Thompson of Mississippi, Ms. Lee, and Mrs. Davis of California.

H.R. 6193: Ms. Matsui, Mrs. Drake, Mr. Filner, and Mr. Upton.

H.R. 6195: Mr. Hall.

H. Con. Res. 222: Mr. Weldon of Pennsylvania, Mr. Wynn, and Mr. Ortiz.

H. Con. Res. 346: Mr. Chabot.

H. Con. Res. 396: Mr. Kucinich.

H. Con. Res. 434: Mr. Waxman, Ms. Kilpatrick of Michigan, and Mr. Stark.

H. Con. Res. 469: Mr. Thompson of Mississippi and Mr. Gonzalez.

H. Con. Res. 473: Mr. Cummings.

H. Con. Res. 479: Mr. Young of Alaska.

H. Con. Res. 482: Mr. King of Iowa.

H. Res. 496: Mr. Berman and Mr. Hastings of Florida.

H. Res. 787: Ms. Moore of Wisconsin, Mr. George Miller of California, Ms. Woolsey, Mr. Kucinich, Mr. McDermott, and Mr. Berman.

H. Res. 944: Ms. Kilpatrick of Michigan, Mr. Kildee, and Ms. Millender-McDonald.

H. Res. 962: Mr. Smith of New Jersey.

H. Res. 964: Mrs. Davis of California, Mr. Tiberi, Mr. Boswell, and Mr. Kildee.

H. Res. 988: Mr. Gonzalez, Mr. Brady of Texas, Mrs. Myrick, Mr. McHenry, Mr. Gohmert, Mr. Hostettler, Mr. Rohrabacher, Mr. Gutknecht, Mr. Marchant, Mr. Burton of Indiana, Mr. Garrett of New Jersey, Mr. Bishop of Utah, Mr. Cantor, and Mr. Akin.

H. Res. 1006: Mr. Grijalva.

H. Res. 1008: Mr. Smith of Washington.

H. Res. 1033: Mr. Linder, Mr. Marshall, and Mr. Foley.

EXTENSIONS OF REMARKS

TRIBUTE TO LONNIE JACKSON

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to honor a great man who led many causes on prominent issues in Columbus, GA. At the age of 77, Mr. Lonnie Jackson died from stomach cancer. He served his community and his country throughout his entire life, all the while, blazing new trails for those who would follow him.

Born in Talladega, Alabama in 1929, Mr. Jackson came into the world the same year as the great Dr. Martin Luther King. The son of a road worker and a domestic worker, Jackson knew nothing but hard work. His parents instilled in him the notion that to accomplish anything you had to work for it. And that he did. Even at an early age, Jackson deemed it necessary to get involved in the issues of the community. He stated, "We were trained to be a good citizen."

In 1946 Mr. Jackson, with patriotism at the forefront, entered the army after finishing the tenth grade, and later went on to earn his GED in the military. He served overseas in the Korean War and remained in the service until completion of his two tours in Vietnam in 1972. He credits the army for teaching him leadership, discipline, and patriotism. After retirement, he began a successful civilian career working at Dolly Madison and Swift Textiles. Twenty years after leaving the Army, he earned an associate's degree from Chattahoochee Valley Community College, and later a bachelor's degree in criminal justice from Troy University.

Whether education issues, litter control, voting rights, civil rights, or supporting the military, Jackson was always the front-runner when it came to championing these important issues. For example, while still in the military, he noticed a problem with litter and organized various clean-ups as early as 1961. Voting was another campaign that he held close to his heart. "Voting is important," he said. "It's the best way to let your voice be heard. And, despite what some might say, it does make a difference." Although environmental issues and voting were very important to Lonnie Jackson, nothing compared to his passion for education. He was also responsible for organizing a tutorial program which has helped more than 23,000 children and is still counting. The tutoring sessions are designed to help students keep pace with their classes. Countless students who went through the program went on to make better grades in school and higher scores on standardized tests.

Mr. Lonnie Jackson leaves behind his daughter Lonya Jackson-Sardenas and her son Devarious Jackson, as well as his half-brother, Turner Jackson and his wife of two years, Betty Jackson. When asked what lessons she learned from her father, Lonya replied, "Always care for others, always follow your dreams, and if something needs to be done, don't sit back and wait for others. Go and do it."

Today, we thank and honor the late Mr. Lonnie Jackson for his dedication and lifelong commitment to the welfare of others and his community. His lifetime of altruistic care-giving has made him a legend in our community and an inspirational figure for us all.

TRIBUTE TO MR. HERBERT "HERB" TEICHMAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Mr. Herbert "Herb" Teichman of Eau Claire, Michigan, who will be honored this morning by the National Oceanic and Atmospheric Association, NOAA, and the National Weather Service for his decades of service as a volunteer weather observer. Mr. Teichman is one of 25 individuals across the nation who will receive the John Campanius Holm Award. The award's namesake, John Campanius Holm, was the first known person known to have taken systematic weather observations in 1644 and 1645. Through an act of Congress in the 1890s, the first comprehensive networks of cooperative stations were created consequently establishing the U.S. Weather Bureau.

Weather observation has been a long tradition in the Teichman family. Herb's father, William, established the Eau Claire site in 1923 in order to benefit the family's fruit business. On August 1, 1968, Herb assumed his father's daily duties and continues to serve the NOAA and NWS to this day. Herb's distinguished 38 years of service not only demonstrate his unparalleled commitment, but the fact that he continues to volunteer demonstrates his great character. He has braved severe weather through the decades, from 30 inch snow days to oppressive heat and humidity. His records have been praised for their detail and organization and have been essential for scientists studying floods, droughts, and heat and cold waves. His observations have also played a vital role in supporting economic and national security by the prediction and exploration of weather and climate-related events.

Mr. Teichman is a caring and dedicated servant of Michigan. I would like to extend my thanks to him for all of his good work and wish him congratulations upon receiving this prestigious award. Today, Mr. Teichman joins the illustrious ranks of past Holm awardees, including his father, for his commitment and dedication to weather observation.

IN MEMORY OF CHARLES GAINES

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BURGESS. Mr. Speaker, I rise today to remember Charles Gaines, the 49-year-old Fire Chief for the city of Fort Worth.

I was blessed with meeting the Fire Chief several times during his 4-year tenure as Chief of the Fort Worth Fire Department. The commitment and dedication he showed to his profession was evident from the moment we met. Under his leadership, Chief Gaines was accountable for oversight of the 745 Fire fighters that compose the Fort Worth Fire Department. As Fire Chief he also oversaw the department's response to over 57,000 incidences annually in the city of Fort Worth

Before serving as the Fire Chief of Fort Worth, Mr. Gaines served in the United States Air Force as a fire protection specialist. He worked on crash-rescue teams at various Air Force bases until his promotion to Air Force assistant chief. After receiving an honorable discharge from the Air Force in 1980, he continued his career as a member of the Oklahoma City Fire Department in 1981.

During the 1995 bombing of the Murrah Federal Building in Oklahoma City, Chief Gaines served as the fire department's operations safety officer. His service and leadership during this national tragedy ensured that the first responders and civilians were informed and received all medical attention necessary.

His detail-oriented approach to problems within the department ensured that issues were addressed the first time around. After earning his Masters Degree in Business Administration from Oklahoma City University, Chief Gaines incorporated efficient management techniques throughout the Fort Worth Fire Department. This management style allowed him to incorporate and encourage innovation and alternative thinking; Chief Gaines was able to initiate solutions that would more effectively safeguard the citizens of Fort Worth, while saving tax dollars in the process.

His leadership, professionalism and dedication will not be forgotten in the City of Fort Worth or Oklahoma City. Mr. Gaines' devotion to his career and his fellow officers was absolute, and his service to the Fort Worth community will be deeply missed.

CONGRATULATING MR. DENNIS HAHN

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. AKIN. Mr. Speaker, I rise today to recognize and honor one of my constituents, Mr.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Dennis Hahn, who has received a Certificate of Merit from the Freedoms Foundation. The Freedoms Foundation is a non-profit organization dedicated to teaching young people the principles upon which our nation was founded. They work to convey the close link between the rights and the responsibilities of citizens in society.

Among other things, Dennis was recently nominated for the Freedoms Foundation "George Washington Honor Medal" because of his love of history in general and admiration for President Washington specifically. In a letter endorsing Dennis, James Cale, Superintendent for the City of St. Charles School District, summed up this way why he should be considered for the award:

"[T]he highest compliment I am able to pay Mr. Hahn and to his consideration for the George Washington Honor Medal is a simple one. I would like to be more like Dennis. His level of personal commitment, his ability to focus on service to others . . ." and the way "he leads his life with a total aura of personal humility" is a "model to my children, my friends and me."

Elected in 1999, Dennis is currently the Board of Education President for the City of St. Charles School District located in my congressional district. His wife, Shirley, is a teacher in St. Charles.

I am honored to have the opportunity to recognize Dennis Hahn and congratulate him for receiving this Certificate of Merit from the Freedoms Foundation.

IN HONOR OF MRS. BETTY J. ALLEN—ON HER RETIREMENT

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to honor a great public servant from the State of Georgia, on her retirement after 40 years of service in the Internal Revenue Service—Mrs. Betty J. Allen. Mrs. Allen oversees the Taxpayer Advocate Service for Georgia, providing assistance to our residents who may have problems with their tax filings.

Mrs. Allen and I have known each other for many years. We have worked together as recently as last year when she provided advice and assistance to my office in holding a series of town hall meetings on the Earned Income Tax Credit and the Child Tax Credit.

A Georgia native, Mrs. Allen attended Clark College, then assumed her initial position with the IRS in 1967. Throughout her four decades at the IRS, she has worked in a variety of capacities—including as a Management Analyst, a Problem Resolution Officer, and as the national coordinator for the Case Resolution Program. Mrs. Allen has also served on several special assignments, including the Service Center, Regional and National Office Task Forces, as Instructor for special training classes, on Quality Improvement Teams, and as Advisor to the District Director's Liaison Committee.

Throughout her career, she has served the IRS and the American people admirably and with distinction. We wish her well, and know that she moves into retirement, and on to other productive and fulfilling endeavors.

TRIBUTE TO MR. ROY JOHNSON

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to the illustrious career of Mr. Roy Johnson, who is retiring from the Federal Bureau of Investigations after serving 23 years with great distinction. Mr. Johnson first came to our corner of Michigan in 1985 when he was assigned to the Federal Bureau of Investigation's Detroit Division in St. Joseph, Michigan. During his initial years of service, he was responsible for a wide range of investigative duties ranging from abductions and bank fraud-embezzlements to homicide and Presidential appointment research.

In 1986, Special Agent Johnson was appointed to manage, direct, and coordinate participation throughout Michigan with the National Center for the Analysis of Violent Crime. This unit has received worldwide praise for its excellence in crime scene assessment/profiling and threat analysis. Special Agent Johnson's vision has extended beyond his assigned duties and I commend him for establishing multiagency partnerships which have allowed for various resources to be shared during complex investigations.

Roy has continually gone above the call of duty and acted for the betterment of our community. He has taught numerous law enforcement programs and lectured to public and civic organizations throughout the state of Michigan.

Johnson's knowledge and professionalism have led others to call on him to testify before Federal and State courts, Federal Grand Juries, and Congressional committees. Moreover, he has received various Congressional, regional, and departmental awards for his investigations and service.

I am proud to call Roy Johnson a friend and thank him for his many years of selfless service. His contributions to law enforcement have made community and great national a safer place. We are all better off for Roy's distinguished career in the FBI.

CONGRATULATING MRS. JUNE LANZ

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. AKIN. Mr. Speaker, I rise today to recognize and honor one of my constituents, Mrs. June Lanz. June has been selected as the 2006–2007 Freedoms Foundation—Missouri (St. Louis) Chapter "Spirit of '76—Patriot". The Freedoms Foundation is a non-profit organization dedicated to teaching young people the principles upon which our Nation was founded. They work to convey the close link between the rights and the responsibilities of citizens in society.

June is a thirty-nine-year member of the National Society Daughters of the American Revolution, DAR. As State Regent of the Missouri State Society DAR, June successfully placed the 1809 Cold Water Cemetery on the U.S. Department of the Interior's Register of Historic Places and restored and rededicated the Madonna of the Trail Statue in Lexington, Missouri.

June is a member of the Missouri Historical Society, the Freedoms Foundation of Valley Forge and a Friend of the St. Louis Art Museum. She has published a history of Missouri State Society Daughters of the Revolution, which includes American Revolutionary Patriots reported buried in Missouri. She has provided this to the National Society DAR and other research facilities.

Married fifty-five years, June and her husband, George Lanz, have four daughters and seven grandchildren.

As one who has a deep and abiding love for American history and the Patriots who have gone before us, I want to thank June Lanz for her commitment to preserving our history and congratulate her for being selected 2006–2007 "Spirit of '76—Patriot".

RECOGNIZING THE DENTON COMMUNITY SYMPOSIUM ON HIV/AIDS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize participants and sponsors of the Community Symposium on "The Silent Killer in African American Families" in Denton, TX.

This event explores several topics regarding the HIV/AIDS epidemic in African American communities. It provides citizens with answers concerning HIV/AIDS and presents support networks for families struggling with this terrible disease.

The effects of HIV and AIDS can be devastating to communities. To prevent further infection among our citizens, it is vital that programs such as this community symposium exist. With Congress's recent reauthorization of the Ryan White Care Act, funding for both treatment and prevention programs can continue.

Mr. Speaker, I am pleased to recognize the Community Symposium for HIV/AIDS awareness in Denton County for their continuing commitment to AIDS prevention and treatment. The participants and sponsors that provide support to the AIDS/HIV symposium are crucial components in the fight against this worldwide epidemic.

FISHING REGULATION CALLS FOR BETTER DATA, NOT MORE RIGIDITY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FRANK of Massachusetts. Mr. Speaker, as we prepare in the post-election session to deal with legislation involving the management of our fisheries, particularly the bill cosponsored by the gentleman from California, the chairman of the Natural Resources Committee, Mr. POMBO, and myself, it is important for Members to get information on these issues from people who fully understand them.

I know of no one in the country who is better informed or has better judgment on how to proceed than Dr. Brian Rothschild. He is the Montgomery Charter Professor of Marine Science at the University of Massachusetts at Dartmouth, and the former head of the school's School of Marine Science and Technology. Indeed, UMass lost a little bit of his time and his administrative leadership of that school when the newly elected mayor of New Bedford, Scott Lang, understandably prevailed upon Dr. Rothschild to come to work for him as a policy advisor. Mayor Lang is an energetic and thoughtful mayor dedicated to among other things, protecting the important fishing industry in that city, and it is for that reason that he wisely chose Dr. Rothschild as his advisor.

In my own work on fishing I have relied heavily on his advice because it has proven accurate in a number of cases. He points out here that better information is an essential element in sensible regulation. As Dr. Rothschild says in the article recently published by him on this subject in the New Bedford Standard Times, we need significant improvements in the data we gather about fish, in part to "send a signal to Congress that the real conservation and management of fishery stocks lies in developing the technical underpinnings to determine major uncertainties that we have on how fish interact with fishing and the changing ocean environment. This would be so much better than the cant characterizations of the fishing industry by some conservation groups. And finally, consideration of uncertainty points toward the need of investing fishery management regulations with the flexibility contemplated in the Pombo-Frank bill."

Mr. Speaker, Brian Rothschild's experience, wisdom and judgment are greatly needed as we prepare to return in November to debate the important issues involved in the fishing legislation, and I ask that his thoughtful analysis be printed here. It originally appeared in the New Bedford Standard Times, which has done a very good job of covering these issues, on September 21.

The fisheries of Massachusetts are economic engines for the ports of New Bedford, Gloucester and Cape Cod. New Bedford is the number one port in the nation. In this respect, the future is bright.

Yet clouds loom on the horizon. While many stocks are increasing in abundance or are at historically high levels, other stocks have declined. The management actions undertaken to conserve the stocks seem lax to some, but to others the actions seem overly stringent and difficult to understand. There is no question that regulations are generating economic hardship (losses of tens of millions of dollars) and waste, even in the number one port in the nation. Evidently, no stock is optimally fished. Stocks are either overfished or underfished and a substantial bycatch is thrown overboard because of regulations that mandate waste.

Improving management decisions, building confidence in regulations, and reducing bycatch in a biological and economically sustainable way require better information on the status of the stocks. At least three areas require significant improvement:

(1) understanding the interactions among species or stocks, (2) understanding the role of the ocean environment in causing fish stock fluctuations, and (3) systems technology to develop new sensors for counting fish and accelerating the flow of data.

Regarding the interactions among species, all fisheries are in a sense multi-species fisheries. The groundfish or dragger fishery encounters perhaps fifty species of fish. It is not unusual to have ten species on deck in a single tow. The scallop fishery appears to be a single species fishery, but in reality scallop fishery is regulated to some extent by the amount of yellowtail flounder taken in the scallop dredges. Haddock appear occasionally in herring nets. Some scientists believe that herring eat cod eggs. Rebuilding predatory species like striped bass affects their prey species. Interactions such as these need to be better understood. Until we do, our options for management will be limited as we continue to assume that all species can be rebuilt to their historical maximum abundance at the same time, which flies in the face of standard ecological theory.

The effects of the environment are ignored in developing management decisions. It is clear from the historical record that the ocean environment plays a powerful role in modulating the abundance of fish populations. Ignoring this leads to the mistaken notion that any time a stock decreases, the cause is overfishing, while any time a stock increases, the cause is successful management. The role of the environment is typically ignored in fishery stock assessments. Without such understanding, it is misleading to set rebuilding schedules and to think about mid- to long-term management strategies that match the scale of capital investment time horizons used in the fishing industry. There is even a greater imperative now that climate variability must be affecting the population of stocks even though we do not understand, even in an approximate way, the nature of this impact.

Given the substantial shortfalls in scientific understanding, the present system for obtaining data from the fishing fleets and the technology used to measure the abundance of fish is archaic. New systems need to be developed to deliver data to scientists and managers as well as the development of techniques to measure fish abundance that depend on electronics and optics rather than outmoded prone-to-error fishing nets.

The articulation of these concerns has a function beyond catharsis. It identifies areas that National Oceanic and Atmospheric Administration Fisheries needs to address to improve fisheries management as NOAA and 21 other federal agencies move forward in an attempt to develop a coherent ocean plan for the nation. The articulation also sends a signal to Congress that the real conservation and management of fishery stocks lies in developing the technical underpinnings to determine major uncertainties that we have on how fish interact with fishing and the changing ocean environment. This would be so much better than the cant characterizations of the fishing industry by some conservation groups. And finally, consideration of uncertainty points toward the need of investing fishery management regulations with the flexibility contemplated in the Pombo-Frank bill.

Having said all of this, it is important to remember that the regulation of fisheries is not analogous to designing a better governor for a gasoline engine or a valve to regulate water flow. A critical element is the livelihood and well being of the men and women that catch and process the fish. It is important to them of course, but it is as important to the welfare of the entire community.

Significant steps forward are being made in developing the ideas of cooperative research. The UMass Dartmouth School for Marine Science and Technology has pioneered cooperative work with the fishing industry on cod tagging, scallop stock assessments, and study fleets all with incredibly strong support from the fishing industry. These efforts are now bearing fruit at the Massachusetts Marine Fisheries Institute that includes the partnership between the University of Massachusetts, principally SMAST, the state Division of Marine Fisheries, and NOAA Fisheries. Fostering the next generation of fishery scientists in an educational environment of cooperative research will promote the advancement of our science through collaboration with fishermen.

IN RECOGNITION OF SPECIALIST CONRAD STREETER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BURGESS. Mr. Speaker, I rise today to commend Specialist Conrad Streeter, Texas Army National Guard, for receiving Soldier of the Year award. He has also received awards for Soldier of the year for the 1st Battalion, 71st Brigade, and 36th Infantry Division.

To receive the award, Specialist Streeter competed in several events including; an M–16 rifle marksmanship event, a physical fitness test, completing land map day and night courses, and a written test comprised of 50–70 questions.

Specialist Streeter has served with the Texas Army National Guard for the past 4½ years. His job as a personnel Sergeant is a vital component to ensure deploying troops have the things they need before heading oversees. Specialist Streeter has also been serving and deployed to Romania and the Louisiana coast line to help in the aftermath of Hurricane Katrina.

In civilian life Specialist Streeter works for the Lewisville Independent School District teaching both science and mathematics. The State of Texas is blessed to have an individual such as Specialist Streeter serving not only in our armed forces, but as a teacher in our community.

I extend my sincere congratulations to Specialist Conrad Streeter for receiving the Soldier of the Year Award for the Texas Army National Guard. His contributions and service are a shining example to us all, and I am honored to be his representative in Washington.

COMMENDING THE VILLAGE OF MINEOLA, NY ON THE ONE HUNDREDTH ANNIVERSARY OF ITS INCORPORATION

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mrs. McCARTHY. Mr. Speaker, I rise today to commemorate the one hundredth anniversary of the incorporation of Mineola, NY, my hometown.

I've lived in Mineola for over 50 years and I am proud to be a part of its centennial celebration.

The Village of Mineola was originally part of the land claimed by Henry Hudson for the Dutch East India Tea Company. in 1609 and was settled by farmers in 1637. On June 12, 1858, the area was first called "Mineola," derived from the Algonquin word "Meniolagamika" which means "a friendly or pleasant village."

Mineola has been the proud home of Nassau County's government since 1900, when New York Governor Theodore Roosevelt laid the corner stone of the county courthouse on the corners of Old Country Road and Franklin Avenue.

Since its incorporation, Mineola has been a center of culture and commerce for people from all of Long Island throughout its history. Today, Mineola is home to more than 20,000 residents, a thriving local economy and a strong sense of history and community.

Mineola has changed since my family arrived, but progress hasn't changed the spirit of its people. The fact that so many who grew up in Mineola end up raising their own children there is a testament to what a special place my hometown is.

Mr. Speaker, I ask that the entire House join me in congratulating the Village of Mineola on its first 100 years of incorporation. Happy Birthday, Mineola.

PERSONAL EXPLANATION

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. POMBO. Mr. Speaker, I was unable to vote today on the House floor. I take my responsibility to vote very seriously.

Had I been present, I would have voted "yea" on Rollcall No. 454.

RECOGNIZING HAYWOOD HARRIS AND GUS MANNING FOR THEIR DEDICATION TO TENNESSEE FOOTBALL

HON. JOHN J. DUNCAN, JR

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. DUNCAN. Mr. Speaker, Haywood Harris and Gus Manning, two longtime friends of mine, host what is now the longest-running continuous sports radio program in America.

Their program is called "The Locker Room" and gives a scouting report on Tennessee's football opponent and a rundown of the day's other Southeastern Conference football games.

"The Locker Room" has been on the air since 1961, and Gus and Haywood now have a combined 100 years covering Tennessee football.

Both men are members of the Tennessee Sports Writers Hall of Fame. Haywood Harris and Gus Manning are two of the most popular, most respected men in Tennessee.

I would like to call to the attention of my colleagues and other readers of the RECORD the story about "The Locker Room" that was published in the Knoxville News Sentinel on August 29.

STILL TALKING UP VOLS

(By Mike Strange)

A time traveler from the 1960s would be astounded at the changes in college football.

The size and speed of the players, not to mention their ethnicity. Their Star Wars-like equipment. (I know, "Star What?" our traveler would ask).

The doubledecked, bowled-in stadiums with luxury boxes. And let's not even get started with the media blitz.

How comforted, then, our traveler would be to turn on the radio a couple of hours before kickoff in Knoxville and find two familiar friends.

The world around it may have exploded, but "The Locker Room" has stayed virtually the same for all of its 45 years.

While Andy, Barney and Aunt Bee live on in ageless, endless black-and-white reruns, Gus Manning and Haywood Harris remain real-life icons of Tennessee football.

Their game-day radio show "The Locker Room" is billed (by them) as the longest-running continuous sports radio program. in America.

"And who's to dispute it?" Harris said.

The format hasn't deviated noticeably since it first aired in 1961. Manning and Harris give a scouting report on Tennessee opponent. The opponent's publicity director is always the guest. Manning reviews the day's SEC games.

Manning, 83, has been at UT since 1951, when he was hired by General Robert Neyland to handle publicity. In 1961, Manning recruited Harris to the publicity office.

Ever since, they've been radio partners, coauthors and walking encyclopedias of Tennessee football.

Manning had a streak of attending 608 consecutive UT football games until he slipped on some ice en route to the 2003 Kentucky game and had to go back home.

He and Harris, who allegedly retired in 2000 but still works the press box on game day, were recently among the initial class of inductees to the Tennessee Sports Writers Association Hall of Fame.

Manning already had a radio show when the idea of "The Locker Room" was born. Harris says they were "talked into it" by the station WROL. After a couple of years, it switched over to WIVK and has stayed there ever since.

"We've got good listenership partially because we've got a captive audience," Harris said.

Focusing on the opponent makes sense. By Saturday, everything that could possibly be said about the Vols has long since bee run into the ground. Never has a visiting publicist refused to do the show. Of course they haven't. Not even Osama bin Laden would turn down Gus and Haywood.

"They know who their studs are," Manning said. "We tell (the audience) what to look for and then it actually happens."

The dean of guests is Claude Felton of Georgia.

"Two great things have happened in my career," said Felton. "Georgia winning the national championship in 1980 and being invited to be on 'The Locker Room'."

The show is actually taped on Thursday afternoon at WIVK. However, Manning, Harris and their guests maintain the illusion that broadcast is coming live on Saturday from the actual locker room.

"I got 'em one year," said Kentucky's Tony Neely. "I said, 'Hey, Gus, you all have done a great job remodeling the locker room. New paneling, new paint, it smells great.'

"I went on and on about how nice it was and they finally started laughing. It was hard to get back on track."

Manning snorts at the notion that the show requires any preparation. But don't believe him.

Harris lines up all the guests long before the opening kickoff. And Manning comes armed with stats.

"He asks some very good questions," Harris said.

Here's a question. Not even these venerable hosts can go on forever. Does "The Locker Room" have a long-range future?

"There's a lot of people would like to take it over," said Harris, "but Gus and I won't give 'em a chance 'til we have to."

That's comforting to hear. So hear them while you can.

CONGRATULATING DONALD ELEMENTARY SCHOOL, NO CHILD LEFT BEHIND BLUE RIBBON SCHOOL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Donald Elementary School located in Lewisville for being named a No Child Left Behind Blue Ribbon School of 2006. Only 26 schools in Texas will receive this award certificate.

The No Child Left Behind Blue Ribbon Schools program recognizes schools that make significant progress in closing the achievement gap or whose students achieve at very high levels. Schools must make adequate yearly progress in reading, language arts and mathematics.

The No Child Left Behind Act is the bipartisan landmark education reform law designed to change the culture of America's schools by closing the achievement gap, offering more flexibility to States, giving parents more information and options and teaching students based on what works. Under the law's strong accountability provisions, States must describe how they will close the achievement gap and make sure all students, including those with disabilities, achieve academically.

I extend my sincere congratulations to Donald Elementary School for receiving this award. This school's contribution and services should serve as inspiration to us all.

TRIBUTE TO LCPL RENE MARTINEZ

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I rise today in honor of LCpl Rene Martinez, who was killed in action fighting enemy forces in Iraq on September 24, and extend my deepest condolences to his family for their loss. You have this Nation's most sincere appreciation for your son.

As a U.S. Marine, LCpl Martinez represented the best our Nation has to offer. He served with great distinction in the 2nd Marine Division. According to a spokesman for his unit he was a "well decorated Marine for his age" having earned medals for combat action, overseas deployment and global terrorism service.

The U.S. Marine Corps motto is semper fidelis—"ever faithful." LCpl Rene Martinez exemplified this commitment. He was faithful to God, country, family and the Corps. He gave the ultimate sacrifice for this great Nation so that his family and country could live in freedom. All that we hold dear only exists thanks to our military and marines like Rene Martinez. His selfless service to his country and community is a model for all of us to emulate.

As President Ronald Reagan once said, "Some people spend an entire lifetime wondering if they made a difference in the world. But, the Marines don't have that problem." LCpl Rene Martinez made a difference in this world. And his country will forever be grateful.

TRIBUTE TO PRISON FELLOWSHIP

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PENCE. Mr. Speaker, 30 years ago, this year, former White House aide Chuck Colson launched Prison Fellowship, now the world's largest Christian outreach to prisoners and their families.

While serving 7 months in a federal prison for a Watergate-related offense, Colson was appalled by the humiliation, drudgery, and hopelessness experienced by his fellow prisoners. After he was released from prison, Colson decided he could not turn his back on the men he left behind. So, in 1976, inspired by his own prison experience and his faith in Christ, Colson began Prison Fellowship.

Since then, Prison Fellowship has become a movement of like-minded citizens who are touching the lives of millions of prisoners and their families here in America and in 114 countries around the world. Prison Fellowship has helped maintain the bonds between prisoners and their families through the amazing Angel Tree program, in which some 7 million children of prisoners have received Christmas gifts on behalf of their incarcerated parent. At the state and national level, Prison Fellowship has also been at the forefront of criminal justice reform, helping states cope with prison overcrowding, fostering victims' rights, combating prison rape, promoting reentry programs, and so much more. By launching the InnerChange Freedom Initiative, Prison Fellowship has helped corrections systems reduce recidivism by working to transform prisoners from the inside out and linking them to mentors and communities of faith once they leave prison.

Clearly, by reaching out to the very men and women our society would like to forget, Prison Fellowship has not only helped former prisoners become productive members of society, it has also made our communities safer places to live.

Mr. Speaker, the Good Book reads "I was in prison, and you came to visit me . . . I tell you the truth, whatever you did for one of the least of these brothers of mine, you did for me."

I find it appropriate today to recognize and celebrate the incredible service that Chuck Colson and Prison Fellowship have rendered not only to prisoners and their families, but also to our communities, our Nation and our world.

Mr. Speaker, all Americans concerned with the reduction of crime and the restoration of lives celebrate both the man and the ministry on the 30th anniversary of Prison Fellowship.

PERSONAL EXPLANATION

HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. CARTER. Mr. Speaker, on September 21, 2006, I inadvertently failed to cast my vote for rollcall vote No. 468 due to the shortened period (2 minutes) between votes that evening.

On rollcall vote No. 468 (H.R. 6095), had I cast my vote, I would have voted, "aye".

STATEMENT IN SUPPORT OF NAIS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. PAUL. Mr. Speaker, I recently become a cosponsor of H.R. 6042, offered by my colleague Mrs. Emerson. This bill prohibits the federal government from implementing the National Animal Identification System (NAIS). It also provides some privacy protections for framers and ranchers who choose to participate in a voluntary identification system. I hope all of my colleagues join me in supporting this bill.

NAIS is a proposal to force all farmers and ranchers to "tag" their livestock with a radio frequency identification device tag (RFID) or a similar item so information on the animals' locations can be stored in a federal database. The United States Department of Agriculture (USDA) is currently implementing the program through state premise registration plans. Participation in the NAIS is currently voluntary, but my office has been informed that the USDA will likely make NAIS mandatory by 2009.

Small, family farmers and ranchers will be forced to spend thousands of dollars, as well as comply with new paperwork and monitoring regulations, to implement and operate NAIS. These farmers and ranchers will be paying for a massive assault on their property and privacy rights as NAIS forces farmers and ranchers to provide detailed information about their private property to the government. In addition, the NAIS system empowers the Federal government to enter and seize property from farmers and ranchers without a warrant. Mr. Speaker, this is a blatant violation of the Fourth Amendment-protected right to be free of arbitrary searches and seizures.

NAIS is unnecessary since most states already have identification systems to identify and track animals and virtually all stockyards issue a health certification for each animal that is sold. Furthermore, the NAIS "trace back" procedures only begin after an incident has been reported, which could be days, weeks, or even months after the harm has occurred. Since most contamination happens after the animal has left the farm or ranch and entered the food chain, tracing animals back to the farm will not help identify the source of the problem—although farmers and ranchers could be held legally liable if any of their animals becomes diseased after leaving their possession. According to a 1998 Harvard study, preventive measures already in place can protect the American people from dangers such as mad cow disease.

Bell Bellinger, vice-chairman of the Australian Beef Association, said of Australia's National Livestock Identification System that "Financial costs like the NLIS . . . are seriously eroding our competitive advantage supplying an increasing contested world beef market.".

Dairy Farmer and Rancher Bob Parker best stated the case against NAIS: "We currently have the systems in place to track animals, as has just happened with the recent 'mad cow' in Alabama. Sacrificing our freedoms for security is not a good trade off, in my opinion. Our Founding Fathers knew the dangers of Government becoming too big. This plan is too intrusive, to costly, and will be devastating to small farmers and ranchers." I urge my colleagues to listen to Mr. Parker and protect America's small farmers and ranchers from being burdened with a costly, intrusive and unnecessary NAIS program by cosponsoring H.R. 6042.

SC JOHNSON

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to introduce legislation on behalf of SC Johnson, a company located in Racine, Wisconsin, who manufactures a broad range of well known consumer household brands including Windex, Raid, Glade, Pledge, Edge shaving gel, Ziploc and Scrubbing Bubbles. I am proud that SC Johnson has its headquarters in my congressional district and employs over 2,500 hard-working Wisconsinites.

I believe that Congress must do all that it can to help companies like SC Johnson remain competitive in the global marketplace so that good, high-paying manufacturing jobs are retained in. Wisconsin and throughout the United States. Over the past few years, our state has lost thousands of manufacturing jobs. We must bring down the cost of manufacturing at home so that we can stem the job loss and create new opportunities for the state's workers.

The bill that I am introducing will help achieve this purpose by reducing the import tariff on bath and shower cleaning appliances from 4.2 percent to 2.1 percent. No comparable products are produced in this country. Reducing these tariffs will bring down SC Johnson's costs of doing business at home and benefit the SC Johnson employees who live and work at the company's world headquarters in Racine and at other locations throughout the United States.

I look forward to working with my colleagues in Congress to pass this legislation.

CONGRATULATING THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS LOCAL 1781 ON THEIR 60TH ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. LANTOS. Mr. Speaker, I rise today to congratulate the International Association of Machinists and Aerospace Workers Local 1781 on their 60th anniversary. Since their establishment as the union representing machinists and aerospace workers for United Airlines, Local 1781 has continued to exhibit a pluck and tenacity that has insured their members better wages, benefits and working conditions. I commend Local 1781 on their sustained commitment to their members, and I am proud that this union resides in my congressional district.

Since its formation, the International Association of Machinists (IAM) Local 1781 has made a significant difference in the lives of its members. In 1946, IAM secured the 40-hour workweek for its members and a one-third increase in wages from $.90 per hour to $1.20 per hour. Through the 1950s, IAM continued to expand their membership and consequently their bargaining leverage. This proved essential in the 1960s as United Airlines became one of the most profitable airlines in the country but was unwilling to share their bounty with the highly-skilled workers of IAM Local 1781. Resistance began with picketing in March 1963 and culminated in a 43-day strike in the summer of 1966 in which the unions of all five major airline carriers struck in unison, grounding over 60% of air traffic in the United States. Due to the success of this strike, IAM Local 1781 negotiated big gains for its members in 1969.

Despite massive layoffs in 1971, the 1970s witnessed IAM's continued success in pushing for a fair share of United Airlines' profits. The union's assertiveness forced them to strike for two weeks in 1975 and to sustain the longest strike in their history when members held out for 58 days in 1979. The benefits of this action proved considerable: an over 30 percent pay raise, a 37.5 hour workweek and paid lunch for all work shifts.

The early 1980s were extremely difficult for the members of Local 1781: the grounding of DC10s coupled with the air traffic controller strike and a deep recession caused massive layoffs. However, by 1984 almost all of the employees were recalled and United Airlines continued to grow and prosper with the purchase of Pan American Airlines Pacific Division.

But unfortunately the profitability of United Airlines and the prosperity of its workers began to experience hard times in the early 1990s. The tragedy of September 11, 2001, caused a severe downturn in the airline industry which contributed to the United Airlines bankruptcy. This had a particularly negative impact on the members of Local 1781. Within two years, tensions in the union hit a breaking point with many machinists changing their membership to the Aircraft Mechanics Fraternal Organization (AMFA). This drop in membership caused a substantial loss in financial resources. Despite this major setback for Local 1781, the union continues to be viable and continues to fight the good fight on behalf of its members. Their recent reorganization efforts have ensured that Local 1781 will continue to effectively represent the best interests of its members.

Mr. Speaker, I invite my colleagues to join me in congratulating IAMAW Local 1781 on the occasion of their 60th anniversary. I am truly delighted that Local Lodge 1781 continues to effectively advocate on behalf of its members for the quality of life they deserve commensurate with the vital role they play everyday in the safe and efficient operation of our airline industry.

HONORING JACQUELIN "JIM" SMITH HOLLIDAY II

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FARR. Mr. Speaker, I rise today to honor the life of one of California's most distinguished historians, Mr. Jacquelin "Jim" Smith Holliday II. Jim Holliday was a teacher and author, and was much sought after as a lecturer throughout the State of California.

Jim was born in Indianapolis, Indiana, in 1924. He attended Midshipman School at Northwestern University and was commissioned as an officer in the Naval Reserve. During World War II he served aboard the escort carrier USS *Santee* in the Pacific theater. After the war he attended Yale University, graduating in 1948 with a major in history. Graduate school at the University of California at Berkeley brought him to California, where he received his Ph.D. in 1959.

His professional career was rich and varied. He was a research fellow at the Henry E. Huntington Library in San Marino, assistant director of the Bancroft Library in Berkeley, executive director of the Oakland Museum of California, associate professor of history at San Francisco State University, associate editor of American West magazine, and lectured at Monterey Peninsula College. As executive director of the California Historical Society, one of his most notable accomplishments was the creation of a large traveling photographic exhibit depicting the story of 110,000 Japanese Americans in internment camps during World War II.

Jim is remembered especially for his books on the California Gold Rush. The World Rushed In, published in 1981, and Rush for Riches: Gold Fever and the Making of California, published in 1999, helped Americans to understand the complex drama of the gold rush and its effect on a later urban, industrial America. PBS film producer, Ken Burns, stated, "No one writes better of California's irresistible past; I am a huge fan." I hosted Jim's talks on his books at the Library of Congress.

Jim was also prominent in local activities. As a resident of Carmel, California, my own home town, Jim served on the Forestry Commission and was a trustee of the Robinson Jeffers Tor House Foundation. He was one ofthe founders of the Carmel Residents Association, and in 2001 was named Carmel's "Citizen of the Year."

Jim was married twice; his first wife was Nancy Adams, with whom he had three children: Timothy, Martha, and William. He is survived by his second wife, Belinda Vidor Jones.

Jim Holliday was often controversial; his opponents remember him as fierce and outspoken. His friends remember his great energy, generosity, and loyalty to principles and friendship. It can be said of him that he made an art of life—and of history.

I recall Jim being one of the persons who symbolized the California saying: "Bring the Men to Match My Mountains." His voice was deep and strong, like the California ocean. His choice of words, big and bold like our Redwoods and his passion for life, universal like thunder.

Mr. Speaker, Jim Holliday lit up the room whenever he walked in—his passing will leave a void, but his works, will fill the gap. We are proud to call him our friend and will sorely miss him.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber on May 22, 2006. I would like the record to show that, had I been present, I would have voted "yea" on rollcall vote No. 177, a motion to suspend the rules and pass S. 1235, the Veterans Benefits Improvement Act, and "yea" on rollcall vote No. 178, a motion to suspend the rules and pass H.R. 3858, the Pets Evacuation and Transportation Standards Act.

TRIBUTE TO PALOMAR COLLEGE

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. ISSA. Mr. Speaker, I rise today to congratulate Palomar College on their 60th anniversary.

Palomar College is one of the most comprehensive community colleges in the United States, offering North County, San Diego residents more than 300 degree and certificate programs for transfer to four-year universities, job training, and personal enrichment. Its commitment to lifelong learning and its status as a cultural center for northern San Diego County make Palomar College a tremendous educational asset to California and the Nation.

Palomar began with only 100 students; the first classes were held on September 23, 1946, on the campus of Vista High School in Vista, California. It has since grown to become one of our State's largest community colleges. Palomar College now has an enrollment of over 30,000 students and is widely respected for its excellent programs, faculty, administration, the success of its students, and the service it provides to the communities of northern San Diego County.

Mr. Speaker, because of Palomar College's dedication to education and the improvement of individuals, I want to recognize and honor this institution of higher learning. I congratulate and applaud Palomar College upon the observance of its 60th anniversary and for the valuable contribution it makes to our society and to the future of its students.

A TRIBUTE TO PRIVATE ERIC M. KAVANAGH

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to honor the life of a Maryland soldier who died honorably serving his country in support of Operation Iraqi Freedom. Private Eric M. Kavanagh from Glen Burnie, Maryland was a dedicated and loyal serviceman. His courage enabled him to be a leader among his peers.

The 20-year-old private was trained as a Bradley tank driver. He was assigned to the 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat team, 1st Infantry Division, Schweinfurt, Germany. After his training, he was stationed in Iraq for 5 weeks.

I commend Private Kavanagh for his courage to serve our country and to fight for freedom in an unsettled world. Without doubt, his bravery gives his parents, Mr. Kelvin T. Kavanagh and Ms. Rhonda Kavanagh great pride. Private Kavanagh was the oldest of three children. He is remembered for being not only a magnanimous and compassionate soldier but also an incredible brother and son.

Prior to joining the Army, Private Kavanagh worked for a weekly shopping publication, the Pennysaver. Co-workers said he was always happy and smiling. He attended Folger McKinsey Elementary School, Severna Park Middle School, and Chesapeake High School.

Mr. Speaker, I ask that you join with me today to honor the patriotism of Private Eric M. Kavanagh. His love of country and willingness to serve his country will forever last in our hearts and minds. He made the ultimate sacrifice for the United States of America and he will always be remembered as a hero from Maryland.

IN HONOR OF DAN ALBERT

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FARR. Mr. Speaker, I rise today to honor the achievements of Dan Albert, who is retiring this year after serving as the mayor of Monterey since 1986. His long career represents success, accomplishment, and community service. Dan served on the City of Monterey Parks and Recreation Commission for several years. He is a former member and Chair of the Local Agency Formation Commission (LAFCO), the one local position that he and I have both held. He was elected to the City Council in 1979 and elected Mayor in 1986, and is now in his tenth term.

But length of service is not everything. When first elected to the City Council, Monterey was in the economic doldrums. The fishing industry was depressed, the tourism industry was moribund and local military economic activity was under constant threat. What a difference 26 years of real leadership makes. Last year the BRAC Commission reaffirmed the indispensable role that Monterey plays in supporting the Defense Language Institute and Naval Postgraduate School. Monterey is the center of a thriving regional tourism economy. Its convention center, its Window on the Bay Park, aquarium, and coastal recreation trail all draw and enrich visitors from at home and abroad. The City of Monterey is a national model for the participation of its citizens in neighborhood preservation and enhancement. All of these trends, and many others, have Dan Albert's quiet leadership at their center. It is a legacy that has made a permanent mark on Monterey.

Dan's previous career spanned 37 years as a teacher at Monterey High School, where he coached the varsity football team for 23 of those years. He and his wife, Joanne, are lifetime residents of the city and both attended Monterey High School. They have four grown children and ten grandchildren.

Mr. Speaker, I am certain that I have not heard the last from Dan, as I expect he will remain an active member of the community, but I do want to wish him and his family the best as they enter this exciting new chapter. On behalf of the United States Congress, I would like to congratulate the accomplishments of Dan Albert and express my sincere gratitude for his commitment to the community.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber on September 19 and 25, 2006. I would like the record to show that, had I been present, I would have voted "yea" on rollcall vote Nos. 451, 452, 453 and 473 and "no" on rollcall vote Nos. 471 and 472.

RECOGNIZING THE CAREER OF MR. THEODORE F. GUNDLACH

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the distinguished career and extensive community involvement of Mr. Theodore F. (Ted) Gundlach of Belleville, Illinois.

Ted Gundlach was born, along with his twin brother, Joseph, on January 11, 1924, in Belleville, Illinois. Ted's father, T.J. Gundlach had, the year before, opened a small machine shop to provide tools and equipment for the local mines and factories.

After college, where he earned a degree in mechanical engineering, Ted accepted an appointment to the U.S. Naval Reserves in 1943 and served for the duration of World War II. He was discharged in 1946 with the rank of Lieutenant J.G.

Returning home to Belleville, Ted entered the family business, T.J. Gundlach Machine Co. and J.M.J. Industries, Inc. Starting as General Manager, Ted would become President and CEO and expand the Gundlach Machine Co. market reach to six continents.

As much as Ted poured his energy into his business, he also found time to be personally involved in his community. Ted has served on 16 different boards of directors, been a member of numerous fraternal, business and civic organizations and helped to steer many community and charitable projects. He has received a number of awards from business, professional, educational and civic organizations, recognizing his contributions and leadership.

While Ted built his company into a position of international leadership in their marketplace and has performed outstanding service to his community, he has always been devoted to his family. Ted and his wife, Patricia, live in Belleville, Illinois and have two children, Mary Barbara Compton and Laurie Ann Frillman. They have three grandchildren, Amanda, Molly and Lucas.

Mr. Speaker, I ask my colleagues to join me in an expression of appreciation to Mr. Theodore Gundlach for his years of service to his community and to wish he and his family the very best in the future.

WELCOME TO PRESIDENT NURSULTAN NAZARBAYEV

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. TOWNS. Mr. Speaker, it gives me great pleasure to welcome to the United States, our true friend and strong ally, the President of Kazakhstan, His Excellency Nursultan Nazarbayev.

Since gaining independence in 1991, Kazakhstan has overcome numerous obstacles and challenges to emerge as one of the world's most dynamic and promising nations. Much of the credit for that should go to President Nazarbayev who led his country through difficult and painful reforms which brought about strong economic and democratic change.

Economically, Kazakhstan is accelerating beyond neighboring countries and most other countries in the world. It is evident that citizens of Kazakhstan are being offered a better tomorrow because the leadership remains committed in investing in its people and country.

Democratically, the ongoing economic liberalization inspired by President Nazarbayev would not be possible without the establishment of democratic institutions coupled with a civil society unique to the social-political nature of Kazakhstan and its people. The creation of over 5,000 NGO's, the founding of an independent judiciary, and the institutionalizing of a pluralistic, multi-party system are just a few examples of the impressive "resume of freedom" that this nation has built over the last decade. Kazakhstan is setting a noble example of what can be accomplished through democracy.

Democratization and domestic initiatives are intricately linked to foreign policy. Kazakhstan's dedication to the war on terror is admirable and deeply appreciated by the United States. It is important that the United States and Kazakhstan continue to work together to defeat those who want to destroy our most treasured values.

Today, Kazakhstan is a strong promoter of global peace and stability and I commend President Nazarbayev for taking concrete steps to bring together people of different religions by initiating the Congress of World and Traditional Religions which has become a respected forum where believers of all faiths can work in partnership to find better ways for a better future.

Additionally, Kazakhstan continues to serve as a model to the global community in its leadership on nonproliferation by voluntarily disarming what was once the world's fourth largest nuclear arsenal.

Mr. Speaker, Kazakhstan has a rich cultural heritage and a bright future. The people of Kazakhstan should be proud of their achievements and their leader. It is my hope that the United States and Kazakhstan will continue to build bridges, share ideas, and work closely together for years to come. I am confident that President Nazarbayev's visit to Washington is a strong testament of our growing strategic partnership, and I join many of my colleagues in wishing him a joyful and productive stay in our Nation's Capital.

THANKING MR. RON KURTZ FOR HIS SERVICE TO THE HOUSE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. EHLERS. Mr. Speaker, on the occasion of his retirement in September 2006, we rise to thank Mr. Ron Kurtz for 26 years of outstanding service to the U.S. House of Representatives.

Ron began his career at the House working as a Systems Programmer. In that capacity, Ron has served this great institution for the last 26 years as a valuable employee of House Information Resources (HIR) within the Office of the Chief Administrative Officer. Ron has made significant contributions in the implementation and management of the mainframe computing environment and, more recently, as a key member of the Storage Area Network (SAN) team. Ron's impeccable management of the mainframe computing environment, through emergencies such as the anthrax contamination event, was key to maintaining continuity of such essential House applications as payroll, the Legislative Information Management Systems (LIMS) and Committee Calendars (CCALS). Additionally, Ron has expertly managed the mainframe environment through numerous advances in technology to include integration with a Storage Area Network as part of the overall HIR business continuity efforts.

On behalf of the entire House community, we extend congratulations to Ron for his many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish Ron many wonderful years in fulfilling his retirement dreams.

ENHANCING THE GLOBAL FIGHT TO END HUMAN TRAFFICKING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. SMITH of New Jersey. Mr. Speaker, today I chaired a briefing and hearing of the House International Relations Committee to examine means to enhance the global fight to end human trafficking.

When I held the first hearing on trafficking as chairman of the Subcommittee on International Operations and Human Rights back in 1999, only a handful of countries had laws explicitly prohibiting the practice of human trafficking. Individuals who engaged in this exploitation did so without fear of legal repercussions. Victims of trafficking were treated as criminals and illegal immigrants, and had no access to assistance to escape the slavery-like conditions in which they were trapped. Few seemed to even be aware that this modern form of slavery was taking place, and those who did failed to recognize it as a violation of fundamental human rights.

However, the situation has changed markedly over the past 6 years. Significant credit for improvements must be attributed to the enactment of the trafficking Victims Protection Act of 2000, together with two reauthorizations of that Act in 2003 and 2005, all of which I sponsored. These three laws created a comprehensive framework for combating trafficking in persons abroad, as well as the trafficking of American girls and young women within the U.S. As a result of these three laws, our government has been a leader in addressing this serious human rights violation and encouraging other governments to do the same.

Just this past weekend, I experienced the impact of this leadership during a trip to Iraq. Millions of people who lack job opportunities are misled by ads for well-paying jobs and leave their countries for what is presented to them to be the chance of a lifetime. Last year, the Chicago Tribune did a series of articles detailing a practice by employment brokers and subcontractors to bring laborers into Iraq through fraud or coercion. The seizure of the workers' passports and recruitment "fees" made it difficult for them to escape employment in a war zone. After the State Department trafficking report confirmed this practice, my Subcommittee held a hearing in which Colonel Robert Boyles testified that the military had issued an order that all contracts include a clause allowing termination without penalty, prohibits the use of unlicensed employment brokers, and ends the practice of confiscating worker passports.

With the compliance inspections set to begin this month, one of the major objectives of my visit to Iraq was to ensure that the order on labor trafficking would be enforced. Major General Bruce Moore, the Chief of Staff for our military in Iraq, assured me that compliance was being checked on this. As of the time of our subcommittee hearing, 90 percent of the contracts had been modified, and the military is ensuring that the other 10 percent will be modified and that implementation of the order will be complete.

Also on my trip this weekend, I spoke with State Department officials about trafficking in Kuwait and Germany. According to reports earlier this year, more than 40 Indian youth had been stranded in Kuwait when their passports had been confiscated by unscrupulous job brokers and had been penalized by Kuwaiti police. State Department officials told me that they have launched an aggressive program entitled FALCON for Fostering Awareness of Labor Conditions to let foreign workers know their rights. In Germany, State Department officials described efforts to discourage patronage of brothels during the World Cup earlier this year in which women and girls were coerced into prostitution. Efforts were especially concentrated on ensuring that the U.S. military did not patronize such establishments. Since the end of the World Cup, the U.S. has continued to work with the German government to ensure that coerced prostitution is ended to the extent possible and facilities are established to help prostitutes who want to escape that life.

One of the key components of the 2000 Act is the requirement that the Secretary of State provide Congress with a list of those countries whose governments are not fully complying with minimum standards to eliminate trafficking and are not making significant efforts to do so. These countries, designated as "Tier 3," may be subject to certain sanctions, including the withholding of non-humanitarian, non-trade-related assistance. These sanctions can be waived if the government makes significant efforts to comply with the minimum standards, or pursuant to a determination by the President that the provision of assistance would promote the purposes of the statute or is otherwise in the national interest of the United States. The President is to submit a notification to Congress no later than 90 days from the submission of the annual report as to the determination made for each Tier 3 country. I have received numerous reports from our government representatives and non-governmental organizations as to how the implementation of this tier ranking and the consequent threat or imposition of sanctions have dramatically impacted the trafficking practices in the relevant countries.

The determinations for 2006 were due on September 1st and it was the intention of the Committee to examine those determinations at the hearing. It was therefore deeply disappointing that the determinations still had not been provided by the President three weeks later. This raises grave concerns that were examined later in the hearing, including whether the Administration is giving due priority to its stated commitment to combat human trafficking. This delay past the legislative mandate sends the wrong message to these Tier 3 countries as to the urgency with which this serious human rights violation needs to be addressed. And in this instance, it was a missed opportunity to apply additional pressure on these countries through the attention that would have been focused on them at this important hearing.

We did, however, have the opportunity to inquire about the implementation of the Department of Health and Human Services' assistance program as mandated by the 2000 Act. The purpose of such programs is to expand benefits and services to trafficking victims in the United States without regard to the victim's immigration status. Unfortunately, evidence of the need for such assistance within our own country is growing. Just this month, it was reported that a woman from my home state of New Jersey pled guilty to being part of a smuggling ring that brought in more than 20 young women and teenagers from Honduras to work in a bar. These women were virtually imprisoned in apartments, and are alleged to have been beaten, raped, and subjected to forced abortions.

Such horrific stories make us all too aware that this modern form of slavery has silently infiltrated and poisoned the fabric not only of the U.S., but of virtually every society around the world. It is extremely important that this awareness be amplified, so that public outrage will further motivate those of us in government, shame those who are creating the demand for trafficking victims, and ultimately stop those responsible for perpetrating these human rights violations. We were privileged to have with us at the hearing a prominent public figure who is using his position on the world stage to publicize the reality and prevalence of human trafficking. Not only has Ricky Martin given his time and talent to promote the cause as a goodwill ambassador for the United Nations Children's Fund, but he has also established a foundation that is engaged in numerous activities on behalf of trafficking victims and children. As just one indication of his personal commitment to the most vulnerable among us, he visited the affected areas in Thailand following the 2004 tsunami. In April 2005, he entered into a partnership with Habitat for Humanity to construct over 220 homes to provide shelter and safety, particularly for those children orphaned by the disaster.

All three of our witnesses provided the Committee with valuable information and perspectives with which we can indeed enhance our global fight to end human trafficking.

CELEBRATING THE THIRD ANNUAL PRINCE GEORGE'S CLASSIC WEEKEND

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. CARDIN. Mr. Speaker, I am pleased to rise today to welcome visitors from around the country to Maryland for the Third Annual Prince George's Classic Weekend.

Hosted by the Prince George's Black Chamber of Commerce (PGBCC), this weekend celebrates black college football, educational achievement, tradition, community pride, and unity. On Saturday, September 30, 2006 at Bulldog Stadium, the Bowie State University Bulldogs will face the North Carolina Central University Eagles. These are two of the top teams in the Central Intercollegiate Athletic Association (CIAA), the Nation's oldest black athletic conference, and the game promises to be a first-rate contest.

Mr. Speaker, the Classic comprises much more than one football game, as an entire weekend of events throughout Prince George's County is planned, beginning tomorrow evening—including a Welcome Reception, services at Ebenezer AME Church in Fort Washington, a Black College Showcase, a Battle of the Bands, the Harlem Renaissance Golf Classic, a Fashion Show featuring the work of local and national couture designers, and a Comedy Show.

This exciting weekend would not be possible without the support of numerous individuals and organizations, and I especially want to acknowledge the new President of Bowie State University, Dr. Mickey Burnim; Dr. Calvin Lowe, BSU President emeritus, BSU Coach Mike Lynn, Jr., PCBCC President Hubert "Petey" Green, and Mike Little, President of the Prince George's Classic.

I want to welcome all participants to our state for the Third Annual Prince George's Classic weekend, and I urge my colleagues to join me in wishing them a wonderful celebration.

PERSONAL EXPLANATION

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. KIRK. Mr. Speaker, on Monday September 25, 2006, I missed the following votes: Rollcall No. 471: H.R. 5059, To designate the Wild River Wilderness in the White Mountain National Forest in the State of New Hampshire, and for other purposes.; Rollcall No. 472: H.R. 5062, To designate as wilderness certain National Forest System land in the State of New Hampshire; and Rollcall No. 473: H.R. 5102, To designate the facility of the United States Postal Service located at 200 Lawyers Road, NW in Vienna, Virginia, as the 'Captain Christopher P. Petty and Major William F. Hecker, III Post Office Building'. Had I been present, I would have voted "yea" on Rollcall No. 471, Rollcall No. 472, and Rollcall No. 473.

IN HONOR OF THE 2ND BATTALION, 127TH INFANTRY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. GREEN of Wisconsin. Mr. Speaker, it is my honor and privilege to recognize before this House the courageous men and women of the Wisconsin National Guard's 2nd Battalion, 127th Infantry who recently returned from their deployment overseas.

For over a year, the 127th Infantry was based at Camp Navistar on the border of Kuwait and Iraq. The vast majority of their missions were near Camp Cedar, otherwise known as the "Cedar Run," where they served under perilous conditions as escorts for military and civilian convoys in armored trucks. The infantry was also called on to take longer missions into war-torn Baghdad, battling deadly roadside bombs and surprise enemy attacks. These brave men and women put their lives on the line each and every day to fight for democracy and freedom. But their commitment wasn't without heartache. Three courageous members of the 127th Infantry lost their lives carrying the torch of liberty in Iraq and their service will always be remembered.

Mr. Speaker, there's no question the 127th Infantry helped nourish the seeds of liberty in Iraq, and their service and sacrifice are to be commended. It is my honor to recognize their brave efforts today, and on behalf of the citizens of Wisconsin's Eighth Congressional District, I say thank you and welcome home. You truly are our heroes.

RECOGNIZING OCTOBER AS DOMESTIC VIOLENCE AWARENESS MONTH

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. MORAN of Kansas. Mr. Speaker, today I rise to recognize the month of October as national domestic violence awareness month. Though we have made great strides in bringing attention to the tragedy of domestic violence, more than 4 million Americans continue to find themselves victims of physical, psychological and sexual abuse. Domestic violence crosses every line of ethnicity, geography, and income. Abuse occurs in every single community in our country—every community—and it must be fought in every community.

It wasn't very long ago that family violence was considered just that—a family matter. A battered woman was forced to suffer the cuts and bruises and the terror and tears in silence. In my parents' generation, many folks whispered and had suspicions about what was going on next door. Seeing bruised children or watching a wife cower when her husband spoke to her caused speculation on what was taking place in the home. Unfortunately, no one intervened because that was a family matter and none of their business.

Domestic violence rarely made the headlines then and rarely makes the headlines now, primarily because most of the abuse occurs behind closed doors. In most instances, the victim knows the attacker. More than 50 percent of victims are battered by a boyfriend or girlfriend. More than 30 percent are assaulted by spouses, while 15 percent are attacked by ex-spouses. Many victims are reluctant to report these incidents to anyone because they fear this will only make things worse.

Society tends to misplace the blame for continued abuse, focusing on the victim and criticizing him or her for not leaving the abuser. In many cases victims simply do not have the physical or financial resources to get out of the relationship. They often stay until things hit rock bottom.

Every year, domestic violence results in approximately 100,000 days of hospitalization and more than 28,000 visits to emergency rooms. In these cases, major medical treatment is often required. Furthermore, the possibility of being murdered by an abuser increases to 75 percent if the woman attempts to leave on her own.

Today, domestic violence is still causing terror and tears. But the story and its ending isn't quite the same. Thankfully, many of the calls for help are now answered. I would like to commend those who work every day to help victims of domestic violence, especially those who work in the nine service areas of my 69 county district—Dodge City, Emporia, Garden City, Great Bend, Hays, Hutchinson, Liberal, Salina, and Ulysses. They are the unsung heroes battling the culture of darkness that domestic violence victims are caught up in.

Proximity to a safe facility can mean the difference between life and death. Though progress has been made in accessing services, many victims in central and western Kansas and other rural areas remain hundreds of miles away from the closest shelter. Ensuring safe havens for victims who leave abusive environments must continue to be a priority.

Most domestic violence centers rely primarily on grants and local donations. Federal grants made under the Violence Against Women Act provided essential funds for shelter operations and support services. That program has been credited with substantially reducing the levels of violence committed against women and children. We must continue to ensure that our shelters and crisis centers receive adequate funding.

As National Domestic Violence Awareness Month begins, we are reminded that domestic violence is an issue that must be addressed all year long. Only through funding, education and support can America hope to end this terrible crime.

TRIBUTE TO ST. LEO THE GREAT'S CHURCH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to St. Leo the Great's Church on its 125th anniversary of service to Baltimore City's Little Italy neighborhood.

Located at Stiles and Exeter Streets, the heart of Baltimore's Italian-American community, St. Leo's served as the first worship and community center for Italian immigrants arriving in Baltimore. One of the many immigrant families to worship at St. Leo's was the D'Alesandro family, whose members would serve as mayors, members of Congress and as the first woman Majority Leader of the U.S. House of Representatives.

Over the years, St. Leo's provided spiritual renewal as well as community social activities and education. During the Great Baltimore Fire in 1904, the congregation at St. Leo's prayed for the fire to spare their homes and their church. Their prayers to St. Anthony were answered when, after raging for 31 hours and destroying most of downtown Baltimore, the fire stopped just short of Little Italy. Each year, the St. Anthony Society holds a festival to celebrate their good fortune and the power of faith.

After World War II, as many Italian-American families of Little Italy moved to the suburbs, St. Leo's was forced to close its school and fell on hard times, as did many of the City's older neighborhoods. But the congregation at St. Leo's was loyal and inventive and today St. Leo's and the surrounding neighborhood have been rejuvenated.

In Italy, the church was the locus of the village. St. Leo the Great's Church in Little Italy has enabled the Baltimore Italian-American community to continue that tradition. Today, St. Leo's primary school has been transformed into the The Rev. Oreste Pandola Cultural Learning Center. Thanks to the efforts of congregant Rosalie Ranieri, the Center offers classes and clubs to neighbors and former residents now scattered across the region.

I hope my colleagues in the U.S. House of Representatives will join me in saluting the contributions of St. Leo the Great's Church to the Italian-American community of Baltimore as well as to our Nation. I also ask that they join me in sending best wishes for many more years of service to the community. Congratulazioni.

ROUNDING UP MEXICO'S MOST WANTED

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. POE. Mr. Speaker, it's a big day in the U.S. when we catch someone on our Most Wanted List. Shouldn't it be an even bigger day when we catch someone on Mexico's Most Wanted List?

In Ohio, that's right Ohio. It's a long way from our southern border with Mexico.

Julio Ernesto Cobian-Ariaza is just 27 and this Mexican citizen is already a career criminal alien. This illegal is wanted back home in Mexico for his connection to two murders and two more attempted murders.

But his list of offenses here in the U.S. is much longer. He's been convicted of attempted murders, assault with a firearm and street terrorism, in plain english—gang activity.

We've caught him twice before and sent him home. First in 1999 when he was just 20. And again in September of 2001. This time as an aggravated felon at the tender age of 22.

Just sneaking back into the country from Mexico once is a felony punishable by 20 years in prison. So his laundry list of crimes in the U.S. alone should have him locked up in the penitentiary for decades.

But an even more disturbing part of this story is Ariaza isn't alone. His arrest is just one of more than 3 thousand gang members in just a few years.

A crackdown on gangs with foreign born and illegal members.

He's among many alien gang members representing almost 400 different gangs across the United States.

People mock our country and say we are the world's police. But the truth is our open borders make us just that.

We can't clear our own top ten most wanted list but we're making a dent in some others.

These international outlaws are targeting Americans on our own streets and we'll keep rounding up these murderous illegals until we shut down our borders.

If we could do that we would have a good shot at clearing at least one name of our own most wanted list.

Jorge Alberto Lopez-Orozco is number 2 on the infamous FBI lineup. Born in Mexico he's just 30 and he's already accused of brutally murdering his girlfriend and her 2 young sons. Friends suspect she found out he was already married with his own children and tried to break it off. The family went missing for days. Until a few fishing buddies riding ATVs stumbled on their burned out car and what looked like a charred body. The police ruled it was actually three bodies. Orozco's girlfriend and her two young sons ages 2 and 4 were all gunned down. Shot in the head or chest and their bodies set ablaze.

Jorge Alberto Lopez-Orozco is still out there and thanks to our virtually open borders he could be living on any American street as we speak.

And that American street may have been made much more dangerous by Diego Leon Montoya Sanchez from Colombia also topping our 10 Most Wanted. He's one of the leaders of the most powerful and violent drug cartels in Colombia and he's accused of pumping tons of cocaine into the U.S.—tons of cocaine that could be sold to the same foreign-born gang that Mexico's Most Wanted Julio Ernesto Cobian-Ariaza was running in when he got caught in Ohio.

The moral of this story is maybe we should stop accepting the world's most dangerous criminals so we can get back to ours.

Seal the borders protect Americans and let the rest of the world deal with their own criminals on their own soil. That's just the way it is.

THE BELLS OF BALANGIGA MUST RING AGAIN!

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. FILNER. Mr. Speaker, I urge all Members to support H. Con. Res. 481, legislation that I have just introduced, which urges the President to authorize the return of two church bells, currently on display at F.E. Warren Air Force Base in Wyoming, to the people of the Philippines.

The New York City Council is expected to pass a resolution in support of this legislation on September 28th, 2006, the anniversary of a 1901 battle between Filipino and American soldiers in the town of Balangiga on the island of Samar, Philippines.

As a result of this conflict between Filipino and American troops, the bells in the church were taken to the United States as war trophies and have been on display ever since at F.E. Warren Air Force Base. I am introducing as a result of a vote by the Wyoming Veterans Commission to return the bells to the church in Balangiga.

The citizens of Balangiga have erected a memorial that includes the names of the Filipino and American soldiers who lost their lives in the 1901 incident, and the town honors these war dead on September 28th each year. The Filipino people have requested the return of the bells to the original setting in the Balangiga Parish where they could ring again, after 105 years of muteness, as a symbol of this bond.

The acts of conflict that surrounded the bells of Balangiga are not consistent with the friendship that is an integral part of the relationship between the Republic of the Philippines and the United States. Filipino soldiers have fought side by side with American troops in World War II, Korea, and Vietnam, and the bells should more properly serve as a symbol of friendship and not of conflict.

I urge support of this resolution.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 28, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 29

9:30 a.m.
Judiciary
Business meeting to consider pending calendar business.
SD-226

SENATE—*Thursday, September 28, 2006*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord and King, You are forever. Send Your light and truth to guide our Senators. Give our lawmakers insights that will help them solve the riddles of our day. Empower them to possess discernment in order to know what is right. Imbue them with a passion for truth that will make them refuse to compromise principles.

Strengthen them also with a humility that seeks to listen and learn. May they find joy in their work as they seek to please You. Remove from them discouragement and despair. Make them partners with You in building a world where truth and righteousness will reign.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable John E. Sununu led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, September 28, 2006.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

PROGRAM

Mr. FRIST. Mr. President, this morning after a period for the transaction of morning business, the Senate will resume consideration of the Military Commissions Act. Under the agreement that was reached yesterday, we have a limited number of amendments to consider and debate. Yesterday, we defeated the Levin substitute amendment, and Senator SPECTER offered his amendment on habeas. The Specter amendment is the pending amendment, and we will have more debate on it this morning.

Following the disposition of the Specter amendment, there are three additional amendments in order followed by a vote on passage of the bill. Once we conclude our work on this bill, we will return to the border fence bill with a cloture vote.

We still have a number of important items to complete before the recess, including the DOD appropriations conference report, additional conference reports that become available, executive items and nominations, and the child custody bill; on which I filed cloture yesterday.

We will have votes throughout the course of today's session and into the evening and over the remaining days until we complete our work.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

TIME TO SPEAK

Mr. REID. Mr. President, it is my understanding we have basically 3½ amendments remaining. We have one on which debate is nearing completion, and then we have three other amendments. We have an hour equally divided on each of those three amendments. On the amendment that is before the Senate dealing with the habeas corpus aspect of this legislation, we have a number of people—and we have conveyed this to the majority—who wish to speak. It takes up about an hour of extra time.

I say to everyone within the sound of my voice—namely, 44 Democrats, especially those who have indicated to the cloakroom they want to speak on this issue—we had time lined up yesterday, and because of quorum calls time was lost. Unless we get more time from the majority, there will be no time to speak, other than the time that is in the unanimous consent agreement that is the order before the Senate on the three amendments, and whatever time is remaining on the amendment being led by Senator SPECTER and Senator LEAHY.

Again, if somebody wants time, they can't always have it so when they get here, they can walk on. Senators might have to wait around for a little while because yesterday we lost a significant amount of Democratic time as a result of Senators not being available to speak.

We have a couple more days. Hopefully, we can finish this tomorrow or Saturday, but we have a lot to do. We will need cooperation from all Senators if, in fact, they want to cooperate.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, to expand a little bit on the Democratic leader's comments, we entered into a unanimous consent agreement to address this bill with a reasonable amount of time. We are going to need to stick to that in large part because we have, as I outlined, the Hamdan legislation, we have the other three amendments, we have the fence border legislation, which has been pending for several days, DOD appropriations, the Child Custody Act, Homeland Security appropriations, and possibly the port security bill. We have an important Cabinet nomination, the Peters nomination, and then we have an adjournment resolution. That list is big.

As the Democratic leader and I have repeatedly said, we are going to finish this week, and it is already Thursday morning. Once we set a plan, we need to stick with a unanimous consent agreement set out. As we go through these issues, it is going to take a lot of cooperation to accomplish what has been laid out.

With that, I think we will begin a period for morning business.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

HOMELAND SECURITY

Ms. COLLINS. Mr. President, I rise this morning to take note of the real progress this Congress has made and is on the verge of making in strengthening our homeland security.

This progress—reform of FEMA, protection of our chemical facilities and improved security for our seaports—should not be overlooked as we conclude a hectic month.

In the midst of all the charges that Congress has failed to accomplish all that we should, I want to call attention to the many times when, in fact, Members have cooperated among committees, between Chambers, and across party lines to make real progress to benefit the American people.

The 109th Congress has had many such accomplishments that belie the stereotype of a rancorous debating society that is unable to enact and improve the security of our country.

Let me focus on three major accomplishments by Congress in the area of homeland security. I note that these accomplishments should become law shortly as we complete work on the Homeland Security appropriations bill.

The first accomplishment was reaching agreement on a broad array of reforms to improve the Department of Homeland Security, including urgently needed reform and reinforcement of the Federal Emergency Management Agency.

The recommendations for improvements the result of the Senate Committee on Homeland Security's 7-month investigation into the failed preparations and response to Hurricane Katrina. This investigation, which was completely bipartisan, included 23 hearings, testimony and interviews of some 400 people, and a review of more than 838.000 pages of documents.

The committee's recommendations will make FEMA a distinct entity within DHS. Why does that matter? It matters because it gives FEMA the same kinds of protections enjoyed by the Coast Guard and the Secret Service. It protects FEMA from arbitrary budget cuts or departmental reorganizations that are implemented without congressional review.

FEMA's Administrator, under the reforms included in the appropriations bill, will become the President's principal adviser for all-hazards emergency management.

Another important reform is that the legislation reunites preparedness and response and makes FEMA responsible and empowered for all phases of emergency management—preparation, mitigation, response, and recovery.

A very important reform will be the creation of response strike teams to ensure a more effective response to disasters.

What we will do is create in the 10 regions of the United States multi-agency task forces comprising representatives from every Federal agency that is involved in responding to or preparing for disaster. They will train and exercise with their State and local counterparts, with NGOs, such as the Red Cross, and with the key for-profit businesses, such as utility companies. That will ensure that they won't need to be exchanging business cards in the midst of the next disaster.

I was struck during our investigation of Hurricane Katrina that so many people from FEMA Region I—the region the Presiding Officer and I are from, New England—were sent down to Louisiana to help with the response to Hurricane Katrina. The problem, of course, is they didn't know the people, they didn't know the geography, they didn't know the culture, they didn't have knowledge of what assets could be mobilized in the response. These regional teams will ensure that does not happen again.

We also addressed issues such as chronic staffing shortages at FEMA, the need for better pre-positioning of emergency supplies and tracking of shipments, better grant-making authority to improve coordination regionally and with local responders, and the need to provide survivable and interoperable communications.

We also revised the Stafford Act to bring it up to date and make it more flexible and responsive.

The second major homeland security accomplishment of this Congress is still a work in progress, but I am very optimistic that it will, in fact, become law, and that is the port-security bill which this Chamber recently passed unanimously. Senator MURRAY and I have led a bipartisan effort to enact this legislation. There have been many other Members on both sides of the aisle involved, including on my committee Senator COLEMAN and Senator LIEBERMAN.

With 361 ports in this country and some 11 million shipping containers arriving each year, we desperately need better assurances that our seaports and these containers are not going to be used to bring weapons, explosives, bioterror compounds, or even a squad of terrorists into our country.

The vulnerability of our seaports is perhaps best underscored by an incident that occurred in Seattle in April, when 22 Chinese nationals were successful in coming all the way from China to Seattle in a shipping container. If 22 illegal Chinese nationals can come to our country via a shipping container, it shows we still have a lot of work to do to ensure better security at our seaports.

The legislation this Chamber passed is balanced legislation that strengthens our security while recognizing the importance of trade and not bringing the shipment of containers to a halt. The port-security package fills a dangerous gap in our defenses. I hope we will enact it before leaving here this week.

The third area of accomplishment involves the security of chemical plants, plants that either use, store, or manufacture large quantities of hazardous chemicals.

Last January, I held a hearing in which I asked several experts: What are your greatest concerns? What gaps do we have in our homeland security? The lack of regulation of our chemical plants came up time and again. Our existing protections are a patchwork of different authorities—State, Coast Guard, and voluntary industry standards. They are inadequate, given the threats we face.

Now, this has been a very difficult debate, but I think it is so important to remember that right now, the Department of Homeland Security lacks the authority to set risk- and performance-based standards for security at our chemical facilities despite the fact that terrorism experts tell us al-Qaida is focused on chemical plants and chemical explosions.

We have some 15.000 chemical facilities around the country, including more than 3.000 sites where a terrorist attack could cause considerable casualties among nearby populations. Language in the DHS appropriations bill would, for the first time, empower DHS to set performance-based security standards for high-risk chemical facilities. That is approximately 3.400 facilities across this country.

Very importantly, this legislation will allow the Secretary of Homeland Security to shut down a noncompliant plant. I fought very hard for this authority to be included in the appropriations bill. It does no good to empower the Secretary to set these risk-based, performance-based standards but then provide the tools to enforce them.

I recognize there are many chemical plants and chemical companies across this country which have voluntarily taken strong steps to improve their security in the wake of the attacks on our country on 9/11. Unfortunately, the Department of Homeland Security has told us there are many plants which have not improved their security at all or which have taken insufficient measures. We can no longer rely on just voluntary compliance with industry standards.

So this legislation is landmark legislation. It closes a dangerous gap in our homeland security, and it has been included in the Homeland Security appropriations bill.

I would note that the language includes a three-year sunset. The reason for that is we will want to evaluate the effectiveness of this approach, the effectiveness of the regulations, and also consider other measures that were not included in this bill. The committee I am privileged to chair unanimously reported chemical-security legislation that was more comprehensive than the measures included in the appropriations bill. This will give us a chance to evaluate the efforts that have been taken, that will be taken, and then to go back and look at some of the issues that were not included.

I want to be very clear. This is a major step forward. It will help close a dangerous gap in our homeland security, and it is significant progress in eliminating or at least lessening a significant risk to our country.

These are three significant steps forward: the reform of FEMA, the port security bill, and the new authority for DHS to set security measures for chemical facilities. Each of them was made possible because of bipartisan cooperation. At times in this Chamber, we berate ourselves for failing to achieve consensus on legislation that is so important to the American people, but we did it in these three cases—or we are on the verge of doing it—and it is because we did have good cooperation and strong leadership. It was not easy. But the legislation we are passing will advance our ability to protect the American people.

I compliment all of the Members of the Senate, our partners on the House side, as well as members of the administration who have stepped forward and worked so hard to make these reforms a reality. Our success in advancing these achievements in strengthening our homeland security should be a source of justifiable pride to the Members of this body.

Mr. DORGAN. Mr. President, could you describe the circumstances of the Senate? Are we in morning business?

The ACTING PRESIDENT pro tempore. The circumstances are as follows: The Senate is in a period of morning business. The minority holds 15 minutes. The majority has used all of its time.

Mr. DORGAN. So the minority's 15 minutes is now available and ready for use?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

HABEAS CORPUS

Mr. DORGAN. Mr. President, because the truncated time on the amendments to the underlying bill includes a very short amount of time for the Specter amendment, I am going to use only 5 minutes now to talk about my support of the Specter amendment.

The Specter amendment is about habeas corpus. That is a big term, a kind of complicated term. Let me describe it by describing this picture. This is a young woman. She is a young woman named Mitsuye Endo. Mitsuye Endo looked out from behind barbed-wire fences where she was incarcerated in this country some decades ago during the Second World War. Let me tell you about her. She was a 22-year-old clerical worker in California's Department of Motor Vehicles in Sacramento, CA. She had never been to Japan. She didn't speak Japanese. She had been born and raised in this country. She was a Methodist. She had a brother in the U.S. Army, unquestioned loyalty to the United States of America, but she was incarcerated—picked up, taken from her home, her job, her community, and put behind barbed-wire fences.

Now, she eventually got out of that incarceration, and her plea to the courts was what really led to the unlocking of those camps, and let those tens of thousands of Japanese Americans out of those camps. They had been unjustly viewed as enemies of our country and incarcerated. And with one young woman's writ of habeas corpus, an awful chapter in our country's history soon came to an end. Her question to the courts was a simple but powerful one: Why am I being detained?

What is habeas corpus? Well, it answers the question, by giving access to the courts, of whether you can hold someone indefinitely without charges, without a trial, and without a right for anyone to have a review of their circumstances. When someone has the right to file a habeas corpus petition, it is the right of someone to go to the court system in this country to say to that court system: There has been a mistake. I am innocent; I didn't do it; I shouldn't be here.

The court then asks the question: Why are these people locked up? Should they be locked up? Is there a basis for it? Is it a mistake? Is it wrong?

Everyone in this Chamber will have read the story in the Washington Post about a week ago, and after I read that story, I just hung my head a bit. A Canadian in this country was apprehended at an American airport, at a U.S. airport in New York City. That Canadian citizen, apprehended in New York City by our authorities, was then sent to Syria, where he was tortured for some 8 or 9 months. He was put in a coffin-like structure, a cement coffin-like structure, in isolation, and tortured. It turns out, at the end of nearly a year of his incarceration, it was all a big mistake. He wasn't a terrorist. He wasn't involved with terrorists. But he was apprehended and held incommunicado, in fact, rendered to another country where torture occurred. A big mistake. His wife didn't know where he was. He has a young 2- or 3-year-old child.

What does all this say? Why is this country a country that is different from others? We have been different from others because it is in this country where you can't be picked up off of a street and held indefinitely, held without charges, held without a trial, held without a right to go to a court. It is this country in which that exists.

Let me make another point. Why should we care about how the United States treats noncitizens and taking away the right of habeas corpus for noncitizens? Because every U.S. citizen is a noncitizen in every other country of the world. There are 193 countries in this world. We are citizens of only one. And when an American travels—any American, anywhere—we are noncitizens in those countries.

What would our reaction be? What will our reaction be as Americans if—as an example, recently, a journalist who was detained and arrested and put in jail, I believe in Sudan, who then asked his captors to be able to see the American consulate: I need the ability to contact the American consulate.

His captors said: You have no such rights.

He complained: But I do have that right.

His captors said: No. Those you have detained in the United States are not given those rights, and you are not given those rights, either.

This is why this issue is so important, and that is why I support the Specter amendment. I hope very much the Senate will not make a profound mistake by turning down that amendment.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

MILITARY COMMISSIONS

Mr. DODD. Mr. President, America was attacked on September 11, 2001, by a ruthless enemy of our Nation. It is my strong belief, as I believe it is the belief of all of us in this Chamber, that those who are responsible for orchestrating this plot and anyone else who seeks to do harm to our country and citizens should be brought to the bar of justice and punished severely. On that I presume there is no debate whatsoever.

These are extraordinary times, and we must act in a way that fully safeguards America's national security. That is why I support the concept of military commissions: to protect U.S. intelligence and expedite judicial proceedings vital to military action under the Uniform Code of Military Justice. As we develop such means, we must also ensure our actions are not counterproductive to our overall effort to protect America at all levels.

The administration and the Republican leadership on this issue would have the American people believe—and this is the unfortunate point—that the war on terror requires us to make a choice, both here in this Chamber and across the country, between protecting

America from terrorism and the choice of upholding the basic tenets upon which our Nation was founded—but not both. This canard, in my view, has been showcased far too often.

I fully reject that reasoning. Americans throughout the previous 200 years have as well. We can and must balance our responsibilities to bring terrorists to justice while at the same time protecting what it means to be an American. To choose the rule of law over the passion of the moment takes courage, but it is the right thing to do if we are to uphold the values of equal justice and due process that are codified in our Constitution.

Our Founding Fathers established the legal framework of our country on the premise that those in government are not infallible. America's leaders knew this 60 years ago when they determined how to deal with Nazi leaders guilty of horrendous crimes. There were strong and persuasive voices at that time crying out for the summary execution of those men who had commanded with ruthless efficiency the slaughter of 6 million innocent Jews and 5 million other innocent men and women. After World War Two, our country was forced to decide whether the accused criminals deserved trial or execution.

There was an article written recently by Professor Luban, a professor at Georgetown University, titled "Forget Nuremberg—How Bush's new torture bill eviscerates the promise of Nuremberg." I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORGET NUREMBERG: HOW BUSH'S NEW TORTURE BILL EVISCERATES THE PROMISE OF NUREMBERG

(By David J. Luban)

The burning question is: What did the Bush administration do to break John McCain when a North Vietnamese prison camp couldn't do it?

Could it have been "ego up"? I'm told ego up is not possible with a U.S. senator. That probably also rules out ego down. Fear up harsh? McCain doesn't have the reputation of someone who scares easily. False flag? Did he think they were sending him to the vice president's office? No, he already knew he was in the vice president's office. Wait, I think I know the answer: futility—which the Army's old field manual on interrogation defined as explaining rationally to the prisoner why holding out is hopeless. Yes, the explanation must be that the Bush lawyers would have successfully loopholed any law McCain might write, so why bother? Futility might have done the trick.

How else can we explain McCain's surrender this week on the torture issue, one on which he has been as passionate in the past as Lindsey Graham was on secret evidence?

Marty Lederman at Balkinization explains here and here some of the worst bits of the proposed "compromise legislation" on detainee treatment. But the fact is, virtually every word of the proposed bill is a capitulation, including "and" and "the." And yesterday's draft is even worse than last week's. It unexpectedly broadens the already broad definition of "unlawful enemy combatant" to include those who fight against the United States as well as those who give them "material support"—a legal term that appears to include anyone who has ever provided lodging or given a cell phone to a Taliban foot soldier out of sympathy with his cause. Now, not only the foot soldier but also his mom can be detained indefinitely at Guantanamo.

But the real tragedy of the so-called compromise is what it does to the legacy of Nuremberg—a legacy we would have been celebrating next week at the 60th anniversary of the judgment.

What does the bill do to Nuremberg? Section 8(a)(2) holds that when it comes to applying the War Crimes Act, "No foreign or international sources of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection 2441(d)." That means the customary international law of war is henceforth expelled from U.S. war-crime law—ironic, to say the least, because it was the U.S. Army's Lieber Code that formed the basis for the Law of Armed Conflict and that launched the entire worldwide enterprise of codifying genuinely international humanitarian law.

Ironic also because our own military takes customary LOAC as its guide and uses it to train officers and interrogators. Apparently there is no need to do that anymore, at least when it comes to war crimes. That means goodbye, International Committee of the Red Cross; the Swiss can go back to their fondue and cuckoo clocks. It also means goodbye, jurisprudence of the Yugoslav tribunal, which the United States was instrumental in forming.

And also goodbye, Nuremberg.

Sept. 30 and Oct. 1 mark the 60th anniversary of the tribunal's judgment. If the opening chapters of Telford Taylor's superb The Anatomy of the Nuremberg Trials make one thing crystal clear, it's the burning desire of the United States to create international law using those trials. Great Britain initially opposed the Nuremberg trials and urged simply shooting top Nazis, out of fear they would use the trials for propaganda. Stalin favored conducting trials, but only to establish punishments, not guilt. Like Great Britain, he thought punishing the top Nazis should be a political, and not a legal, decision. The trials happened as they did only because the United States insisted on them for purposes of establishing future law—a task that summary justice at executive say-so could never have done.

At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative, insisted that creating universally binding international law was the prime purpose of the tribunal.

A compromise left the international status of Nuremberg law ambiguous—the tribunal's jurisdiction covered only the Axis countries, but nowhere does the charter suggest that the crimes it was trying were only crimes if committed by the Axis powers. Because of this ambiguity, the status of the Nuremberg principles as international law was not established until 1950, when the U.N. General Assembly proclaimed seven Nuremberg Principles to be international law. The American agenda had finally prevailed.

Well, forget all that as well. The Nuremberg Principles, like the entire body of international humanitarian law, will now have no purchase in the war-crimes law of the United States. Who cares whether they were our idea in the first place? Principle VI of the Nuremberg seven defines war crimes as "violations of the laws or customs of war, which include, but are not limited to . . . ill-treatment of prisoners of war." Forget "customs of war"—that sounds like customary international law, which has no place in our courts anymore. Forget "ill-treatment"—it's too vague. Take this one: Principle II, "The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law." Section 8(a)(2) sneers at responsibility under international law. Or Principle IV: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him." Moral, shmoral. The question is, do you want the program or don't you?

The Nuremberg trials presupposed something about the human conscience: that moral choice doesn't take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance: Technicality now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of pain. It systematically distinguishes "severe pain"—the hallmark of torture—from (mere) "serious" pain—the hallmark of cruel and degrading treatment, usually thought to denote mistreatment short of torture. But then it defines serious physical pain as "bodily injury that involves . . . extreme physical pain." To untutored ears, "extreme" sounds very similar to "severe"; indeed, it sounds even worse than "severe." But in any case, it certainly sounds worse than "serious." Administration lawyers can have a field day rating painful interrogation tactics on the Three Adjective Scale, leaving the rest of us to shake our heads at the essential lunacy of the enterprise.

And then there is section 8(3), which says that "the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions." Section (B) makes it clear that his interpretation "shall be authoritative (as to non-grave breach provisions)."

On Aug. 1, 2006, The Onion ran a story headlined "Bush Grants Self Permission To Grant More Power to Self." It began: "In a decisive 1-0 decision Monday, President Bush voted to grant the president the constitutional power to grant himself additional powers." It ended thusly: "Republicans fearful that the president's new power undermines their ability to grant him power have proposed a new law that would allow senators to permit him to grant himself power." How life imitates art! In the end, the three courageous Republican holdouts didn't want the president unilaterally trashing Geneva. Now it turns out that the principle they were fighting for was simply Congress' prerogative to grant him the unreviewable power to do so.

Mr. DODD. He pointed out something that needs to be made clear. He said:

Make one thing crystal clear, it's the burning desire of the United States to create international law using those trials. Great Britain initially opposed the Nuremberg trials and urged simply shooting top Nazis out of fear, they would use the trials for propaganda. Stalin favored conducting trials

> only to establish punishments, not guilt. Like Great Britain, he thought punishing the top Nazis should be a political, and not a legal, decision. The trials happened as they did only because the United States insisted on them for purposes of establishing future law—a task that summary justice at executive say-so could never have done.
>
> At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative insisted that creating universally binding international law was the prime purpose of the tribunal.

And he prevailed in that argument.

The history is particularly poignant to me because my father, who served in this body, from whose desk I speak this morning, served as Robert Jackson's No. 2, as the executive trial counsel at Nuremberg. Mr. President, the Nuremberg trials rendered their first judgment 60 years ago. What an irony indeed that 60 years ago this Saturday, one of the great, if not the greatest, trials of the 20th century was taking us to a point where we are now codifying and moving to international law. The enemies of the United States were not given the opportunity to walk away from their crimes. Rather, they were given the right to face their accusers, the right to confront evidence against them, the right to a fair trial. Underlying that decision was the conviction that this Nation must not tailor its most fundamental principles to the conflict of the moment and the recognition that if we did, we would be walking in the very footsteps of the enemies we despised.

As we approach this 60th anniversary, I think it is important to reflect on the implications of the past as we face new challenges, new enemies, and new decisions. Much as our actions in the postwar period affected our Nation's standing in the world, so, too, do our actions in the post-9/11 era.

The Armed Services Committee, and I have great respect for my friend, JOHN WARNER, decided not to rubberstamp the administration's legislation. Instead they worked in a bipartisan way to craft a more narrowly tailored approach. Unfortunately, the bill we are discussing today is not the one that passed out of that committee. The bill before us today was worked out between several of our Republican colleagues and the White House and does not contain the improvements over the Bush administration's original proposal. I remain concerned about several provisions in the pending legislation.

The bill would strip detainees of their habeas corpus rights. The eloquent remarks of ARLEN SPECTER yesterday should be read by everyone. This longstanding tradition of our country that is about to be abandoned here will be one of the great mistakes I think history will record. There are strong beliefs among Senators on both sides that this provision is not only inadvisable but flatly unconstitutional as well. We must do everything in our power to protect our country from threats to our national security, but it is also incumbent upon every one of us to protect the very foundation upon which our Nation was established. This legislation will not achieve those aims.

I support the efforts, certainly of those who are trying to improve this bill, but I wish to conclude these remarks by quoting Justice Jackson. Justice Jackson said at the conclusion of the Nuremberg trials:

> We must never forget that the record on which we judge these defendants today—is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our lips as well.

To rubberstamp the administration's bill, in my view, would poison one of the most fundamental principles of American democracy. I urge my colleagues not to move in that direction.

Also, if I can, I wish to read from this article which was written by Mr. Luban, talking about the Nuremberg trials, because it is an important moment in our history. He said:

> The Nuremberg trials presupposed something about the human conscience: that moral choice doesn't take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance: technicality now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of pain. It systematically distinguished "severe pain"—the hallmark of torture—from mere "serious" pain—the hallmark of cruel and degrading treatment, usually thought to denote mistreatment short of torture. But then it defines serious pain as "bodily injury that involves . . . extreme physical pain." To untutored ears, "extreme" sounds very similar to "severe"; indeed, it sounds even worse than "severe." But in any case, it certainly sounds worse than "serious."

Administration lawyers can have a field day in the coming years reading painful interrogation tactics on the Three Adjective Scale, leaving the rest of us to shake our heads at the essential lunacy of the enterprise.

It is about conscience. It is the fundamental principle which we enshrined and fought for. It was the United States of America that stood and insisted that our allies try to do something to avoid future conflicts, 60 years ago this Saturday. To watch the Senate, on the anniversary of the Nuremberg trials, step away from that great tradition, those great principles enshrined at that time, I think is one of the saddest days I have ever seen in this Senate in my almost 30 years serving in this body.

I hope my colleagues, with a few days to go before the election, put this aside. Let's come back afterward and think more clearly. Too much of politics is written into these decisions. This is the United States of America.

The PRESIDING OFFICER (Ms. Murkowski). The time of the Senator has expired.

Mr. DODD. I yield the floor.

Several Senators addressed the Chair.

Mr. WARNER. Madam President, will the distinguished leader allow me to say a few words?

I listened very intently. The Senator from Connecticut and I have, over many years, formed a very close personal and professional working relationship. I know the deep, abiding respect you have for your father and his work, particularly at that historic moment in the history of world jurisprudence, the Nuremberg trials. I regret that you perceive that this bill on the floor falls short of your idea of the goals. But I assure you the group with which I worked did everything we could—and I think we have succeeded, I say in all respects—certainly with regard to the 1949 treaty, which, as you know, was in four parts, and the Common Article 3 to all four of those treaties, preserving this Nation's obligations under that treaty.

So while we have our differences, I just wish to conclude that I respect you greatly for the admiration you have for your father, as do I have for my father, who was a doctor during that period. I thank you for the opportunity to listen to you.

Mr. DODD. If I may respond to my colleague from Virginia, for whom I have the greatest respect, it is not only my love and affection for my father; more importantly, it is my love and affection for what he and a group of Americans did at a time when others said abandon the rule of law: They stood up at a time when it was tempting not to do so. World opinion certainly was against them in many ways. These were dreadful human beings. These people murdered millions, incinerated millions of people. Yet people such as my father and Robert Jackson and others stood up and said: No, we are going to be different than they are. The rule of law is so critically important to us that we want to show the civility of this great country of ours and how the last part of the 20th century can be conducted differently. It is not just my affection for my father; it is more the affection for what they did in a moment, against public opinion, to set the gold standard and set us apart.

We have been known as the nation of Nuremberg. My fear is now we will be known as the nation of Guantanamo, and I worry about that.

Mr. WARNER. We have our differences, if I may say, but that was a war of state-sponsored nations and aggressions, men wearing uniforms, men acting at the direction of recognized governments. Today's war is a disparate bunch of terrorists, coming overnight, no uniforms, no principles, guided by nothing. We are doing the best we can as a nation, under the direction of our President, to defend ourselves.

Mr. DODD. If our colleague would yield. I do not disagree, but I don't think there is a choice between upholding the principles of America and fighting terrorism. Every generation of Americans will face their own threats. This is ours. Every previous generation faced serious threats, and they did not abandon the principles upon which this country is founded. I am fearful we are going to do that today.

Mr. WARNER. I disagree with my friend, and I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. For this little conclusion, I will use leader time.

I ask unanimous consent that 5 minutes from Senator ROCKEFELLER and Senator KENNEDY—they both have a half hour on their respective amendments—be transferred to Senators CLINTON and JOHN KERRY. They will each have 5 minutes to speak. And that I have 12 minutes under my control remaining on the bill and that time be equally divided between Senators FEINSTEIN and FEINGOLD. They will each have 6 minutes to speak on the bill.

Mr. WARNER. Madam President, reserving the right to object, and I will not object, but I listened carefully. You courteously advised me that this request works within the confines of the standing unanimous consent, is my understanding, in terms of the allocation of time.

Mr. REID. This adds no time to the bill.

Mr. WARNER. That is correct. I wanted to make that clear to my colleagues.

Mr. LEAHY. Reserving the right to object. I shall not, of course. As a matter of clarification, there is still some specific time reserved to the Senator from Vermont; is that correct?

The PRESIDING OFFICER. There remains 23 minutes on the bill.

Mr. REID. That is 23 minutes, plus the good offices of Senator SPECTER may give the Senator additional time.

Mr. LEAHY. Thank you.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

MILITARY COMMISSIONS ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3930, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3930) to authorize trial by military commission for violations of the law of war, and for other purposes.

Pending:

Specter amendment No. 5087, to strike the provision regarding habeas review.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, just for purposes of advising colleagues, there remains on the Specter amendment 16 minutes under the control of the Senator from Virginia. I desire to allocate about 4 minutes to Senator KYL, 2 to 3 minutes to Senator SESSIONS, and to wrap it up, 2 to 3 minutes to Senator GRAHAM. But we will alternate or do as the Senator from Michigan—you have 33 minutes, I believe, under the control of Senator SPECTER and those in support of his amendment.

Mr. LEVIN. Madam President, parliamentary inquiry: How much time is remaining to Members on this side, including on the bill?

The PRESIDING OFFICER. Senator SPECTER's side controls 33 minutes.

Mr. LEVIN. On the Democratic side?

The PRESIDING OFFICER. Senator WARNER controls 16 minutes, and the proponent of the amendment controls 33.

Mr. LEVIN. And on the bill itself, is there time left?

The PRESIDING OFFICER. Senator REID has allocated the remainder of the debate time on the bill itself.

Mr. LEVIN. All time is allocated?

The PRESIDING OFFICER. Correct.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVIN. Madam President, I wish to thank the Senator from Connecticut for one of the most passionate statements I have ever heard on this floor—heartfelt, right on target. The distinctions made in this bill which will allow statements to be admitted into evidence that were produced by cruel treatment is unconscionable. It is said that, well, statements made after December 30 of 2005 won't be allowed, but those that are produced by cruel and inhuman treatment prior to December 30 of 2005 are OK. It is unconscionable. It is unheard of. It is untenable, and the Senator from Connecticut has pointed it out very accurately, brilliantly. I thank him for his statement.

Mr. WARNER. Madam President, we will proceed on Specter's amendment. In due course, I will find the time to comment on my colleague's 30 seconds. I want to keep this thing in an orderly progression. I would like to add the Senator from Texas, Mr. CORNYN, in the unanimous consent agreement to be recognized as one of the wrap-up speakers on those in opposition to the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, yesterday Senator SPECTER argued that one sentence in the Hamdi opinion that refers to habeas corpus rights as applying to all "individuals" inside the United States indicates that alien enemy combatants have constitutional habeas rights when they are held inside this country. I believe that Senator SPECTER is incorrect, for the following reasons: (1) The Hamdi plurality repeatedly makes clear that "the threshold question before us is whether the Executive has the authority to detain citizens who qualify as 'enemy combatants.'" The plurality expressly frames the issue before it in terms of the rights of citizens no fewer than eight times. It is clear that it is only the rights of citizens that the Hamdi plurality studied and ruled on. (2) Elsewhere the Hamdi plurality criticized a rule that would make the government's right to hold someone as an enemy combatant turn on whether they are held inside or outside of the United States. The plurality characterized such a rule as creating "perverse incentives," noted that it would simply encourage the military to hold detainees abroad, and concluded that it should not create a "determinative constitutional difference." The same effect would, of course, be felt if enemy soldiers' habeas rights were made turn on whether they were held inside or outside of the United States. The fact that the Hamdi plurality rejected this type of geographical gamesmanship in one context casts doubt on the theory that it endorsed it in a closely related context. (3) Had Hamdi extended habeas rights to alien enemy combatants held inside the United States, that would have been a major ruling of tremendous consequence. Because courts typically do not hide elephants in mouseholes, cf. Whitman v. ATA, it is fair to conclude that no such groundbreaking ruling is squirreled away in one ambiguous sentence in the Hamdi plurality opinion on the floor Wednesday evening. I presented the argument that the constitutional writ of habeas corpus does not extend to alien enemy soldiers held during wartime. Senator SPECTER responded by quoting from a passage in Justice O'Connor's plurality opinion in Hamdi v. Rumsfeld, 542 U.S. 507 (2004), that he believes establishes that alien combatants are entitled to habeas rights if they are held within the United States. That statement, towards the beginning of section III.A of the court's opinion, is a part of a statement of general principles noting that "[a]ll agree" that, absent suspension, habeas corpus remains available to every "individual" within the United States. Senator SPECTER reads this statement, unadorned by any qualification as to whether the individual in question is a U.S. citizen, an illegal immigrant, or an alien enemy combatant, to stand for the proposition that even the latter has a constitutional right to habeas corpus when held within the United States.

I would suggest that this single, ambiguous statement cannot be construed to bear that much weight, for three reasons.

Elsewhere in its opinion, the Hamdi plurality repeatedly makes clear that the only issue it is actually considering is whether a U.S. citizen has habeas and due process rights as an enemy combatant. The plurality's emphasis on citizenship is repeatedly made clear throughout Justice O'Connor's opinion. For example, on page 509, in its first sentence, the plurality opinion says: "we are called upon to consider the legality of the detention of a United States citizen on United States soil as an 'enemy combatant' and to address the process that is constitutionally owed to one who seeks to challenge his detention as such." On page 516, the plurality again notes: "The threshold question before us is whether the Executive has the authority to detain citizens who qualify as 'enemy combatants.'" On page 524, the plurality once again emphasizes: "there remains the question of what process is constitutionally due to a citizen who disputes his enemy-combatant status." On page 531: "We reaffirm today the fundamental nature of a citizen's right to be free from involuntary confinement by his own government without due process of law." On page 532: "neither the process proposed by the Government nor the process apparently envisioned by the District Court below strikes the proper constitutional balance when a United States citizen is detained in the United States as an enemy combatant." On page 533: "We therefore hold that a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertion before a neutral decisionmaker." On page 535: military needs "are not so weighty as to trump a citizen's core rights to challenge meaningfully the Government's case and to be heard by an impartial adjudicator." And on page 536–37: "it would turn our system of checks and balances on its head to suggest that a citizen could not make his way to court with a challenge to the factual basis for his detention by his government."

Whatever loose language may have been used in the plurality's statement of general principles at the outset of its analysis, it is apparent that the only issue that the plurality actually studied and intended to address is the constitutional rights of the U.S. citizen.

Another thing that augurs against interpreting the Hamdi plurality opinion to extend constitutional habeas rights to alien enemy combatants whenever they are held inside the United States is that, elsewhere in its opinion, the plurality is quite critical of a geographically-based approach to enemy combatant's rights. At page 524, the plurality responds to a passage in Justice Scalia's dissent that it reads as arguing that the government's ability to hold someone as an enemy combatant turns on whether they are held inside or outside of the United States. The plurality opinion states that making the ability to hold someone as an enemy combatant turn on whether they are held in or out of the United States:

> creates a perverse incentive. Military authorities faced with the stark choice of submitting to the full-blown criminal process or releasing a suspected enemy combatant captured on the battlefield will simply keep citizen-detainees abroad. Indeed, the Government transferred Hamdi from Guantanamo Bay to the United States naval brig only after it learned that he might be an American citizen. It is not at all clear why that should make a determinative constitutional difference.

It is doubtful that this same plurality—one that sees "perverse" effects in rules that would encourage the government to hold enemy combatants outside of the United States in order to avoid burdensome litigation—also intended to rule that full constitutional habeas rights attach to alien enemy combatants as soon as they enter U.S. airspace.

Finally, Senator SPECTER's argument that the ambiguous reference to "individuals" on page 525 of Hamdi extends habeas rights to foreign enemy combatants held inside U.S. territory is inconsistent with the common sense interpretive rule that one does not "hide elephants in mouseholes." *Whitman* v. *American Trucking Association*, 531 U.S. 457, 468 (2001). Although this rule of construction typically is applied by the court to our enactments, I see no reason why its logic would not operate when applied in reverse, by members of this body to the court's opinions.

For the Hamdi court to have extended constitutional habeas rights to alien enemy soldiers held inside the United States would have been a major decision of enormous consequence to our nation's warmaking ability. As the Hamdi plurality itself noted, "detention to prevent a combatant's return to the battlefield is a fundamental incident of waging war." As I noted yesterday, during World War II the United States detained over 425,000 enemy war prisoners inside the United States. Yet as Rear Admiral Hutson—no supporter of section 7 of the MCA—noted in his testimony at Monday's Judiciary Committee hearing, aside from one petition filed by an American of Italian descent, no habeas petitions challenging detention were filed by any of these World War II enemy combatants. It is simply inconceivable that all of the 425,000 enemy combatants held inside the United States during this period could have been allowed to sue our government in our courts to challenge their detention. And were their right to do so made to turn on whether they were held inside or outside of the United States, our Armed Forces inevitably would have been forced to find some accommodations for them in foreign territory. And since holding enemy combatants near the war zone is neither practical nor safe, our nation's whole ability to fight a war would be made to turn on whether we could find some third country where we could hold enemy war prisoners. I would submit that this elephant of a result simply will not fit in the small space for it created by the one ambiguous passage in the Hamdi plurality opinion.

For these three reasons, I believe that Senator SPECTER is incorrect to interpret the Hamdi plurality opinion to extend constitutional habeas corpus rights to alien enemy combatants held inside the United States.

Just to conclude by summarizing the point as follows: On eight separate times, the plurality opinion in Hamdi refers to the rights of citizens. That is the question before the court. This is what it rules on. This is our holding. At no point does it extend it to citizens. There is one sentence rather loosely framed that refers to individuals. Had the courts in that decision intended to apply the habeas right to all individuals in the United States rather than citizens, it would most assuredly have said so.

I don't think, with all due respect to my great friend, the chairman of the committee, that relying on that one loose word in one sentence of the opinion overrides all of the other reasoning, all of the other clear statements, and the obvious intent of the opinion to relate it to citizens only. With all due respect, I disagree with the reading of the case and conclude that there is nothing wrong with this legislation before us limiting the rights of habeas to those who are citizens and not extending it to alien enemy combatants.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, by way of brief reply to the comments of the Senator from Arizona, he argues that the Hamdi decision does not apply to aliens but only to citizens, trying to draw some inferences. But that does not stand up in the face of explicit language by Justice O'Connor to this effect:

> All agree that absent suspension the writ of habeas corpus remains available to every individual detained in the United States.

The Senator from Arizona can argue all he wants about inferences; but that hardly stands up to an explicit statement on individuals. And Justice O'Connor knows the difference between referring to an individual or referring to a citizen or referring to an alien. And "individuals" covers both citizens and aliens.

Following the reference to individuals is the citation of the constitutional provision that you can't suspend habeas corpus except in time of rebellion or invasion.

Buttressing my argument is the Rasul v. Bush case where it applied specifically to aliens; and it is true that the consideration was under the statute section 2241. There the Court says that section 2241 "draws no distinction between Americans and aliens held in Federal custody."

That again buttresses the argument I have made in two respects. First, Rasul specifically grants habeas corpus, albeit statutory, to aliens and says there is no distinction. So on the face of the explicit language of the Supreme Court of the United States there is a constitutional requirement, and it is fundamental that Congress cannot legislate in contradiction to a constitutional interpretation of the Supreme Court. That requires a constitutional amendment—not legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

Mr. LEAHY. Madam President, will the Senator from Pennsylvania yield?

Mr. SPECTER. Madam President, how much time remains under my control?

The PRESIDING OFFICER. Thirty minutes.

Mr. SPECTER. Madam President, I yield 10 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Thank you, Madam President. If I require further time beyond 10 minutes I will take time from that reserved to the Senator from Vermont.

Let's understand exactly what we are talking about here. There are approximately 12 million lawful permanent residents in the United States today. Some came here initially the way my grandparents did or my wife's parents did. These are people who work for American firms, they raise American kids, they pay American taxes.

Section 7 of the bill before us represents a choice about how to treat them. This bill could have been restricted to traditional notions of enemy combatants—foreign fighters captured on the battlefield—but the drafters of this bill chose not to do so.

Let's be very clear. Once we get past all of the sloganeering, all the fundraising letters, all the sound bites, all the short headlines in the paper, let's be clear about the choice the bill makes. Let's be absolutely clear about what it says to lawful permanent residents of the United States. Then let's decide if it is the right message to send them and if it is really the face of America that we want to show.

Take an example. Imagine you are a law-abiding, lawful, permanent resident, and in your spare time you do charitable fundraising for international relief agencies to lend a helping hand in disasters. You send money abroad to those in need. You are selective in the charities you support, but you do not discriminate on the grounds of religion. Then one day there is a knock on your door. The Government thinks that the Muslim charity you sent money to may be funneling money to terrorists and thinks you may be involved. And perhaps an overzealous neighbor who saw a group of Muslims come to your House has reported "suspicious behavior." You are brought in for questioning.

Initially, you are not very worried. After all, this is America. You are innocent, and you have faith in American justice. You know your rights, and you say: I would like to talk to a lawyer. But no lawyer comes. Once again, since you know your rights, you refuse to answer any further questions. Then the interrogators get angry. Then comes solitary confinement, then fierce dogs, then freezing cold that induces hypothermia, then waterboarding, then threats of being sent to a country where you know you will be tortured, then Guantanamo. And then nothing, for years, for decades, for the rest of your life.

That may sound like an experience from some oppressive and authoritarian regime, something that may have happened under the Taliban, something that Saddam Hussein might have ordered or something out of Kafka. There is a reason why that does not and cannot happen in America. It is because we have a protection called habeas corpus, or if you do not like the Latin phrase by which it has been known throughout our history, call it access to the independent Federal courts to review the authority and the legality by which the Government has taken and is holding someone in custody. It is a fundamental protection. It is woven into the fabric of our Nation.

Habeas corpus provides a remedy against arbitrary detentions and constitutional violations. It guarantees an opportunity to go to court, with the aid of a lawyer, to prove that, yes, you are innocent.

As Justice Scalia stated in the Hamdi case:

> The very core of liberty secured by the Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive.

Of course, the remedy that secures that most basic freedom is habeas corpus.

Habeas corpus does not give you any new rights, it just guarantees your have a chance to ask for your basic freedom.

If we pass this bill today, that will be gone for the 12 million lawful, permanent residents who live and work among us, to say nothing of the millions of other legal immigrants and visitors who we welcome to our shores each year. That will be gone for another estimated 11 million immigrants the Senate has been working to bring out of the shadows with comprehensive immigration reform.

The bill before the Senate would not merely suspend the great writ, the great writ of habeas corpus, it would eliminate it permanently. We do not have to worry about nuances, such as how long it will be suspended. It is gone. Gone.

Over 200 years of jurisprudence in this country, and following an hour of debate, we get rid of it. My God, have any Members of this Senate gone back and read their oath of office upholding the Constitution? This cuts off all habeas petitions, not just those founded on relatively technical claims but those founded on claims of complete innocence.

We hundred Members in the Senate, we privileged men and women, are supposed to be the conscience of the Nation. We are about to put the darkest blot possible on this Nation's conscience. It would not be limited to enemy combatants in the traditional sense of foreign fighters captured in the battlefield, but it would apply to any alien picked up anywhere in the world and suspected of possibly supporting enemies of the United States.

We do not need this bill for those truly captured on the battlefield who have taken up arms against the United States. That is why the definition of enemy combatant has been so expansively redefined behind closed doors in the dark of night.

This bill is designed instead to sweep others into the net. It would not even require an administrative determination that the Government's suspicions have a reasonable basis in fact. By its plain language, it would deny all access to the courts to any alien awaiting—what a bureaucratic term, to determine your basic human rights, "any alien awaiting"—a Government determination as to whether the alien is an enemy combatant. The Government would be free to delay as long as it liked—for years, for decades, for the length of the conflict which is so undefined and may last for generations.

One need only look at Guantanamo. Even our own Government says a number of people are in there by mistake, but we will not get around to making that determination. Maybe in 5 years, maybe 10, maybe 20, maybe 30. And we wonder why some of our closest allies ask us, what in heaven's name has happened to the conscience and moral compass of this great Nation? Are we so terrified of some terrorists around this country that we will run scared and hide? Is that what we will do, tear down all the structures of liberty in this country because we are so frightened?

It brings to mind that famous passage in "A Man for All Seasons."

Thomas More is talking to his protege, William Roper, and says something to the effect that England is planted thick like a forest with laws. He said, Would you cut down those laws to get after the devil? And Roper said, of course I would cut down all the laws in England to get the devil. And then More said, Oh, and when the last law was down and the devil turned on you, what will protect you?

This legislation is cutting down laws that protect all 100 of us, and now almost 300 million Americans. It is amazing the Senate would be talking about doing something such as this, especially after the example of Guantanamo. We can pick up people intentionally or by mistake and hold them forever.

How many speeches have I heard in my 32 years in the Senate during the cold war and after, criticizing totalitarian governments that do things such as that? And we can stand here proudly and say it would never happen in America; this would never happen in America because we have rights, we have habeas corpus, and people are protected.

I am not here speculating about what the bill says. This is not a critic's characterization of the bill. It is what the bill plainly says, on its face. It is what the Bush-Cheney administration is demanding. It is what any Member who votes against the Specter-Leahy amendment and for the bill today is going to be endorsing.

The habeas stripping provisions in the bill go far beyond what Congress did in the Detainee Treatment Act in three respects. First, as the Supreme Court pointed out in Hamdan, the DTA removed habeas jurisdiction only prospectively, for future cases. This new bill strips habeas jurisdiction retroactively, even for pending cases. This is an extraordinary action that runs counter to long-held U.S. policies disfavoring retroactive legislation.

Second, the DTA applied only to detainees at Guantanamo. This new legislation goes far beyond Guantanamo and strips the right to habeas of any alien living in the United States if the alien has been determined an enemy combatant, or even if he is awaiting a determination—and that wait can take years and years and years. Then, 20 years later, you can say: We made a mistake. Tough. It allows holding an alien, any alien, forever, without the right of habeas corpus, while the Government makes up its mind as to whether he is an enemy combatant.

And third, the impact of those provisions is extended by the new definition of enemy combatant proposed in the current bill. The bill extends the definition to include persons who supported hostilities against the United States, even if they did not engage in armed conflict against the United States or its allies. That, again, is an extraordinary extension of existing laws.

If we vote today to abolish rights of access to the justice system to any alien detainee who is suspected—not determined, not even charged; these people are not even charged, just suspected—of assisting terrorists, that will do by the back door what cannot be done up front. That will remove the checks in our legal system that provide against arbitrarily detaining people for life without charge. It will remove the mechanism the Constitution provides to stop the Government from overreaching and lawlessness.

This is so wrong. It grieves me, after three decades in this Senate, to stand here knowing we are thinking of doing this. It is so wrong. It is unconstitutional. It is un-American. It is designed to ensure the Bush-Cheney administration will never again be embarrassed by a U.S. Supreme Court decision reviewing its unlawful abuses of power. The Supreme Court said, you abused your power. And they said, we will fix that. We have a rubberstamp Congress that will set that aside and give us power that nobody—no king or anyone else setting foot in this land—had ever thought of having.

In fact, the irony is this conservative Supreme Court—seven out of nine members are Republicans—has been the only check on the Bush-Cheney administration because Congress has not had the courage to do that. Congress has not had the courage to uphold its own oath of office.

With this bill, the Congress will have completed the job of eviscerating its role as a check and balance on the administration. The Senate has turned its back on the Warner-Levin bill, a bipartisan bill reported by the Committee on Armed Services, so it can jam through the Bush-Cheney bill. This bill gives up the ghost. It is not a check on the administration but a voucher for future wrongdoing.

Abolishing habeas corpus for anyone the Government thinks might have assisted enemies of the United States is unnecessary and morally wrong, a betrayal of the most basic values of freedom for which America stands. It makes a mockery of the Bush-Cheney administration's lofty rhetoric about exporting freedom across the globe. We can export freedom across the globe, but we will cut it out in our own country. What hypocrisy.

I read yesterday from former Secretary of State Colin Powell's letter in which he voiced concern about our moral authority in the war against terrorism. The general and former head of the Joint Chiefs of Staff and former Secretary of State was right.

Admiral John Hutson testified before the Judiciary Committee that stripping the courts of habeas corpus jurisdiction was inconsistent with our history and our tradition. The admiral concluded:

> We don't need to do this. America is too strong.

When we do this, America will not be a stronger nation. America will be a weaker nation. We will be weaker because we turned our back on our Constitution. We turned our back on our rights. We turned our back on our history.

I ask unanimous consent to have printed in the RECORD a letter from more than 60 law school deans and professors who state that the Congress would gravely disserve our global reputation by doing this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 27, 2006.

To United States Senators and Members of Congress.

DEAR SENATORS AND REPRESENTATIVES: We, the undersigned law deans and professors, write in our individual capacity to express our deep concern about two bills that are rapidly moving through Congress. These bills, the Military Commissions Act and the National Security Surveillance Act, would make the indefinite detention of those labeled enemy combatants and the executive's program of domestic surveillance effectively unreviewable by any independent judge sitting in public session. While different in character, both bills unwisely contract the jurisdiction of courts and deprive them of the ability to decide critical issues that must be subject to judicial review in any free and democratic society.

Although the Military Commissions Act of 2006 (S. 3929/S. 3930) was drafted to improve and codify military commission procedures following the Supreme Court's June 2006 decision in Hamdan v. Rumsfeld, it summarily eliminates the right of habeas corpus for those detained by the U.S. government who have been or may be deemed to be enemy combatants: Detainees will have no ability to challenge the conditions of their detention in court unless and until the administration decides to try them before a military commission. Those who are not tried will have no recourse to any independent court at any time. Enacting this provision into law would be a grievous error. As several witnesses testified before the Senate Judiciary Committee on Monday, Article I, Section 9 of the Constitution specifies that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it," conditions that are plainly not satisfied here.

Similarly, the National Security Surveillance Act of 2006 (S. 3876) would strip courts of jurisdiction over pending cases challenging the legality of the administration's domestic spying program and would transfer these cases to the court established by the Foreign Intelligence Surveillance Act of 1978 (FISA). The transfer of these cases to a secret court that issues secret decisions would shield the administration's electronic surveillance program from effective and transparent judicial scrutiny.

These bills exhibit a profound and unwarranted distrust of the judiciary. The historic role of the courts is to ensure that the legislature promulgates and the executive faithfully executes the law of the land with due respect for the rights of even the most despised. Any protections embodied in these bills would be rendered worthless unless the courts can hold the executive accountable to enacted law. Moreover, the bills ignore a central teaching of the Supreme Court's decision in Hamdan v. Rumsfeld: the importance of shared institutional powers and checks and balances in crafting lawful and sustainable responses to the war on terror. Absent effective judicial review, there will be no way to enforce any of the limitations in either bill that Congress is currently seeking to place upon the executive's claimed power.

We recognize the need to prevent and punish crimes of terrorism and to investigate and prosecute such crimes. But depriving our courts of jurisdiction to determine whether the executive has acted properly when it detains individuals in this effort would endanger the rights of our own soldiers and nationals abroad, by limiting our ability to demand that they be provided the protections that we deny to others. Eliminating effective judicial review of executive acts as significant as detention and domestic surveillance cannot be squared with the principles of transparency and rule of law on which our constitutional democracy rests.

The Congress would gravely disserve our global reputation as a law-abiding country by enacting bills that seek to combat terrorism by stripping judicial review. We respectfully urge you to amend the judicial review provisions of the Military Commissions Act and the National Security Surveillance Act to ensure that the rights granted by those bills will be enforceable and reviewable in a court of law.

Sincerely,

James J. Alfini, President and Dean, South Texas College of Law.

Michelle J. Anderson, Dean, CUNY School of Law.

Katharine T. Bartlett, Dean and A. Kenneth Pye Professor of Law, Duke Law School.

Molly K. Beutz, Yale Law School.

Harold Hongju Koh, Dean and Gerard C. & Bernice Latrobe Smith Professor of International Law, Yale Law School.

Harold J. Krent, Dean & Professor, Chicago-Kent College of Law.

Lydia Pallas Loren, Interim Dean and Professor of Law, Lewis & Clark Law School.

Dennis Lynch, Dean, University of Miami School of Law.

John Charles Boger, Dean, School of Law, University of North Carolina at Chapel Hill.

Jeffrey S. Brand, Dean, Professor and Chairman, Center for Law & Global Justice, University of San Francisco Law School.

Katherine S. Broderick, Dean and Professor, University of the District of Columbia, David A. Clarke School of Law.

Brian Bromberger, Dean and Professor, Loyola Law School.

Robert Butkin, Dean and Professor of Law, University of Tulsa College of Law.

Evan Caminker, Dean and Professor of Law, University of Michigan Law School.

Judge John L. Carroll, Dean and Ethel P. Malugen Professor of Law, Cumberland School of Law, Samford University.

Neil H. Cogan, Vice President and Dean, Whittier Law School.

Mary Crossley, Dean and Professor of Law, University of Pittsburgh School of Law,

Mary C. Daly, Dean & John V. Brennan Professor Law and Ethics, St. John's University School of Law.

Richard A. Matasar, President and Dean, New York Law School.

Philip J. McConnaughay, Dean and Donald J. Farage Professor of Law, The Pennsylvania State University, Dickinson School of Law.

Richard J. Morgan, Dean William S. Boyd School of Law, University of Nevada, Las Vegas.

Fred L. Morrison, Popham Haik Schnobrich/Lindquist & Vennum Professor of Law and Interim Co-Dean, University of Minnesota Law School.

Kenneth M. Murchison, James E. & Betty M. Phillips Professor of Law, Louisiana State University, Paul M. Hebert Law Center.

Cynthia Nance, Dean and Professor, University of Arkansas, School of Law.

Nell Jessup Newton, William B. Lockhart Professor of Law, Chancellor and Dean, University of California at Hastings College of Law.

Maureen A. O'Rourke, Dean and Professor of Law, Michaels Faculty Research Scholar, Boston University School of Law.

Margaret L. Paris, Dean, Elmer Sahlstrom Senior Fellow, University of Oregon School of Law.

Stuart L. Deutsch, Dean and Professor of Law, Rutgers School of Law-Newark.

Stephen Dycus, Professor, Vermont Law School.

Allen K. Easley, President and Dean, William Mitchell College of Law.

Christopher Edley, Jr., Dean and Professor, Boalt Hall School of Law, UC Berkeley.

Cynthia L. Fountaine, Interim Dean and Professor of Law, Texas Wesleyan University School of Law.

Stephen J. Friedman, Dean, Pace University School of Law.

Dean Bryant G. Garth, Southwestern Law School, Los Angeles, California.

Charles W. Goldner, Jr., Dean and Professor of Law, William H. Bowen School of Law, University of Arkansas at Little Rock.

Mark C. Gordon, Dean and Professor of Law, University of Detroit Mercy School of Law.

Thomas F. Guernsey, President and Dean, Albany Law School.

Don Guter, Dean, Duquesne University School of Law.

Jack A. Guttenberg Dean and Professor of Law.

LeRoy Pernell, Dean and Professor, Northern Illinois University College of Law.

Rex R. Perschbacher, Dean and Professor of Law, University of California at Davis School of Law.

Raymond C. Pierce, Dean and Professor of Law, North Carolina Central University School of Law.

Peter Pitegoff Dean and Professor of Law, University of Maine School of Law.

Efrén Rivera Ramos, Dean, School of Law, University of Puerto Rico.

William J. Rich, Interim Dean and Professor of Law, Washburn University School of Law.

James V. Rowan, Associate Dean, Northeastern University School of Law, Boston, Massachusetts.

Edward Rubin, Dean and John Wade-Kent Syverud Professor of Law, Vanderbilt University.

David Rudenstine, Dean, Cardozo School of Law.

Lawrence G. Sager, Dean, University of Texas School of Law, Alice Jane Drysdale Sheffield Regents Chair in Law, Capital University Law School.

Joseph D. Harbaugh, Dean and Professor, Shepard Broad Law Center, Nova Southeastern University.

Lawrence K. Hellman, Dean and Professor of Law, Oklahoma City University School of Law.

Patrick E. Hobbs, Dean and Professor of Law, Seton Hall University School of Law.

José Roberto Juárez, Jr., Dean and Professor of Law, University of Denver Sturm College of Law.

W. H. Knight, Jr., Dean and Professor, University of Washington School of Law, Seattle, Washington.

Brad Saxton, Dean & Professor of Law, Quinnipiac University School of Law.

Stewart J. Schwab, the Allan R. Tessler Dean & Professor of Law, Cornell Law School.

Geoffrey B. Shields, President and Dean and Professor of Law, Vermont Law School.

Aviam Soifer, Dean and Professor, William S. Richardson School of Law, University of Hawai'i.

Emily A. Spieler, Dean, Edwin Hadley Professor of Law, Northeastern University School of Law.

Kurt A. Strasser, Interim Dean and Phillip I. Blumberg Professor, University of Connecticut Law School.

Leonard P. Strickman, Dean, Florida International University, College of Law.

Steven L. Willborn, Dean & Schmoker Professor of Law, University of Nebraska College of Law.

Frank H. Wu, Dean, Wayne State University Law School.

David Yellen, Dean and Professor, Loyola University Chicago School of Law.

Mr. LEAHY. Kenneth Starr, the former independent counsel and Solicitor General for the first President Bush, wrote that the Constitution's conditions for suspending habeas corpus have not been met and that doing it would be problematic.

The post-9/11 world requires us to make adjustments. In the original PATRIOT Act five years ago, we made adjustments to accommodate the needs of the Executive, and more recently, we sought to fine-tune those adjustments. I think some of those adjustments sacrificed civil liberties unnecessarily, but I also believe that many provisions in the PATRIOT Act were appropriate. I wrote many of the provisions of the PATRIOT Act, and I voted for it.

This bill is of an entirely different nature. The PATRIOT Act took a cautious approach to civil liberties and while it may have gone too far in some areas, this bill goes so much further than that. It takes an entirely dismissive and cavalier approach to basic human rights and to our Constitution.

In the aftermath of 9/11, Congress provided in section 412 of the PATRIOT Act that an alien may be held without charge if, and only if, the Attorney General certifies that he is a terrorist or that he is engaged in activity that endangers the national security. He may be held for seven days, after which he must be placed in removal proceedings, charged with a crime, or released. There is judicial review through habeas corpus proceedings, with appeal to the D.C. Circuit.

Compare that to section 7 of the current bill. The current bill does not provide for judicial review. It would preclude it. It does not require a certification by the Attorney General that the alien is a terrorist. It would apply if the alien was "awaiting" a Government determination whether the alien is an "enemy combatant." And it is not limited to seven days. It would enable the Government to detain an alien for life without any recourse whatsoever to justice.

What has changed in the past 5 years that justifies not merely suspending but abolishing the writ of habeas corpus for a broad category of people who have not been found guilty, who have not even been charged with any crime? What has turned us? What has made us so frightened as a nation that now the United States will say, we can pick up somebody on suspicion, hold them forever, they have no right to even ask why they are being held, and besides that, we will not even charge them with anything, we will just hold them? What has changed in the last 5 years?

Is our Government is so weak or so inept and our people so terrified that we have to do what no bomb or attack could ever do, and that is take away the very freedoms that define America? We fought two world wars, we fought a civil war, we fought a revolutionary war, all these wars to protect those rights.

And now, think of those people who have given their lives, who fought so hard to protect those rights. What do we do? We sit here, privileged people of the Senate, and we turn our backs on that. We throw away those rights.

Why would we allow the terrorists to win by doing to ourselves what they could never do and abandoning the principles for which so many Americans today and throughout our history have fought and sacrificed? What has happened that the Senate is willing to turn America from a bastion of freedom into a cauldron of suspicion, ruled by a government of unchecked power?

Under the Constitution, a suspension of the writ may only be justified during an invasion or a rebellion, when the public safety demands it. Six weeks after the deadliest attack on American soil in our history, the Congress that passed the PATRIOT Act rightly concluded that a suspension of the writ would not be justified.

But now, 6 weeks before a midterm election, as the fundraising letters are running around, the Bush-Cheney administration and its supplicants in Congress deem a complete abolition of the writ the highest priority, a priority so urgent that we are allowed no time to properly review, debate, and amend a bill we first saw in its current bill less than 72 hours ago. There must be a lot of fundraising letters going out.

Notwithstanding the harm the administration has done to national security—first by missing their chance to stop September 11 and then with their mismanaged misadventures in Iraq—there is no new national security crisis. Apparently, there is only a Republican political crisis. And that, as we know, is why this un-American, unconstitutional legislation is before us today.

We have a profoundly important and dangerous choice to make today. The danger is not that we adopt a pre-9/11 mentality. We adopted a post-9/11 mentality in the PATRIOT Act when we declined to suspend the writ, and we can do so again today.

The danger, as Senator FEINGOLD has stated in a different context, is that we adopt a pre-1776 mentality, one that dismisses the Constitution on which our American freedoms are founded.

Actually, it is worse than that. Habeas corpus was the most basic protection of freedom that Englishmen secured from their King in the Magna Carta. The mentality adopted by this bill, in abolishing habeas corpus for a broad swath of people, is not a pre-9/11 mentality, it is a pre-1215—that is the year, 1215—mentality, a mentality we did away with in the Magna Carta and our own Constitution.

Every one of us has sworn an oath to uphold the Constitution. In order to uphold that oath, I believe we have a duty to vote for this amendment—the Specter-Leahy amendment—and against this irresponsible and flagrantly unconstitutional bill. That is what I will do.

The Senator from Vermont answers to the Constitution and to his conscience. I do not answer to political pressure.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Madam President, we have colleagues on this side who are ready to proceed. Now, there is a great deal of time left on the other side, but in order of preference, I say to Senator SESSIONS, if you are ready to proceed.

Mr. SESSIONS. Madam President, I will be pleased to do so.

Mr. WARNER. Madam President, might I inquire of the amount of time under my control for those in opposition to the amendment?

The PRESIDING OFFICER. Senator WARNER controls 11 minutes.

Mr. WARNER. Eleven minutes.

The PRESIDING OFFICER. Senator SPECTER controls 20 minutes.

Mr. SESSIONS. Madam President, if the chairman would approve, I would ask for 3 minutes.

Mr. WARNER. Yes. And following that, Senator CORNYN for such time as he may need.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, habeas corpus—the right to have your complaints heard while in custody—is a part of our Constitution. But we have to remember habeas corpus did not mean everything in the whole world when it was adopted. So what did "habeas" mean? What does it mean today and at the time it was adopted? It was never, ever, ever, ever intended or imagined that during the War of 1812, if British soldiers were captured burning the Capitol of the United States—as they did—that they would have been given habeas corpus rights. It was never thought to be. Habeas corpus was applied to citizens, really, at that time. I believe that is so plain as to be without dispute.

So to say: Habeas corpus, what does it mean? What did those words mean when the people ratified it? They did not intend to provide it to those who were attacking the United States of America. We provide special protections for prisoners of war who lawfully conduct a war that might be against the United States. We give them great protections. But unlawful combatants, the kind we are dealing with today, have never been given the full protections of the Geneva Conventions.

Second, my time is limited, and I have been so impressed with the debate that has gone on with Senators KYL and CORNYN and GRAHAM, and I associate myself generally with those remarks, but I want to recall that in a spate of an effort to appease critics and those who had "vague concerns," not too many years ago, this Congress passed legislation that said that CIA-gathered information could not be shared with the FBI. We passed a law in this Congress to appease the left in America, the critics of our efforts against communism, primarily. And we have put a wall between the CIA and FBI.

So that was politically good. Everybody must have been happy about that. I was not in the Senate then. Then they complained that the CIA was out talking with people who had criminal records who may have been involved in violence, and this was somehow making our CIA complicitous in dealing with dangerous people, and we banned that. We passed a statute that eliminated that. And everybody felt real good that we had done something special.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Madam President, I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. After 9/11, we realized both of those were errors of the heart perhaps, but of the brain. And so what happened? We reversed both of them. We reversed them both. And we need to be sure that the legislation we are dealing with today does not create a long-term battle with the courts over everybody who is being detained. That is a function of the military and the executive branch to conduct a war.

Madam President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I understand I have 6 minutes on the bill in general.

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Madam President. I oppose the Military Commissions Act.

Let me be clear: I welcomed efforts to bring terrorists to justice. Actually, it is about time. This administration has too long been distracted by the war in Iraq from the fight against al-Qaida. We need a renewed focus on the terrorist networks that present the greatest threat to this country.

We would not be where we are today, 5 years after September 11, with not a single Guantanamo Bay detainee having been brought to trial, if the President had come to Congress in the first place, rather than unilaterally creating military commissions that did not comply with the law. The Hamdan decision was a historic rebuke to an administration that has acted for years as if it is above the law.

I have hoped that we would take this opportunity to pass legislation that allows us to proceed in accordance with our laws and our values. That is what separates America from our enemies. These trials, conducted appropriately, have the potential to demonstrate to the world that our democratic constitutional system of government is our greatest strength in fighting those who attack us.

That is why I am saddened I must oppose this legislation because the trials conducted under this legislation may send a very different signal to the world, one that I fear will put our troops and personnel in jeopardy both now and in future conflicts. To take just a few examples, this legislation would permit an individual to be convicted on the basis of coerced testimony and hearsay, would not allow full judicial review of the conviction, and yet would allow someone convicted under these rules to be put to death. That is just simply unacceptable.

Not only that, this legislation would deny detainees at Guantanamo Bay and elsewhere—people who have been held for years but have not been tried or even charged with any crime—the ability to challenge their detention in court. The legislation before us is better than that originally proposed by the President, which would have largely codified the procedures the Supreme Court has already rejected. And that is thanks to the efforts of some of my Republican colleagues, for whom I have great respect and admiration. But this bill remains deeply flawed, and I cannot support it.

One of the most disturbing provisions of this bill eliminates the right of habeas corpus for those detained as enemy combatants. I support an amendment by Senator SPECTER to strike that provision from the bill.

Habeas corpus is a fundamental recognition that in America the Government does not have the power to detain people indefinitely and arbitrarily. And in America, the courts must have the power to review the legality of executive detention decisions.

This bill would fundamentally alter that historical equation. Faced with an executive branch that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus.

Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial and without any access whatsoever to the courts. They would not be able to call upon the laws of our great Nation to challenge their detention because they would have been put outside the reach of the law.

Some have suggested that terrorists who take up arms against this country should not be allowed to challenge their detention in court. But that argument is circular. The writ of habeas allows those who might be mistakenly detained to challenge their detention in court before a neutral decisionmaker. The alternative is to allow people to be detained indefinitely with no ability to argue that they are not, in fact—that they are not, in fact—enemy combatants.

There is another reason we must not deprive detainees of habeas corpus, and that is the fact that the American system of government is supposed to set an example for the world as a beacon of democracy.

A group of retired diplomats sent a very moving letter to explain their concerns about this habeas-stripping provision. Here is what they said:

> To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interests in the larger world.

Many dedicated patriotic Americans share these grave reservations about this particular provision of this bill. Unfortunately, the suspension of the Great Writ is not the only problem with this legislation. Unfortunately, I do not have time to discuss them all.

But the bill also appears to permit individuals to be convicted, and even sentenced to death, on the basis of coerced testimony. According to the legislation, statements obtained through cruel, inhuman, or degrading treatment, as long as it was obtained prior to December 2005, when the McCain amendment became law, would apparently be admissible in many instances in these military commissions.

Now, it is true that the bill would require the commission to find these statements have sufficient and probative value. But why would we go down this road of trying to convict people based on statements obtained through cruel, inhuman, or degrading interrogation techniques? Either we are a nation that stands against this type of cruelty and for the rule of law or we are not. We cannot have it both ways.

In closing, let me do something I do not do very often, and that is quote my former colleague, John Ashcroft. According to the New York Times, in a private meeting of high-level officials in 2003 about the military commission structure, then-Attorney General Ashcroft reportedly said:

> Timothy McVeigh was one of the worst killers in U.S. history. But at least we had fair procedures for him.

How sad that this Congress would seek to pass legislation about which the same cannot be said.

Mr. President, I strongly support Senator SPECTER's amendment to strike the habeas provision from this bill.

At its most fundamental, the writ of habeas corpus protects against abuse of government power. It ensures that individuals detained by the government without trial have a method to challenge their detention. Habeas corpus is a fundamental recognition that in America, the government does not have the power to detain people indefinitely and arbitrarily. And that in America, the courts must have the power to review the legality of executive detention decisions.

It goes without saying that this is not a new concept. Habeas corpus is a longstanding vital part of our American tradition, and is enshrined in the U.S. Constitution, article 1, section 9, where it states:

> The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

The Founders recognized the importance of this right. Alexander Hamilton in Federalist Paper No. 84 explained the importance of habeas corpus, and its centrality to the American system of government and the concept of personal liberty. He quoted William Blackstone, who warned against the "dangerous engine of arbitrary government" that could result from unchallengeable confinement, and the "bulwark" of habeas corpus against this abuse of government power.

As a group of retired judges wrote to Congress, habeas corpus "safeguards the most hallowed judicial role in our constitutional democracy ensuring that no man is imprisoned unlawfully."

This bill would fundamentally alter that historical equation. Faced with an administration that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus for anyone the executive branch labels an alien "enemy combatant."

That's right. It would eliminate the right of habeas corpus for any alien detained by the United States, anywhere in the world, and designated by the government as an enemy combatant. And it would do so in the face of years of abuses of power that—thus far—have been reined in primarily through habeas corpus challenges in our Federal courts.

Let me be clear about what it does. Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial and without any access whatsoever to the courts. They would not be able to call upon the laws of our great Nation to challenge their detention because they would have been put outside the reach of the law.

That is unacceptable, and it almost surely violates our Constitution. The rule of law is something deeper and more profound than the collection of laws that we have on paper. It is a principle that undergirds our entire society, and that has been central to our nation since its very founding. As Thomas Paine explained at the time of our country's birth in 1776, the rule of law is that principle, that paramount commitment, "that in America, the law is king. . . . and there ought to be no other." The rule of law tells us that no man is above the law—and as an extension of that principle—that no executive will be able to act unchecked by our legal system.

Yet by stripping the habeas corpus rights of any individual who the executive branch decides to designate as an enemy combatant, that is precisely where we end up—with an executive branch subject to no external check whatsoever. With an executive branch that is king.

Now, it may well be that this provision will be found unconstitutional as an illegal suspension of the writ of habeas corpus. But that determination will take years of protracted litigation. And for what? The President has been urging Congress to pass legislation so that Khalid Sheikh Mohammed, the alleged mastermind of 9-11, and other "high value" al-Qaida detainees can be tried. This bill is supposed to create a framework for prosecuting unlawful enemy combatants for war crimes that the Supreme Court can accept following the decision this summer in the Hamdan case. There is absolutely no reason why we need to restrict judicial review of the detention of individuals who have not been charged with any crime.

That raises another point. People who are actually subject to trial by military commission will at least be able to argue their innocence before some tribunal, even if I have grave concerns about how those military commissions would proceed under this legislation. But people who have not been charged with any crime will have no guaranteed venue in which to proclaim and prove their innocence. As three retired generals and admirals explained in a letter to Congress:

> The effect would be to give greater protections to the likes of Khalid Sheikh Mohammed than to the vast majority of the Guantanamo detainees.

How does this make any sense? Why would we turn our back on hundreds of years of history and our Nation's commitment to liberty?

We have already, in the Detainee Treatment Act, said that no new habeas challenges can be brought by detainees at Guantanamo Bay. The Supreme Court found in Hamdan v. Rumsfeld that the Detainee Treatment Act did not apply to Hamdan's pending habeas petition, and went forward with considering his argument that the President's military commission structure was illegal. And I would think that we should all be pleased that it did so, because otherwise we would have had to wait for several more years for Hamdan's trial to be completed before he would have had any chance to challenge the President's military commission system in court. The Supreme Court's decision striking down those commissions would have occurred several years later. And we would be right back where we are now, but with several more years of delay.

There is another reason why we must not deprive detainees of habeas corpus, and that is the fact that the American system of government is supposed to set an example for the world, as a beacon of democracy. And this provision will only serve to harm others' perception of our system of government.

A group of retired diplomats sent a very moving letter explaining their concerns about this habeas-stripping provision. Here is what they said:

> To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interests in the larger world.

They went on to explain further:

> The perception of hypocrisy on our part—a sense that we demand of others a behavioral ethic we ourselves may advocate but fail to observe—is an acid which can overwhelm our diplomacy, no matter how well intended and generous.

That is a direct quote.

Let's not go down this road. Let's remove this provision from the bill.

As is already clear, I'm not the only one who has serious concerns about this provision. There is bipartisan support for this amendment. And Congress has received numerous letters objecting to the habeas provision, including from Kenneth Starr; a group of former diplomats; two different groups of law professors; a group of retired judges; and a group of retired generals. Many, many dedicated patriotic Americans have grave reservations about this particular provision of the bill.

They have reservations not because they sympathize with suspected terrorists. Not because they are soft on national security. Not because they don't understand the threat we face. No. They, and we in the Senate who support this amendment, are concerned about this provision because we care about the Constitution, because we care about the image that America presents to the world as we fight the terrorists. Because we know that the writ of habeas corpus provides one of the most significant protections of human freedom against arbitrary government action ever created. If we sacrifice it here, we will head down a road that history will judge harshly and our descendants will regret.

Let me close with something that this group of retired judges said.

> For two hundred years, the federal judiciary has maintained Chief Justice Marshall's solemn admonition that ours is a government of laws, and not of men. The proposed legislation imperils this proud history by abandoning the Great Writ. . . .

Mr. President, we must not imperil our proud history. We must not abandon the Great Writ. We must not jeopardize our Nation's proud traditions and principles by suspending the writ of habeas corpus, and permitting our government to pick people up off the street, even in U.S. cities, and detain them indefinitely without court review. That is not what America is about.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent for 3 minutes from our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. First of all, Madam President, I would like to point out there are many myths about this legislation. We need to get to the facts and get to the truth so people can understand what the choices are.

Our distinguished colleague from Wisconsin, in my view, also perpetrated another myth by saying this war is all about Iraq, when, in fact, the new leader of al-Qaida in Iraq, succeeding al-Zarqawi, just reported in an Associated Press story that 4,000 al-Qaida foreign fighters have been killed in Iraq due to the war effort there. But this is a global war, and it requires a uniformed treatment of the terrorists in a way that reflects our values but also the fact that we are at war.

I think our colleagues need to be reminded of legislation which we passed in December of 2005, known as the Detainee Treatment Act. When people come here and suggest that we are stripping all legal rights from terrorists who are detained at Guantanamo

Bay, they are simply flying in the face of the Detainee Treatment Act that we passed in December 2005, which provides not only a review through a combatant status review tribunal, with elaborate procedures to make sure there is a fair hearing, but then a right to appeal to the District of Columbia Circuit Court of Appeals, not only to make sure that the right standards were applied—that is, whether the military applied the right rules to the facts—but also to attack the constitutionality of the system should they choose to do so. So those who claim we are simply stripping habeas corpus rights are simply flying in the face of the facts as laid out in the Detainee Treatment Act.

Now, the question may be: Are we going to provide what the law requires? Are we going to provide additional rights and privileges that some would like to confer upon these high-value detainees located at Guantanamo Bay? But the fact is, to do what the proponents of this amendment propose would be to divert our soldiers from the battlefield and to tie their hands in ways with frivolous litigation and appeals. And the last thing that I would think any of us would want to do would be to provide an easy means for terrorists to sue U.S. troops in U.S. courts, particularly when it is not required by the Constitution, laws of the United States, not mandated by the Supreme Court, and we have provided an adequate substitute remedy, which I believe is entirely consistent with the U.S. Supreme Court's decisions in this area.

We have provided an avenue or a process by which these detainees can have their rights protected, such rights as they have being unlawful combatants attacking innocent civilians. America is conferring rights upon them that we do not have to confer, but we are conferring them because we believe there ought to be a fair process and we ought to be consistent with our Constitution and with the decisions of the U.S. Supreme Court.

The last thing I would think any of us would want to do would be to tie the hands of our soldiers to permit terrorists to sue U.S. troops in Federal court at will.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator's time has expired.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent for 10 minutes from Senator WARNER's side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I appreciate the opportunity to talk generally about the bill. I have already spoken about the importance of not affording habeas corpus to the unlawful combatants when they have more protections than international law requires, or than any other country provides.

Speaking on the bill, for the last 5 years, our most important job has been to protect our families from another terrorist attack.

Our children, our mothers, fathers, grandparents, and grandchildren—none of them deserved to die in the 9/11 attacks; none deserve to die in another terrorist attack. That is why we are doing everything we can to protect our families by stopping terrorists, capturing them, learning their secrets, foiling their plots, and bringing the terrorists to justice.

Through our hard work, there has not been another direct attack on U.S. soil since 9/11. We have worked hard to prevent and stop attacks in the last 5 years and must continue to prevent future attacks. We dramatically boosted airport and airline security. We hired new airport screeners, implemented new checks, and even put armed agents on flights where necessary.

We added thousands of new FBI agents, thousands of new intelligence officers, and increased their budgets by billions to provide new armies against terrorism.

We passed the PATRIOT Act to provide the tools needed to discover terrorist plots and stop them. We reorganized our intelligence agencies to bring a single focus and purpose against terrorism.

We tore down the walls between law enforcement and intelligence to get terror planning and plot information to authorities as quick as possible.

All of this is going on as I speak, as we sleep at night, as our children go to school, we are fighting the war on terrorism.

The President recently highlighted some of the successes we have had because of our terror fighting tools and efforts. He recounted how we have captured terrorists, used new tools to learn their secrets, captured additional terrorists, connected the dots of their conspiracies, and foiled their terror attack plans.

But now some want to tie the hands of our terror fighters, they want to take away the tools we use to fight terror—handcuff us, hamper us—in our fight to protect our families.

It's not new, really. Partisans have slowed our efforts to fight terror every step of the way.

Many on the other side voted against the PATRIOT Act.

Many blocked reauthorization of the PATRIOT Act for months. The Democrat Leader actually boasted, "We killed the PATRIOT Act."

Thank Heavens that wasn't true. Now, I know that they all love our country. They are not unpatriotic. They just don't understand the terrorist enemies we face.

These critics are not willing to do what is necessary to protect fully our families from terrorists.

You don't have to take my word for it, just look at their record over the last 5 years. Whether or not you would say terror war critics have a weak record on terror, they have certainly tried to block, slow down, and take away our terror fighting tools.

Some congressional Democrats voted to cut and run from Iraq. Nothing would embolden terrorists more than to see the U.S. turn tail and run home.

Osama bin Laden cited America quitting Somalia, and failing to respond to the U.S.S. *Cole* bombing, as signs of U.S. weakness and vulnerability. We all know what happened later.

Democrats in the Senate have blocked the appointment of senior anti-terror officials. The 9/11 commission report recommended better coordination between law enforcement and intelligence officials. Only last week did Democrats stop blocking the appointment of the senior Justice Department official for National Security.

Partisans readily spread classified information leaked to the public or the media. They call news conferences to highlight cherry-picked intelligence information, or quote newspaper articles betraying our Nation's secret terror fighting programs. Don't they think this encourages the enemy or demoralizes our troops or allies?

Some propose to handcuff our ability to discover terrorist plots. They propose to make it hard to listen in on a potential terrorist calling from a foreign country, or to a foreign country to discuss terror plans.

If al-Qaida calls in, we ought to be listening. That is authorized under the Constitution. The Constitution clearly gives the President the power to intercept phone calls under the foreign intelligence exception in the amendment.

In my meetings with intelligence officials both abroad and here at home I have heard repeatedly how the disclosure, not only of classified information, but also of our interrogation techniques, are extremely damaging.

Our personnel have encountered enemy combatants trained to resist disclosed interrogation techniques thanks to leakers in our media.

If we lay out precisely the techniques that will be used and we print them in the Federal Register, they will be in an al-Qaida training manual within 48 hours.

I'm pleased that with the current Military Commissions legislation moving forward, we have clarified our strict adherence to standards that forbid torture in any way, shape or form and we are allowing our CIA to move forward with a humane interrogation program whose techniques will not be published in the Federal Register, or even worse, in another newspaper disclosure.

Critics support trial procedures that would give terrorists secret intelligence information.

Why on Earth would we hand over classified evidence and information to terrorists so that information could be used against us in the future?

Remember the 1993 World Trade Center bombing? The prosecution of terror suspects there involved giving over 200 names of terror suspects to the attorneys representing the terrorists. They gave them that in a trial, and some months later, after an investigation of the bombings in Africa, we captured the al-Qaida documents which had all of that information that had been given to the attorneys. So once you give it to a detainee or the detainee's attorney, you can count on it getting out.

One other thing is important. Some would propose exposing our terror fighters to legal liability. They oppose giving our terror fighters certainty and clarity in how to go about their jobs. They leave them vulnerable to prosecution and handcuff their efforts and leave the rest of us vulnerable to terror plots that went undiscovered.

Right now, these people are worried and they are buying insurance. People who are trying to carry out the very important intelligence missions of the United States, if they ask any questions, or if they don't give them four square meals a day and keep them in a comfortable motel, they are afraid they are going to get sued. We need to give protection to the people who are operating within the law as we are laying it out to make sure they don't cross over the line.

The problem we have is that if the critics take away the valuable tools we have in breaking apart terror plots, we are going to be significantly less safe. As the President said, the CIA interrogation program has already succeeded in breaking apart terror conspiracies and preventing several terror attacks. Critics within the program are preventing us from punishing terrorists and gaining valuable information that could prevent future attacks.

One thing I, along with the President and my Republican colleagues, share with the war critics is a strong opposition to torture. It is abhorrent, evil, and has no place in the world. What I oppose is how terror war critics would go soft on terror suspects, allowing them comforts they surely don't deserve.

Critics are being tough on targets. Terrorists argue that we should treat them like prisoners of war under the Geneva Conventions. Article 72 of the Geneva Conventions on treatment of prisoners of war says POWs shall be allowed to receive parcels containing foodstuffs. Is that what critics think the 9/11 Commission conspirators deserve? Cookie care packages?

Article 71 says POWs shall be allowed to send and receive letters and cards. Is that what opponents of the bill believe people who conspire to cut off our heads deserve—letters from home? "Mail call Ramzi bin al-Shibh."

Article 60 requires us to grant all POWs monthly advances of pay. It even says how much: below sergeant, 8 Swiss francs; officers, 50 Swiss francs; generals, 75 Swiss francs.

Do the critics think Khalid Sheik Mohammed deserves 50 Swiss francs or 75?

Critics of being tough on terrorists say that we should adhere to international standards of decency. Where was the decency when international troops withdrew without a fight from Srebenica, Bosnia allowing the genocide of its men and boys?

Where was the decency when the U.N. allowed Sudan, guilty of genocide in Darfur, to serve on the Human Rights Commission, and allowed Cuba to help monitor international human rights? This was neither moral nor decent.

Some say that the tough treatment we are debating will lead to bad treatment of America's soldiers in the future. That is a close cousin to the argument that if we leave the terrorists alone they will stop attacking us, or that America made them do it.

Do we need a reminder of how badly they are already treating us? The Wall Street Journal reporter kidnapped by terrorists, Daniel Pearl, had his head cut off long before the criminal acts of Abu Grahib or news of the CIA prisons.

The charred bodies of our Special Forces dragged through the streets of Mogadishu tell us what the vague standards of the Geneva Convention got us.

As I said before, I support a torture ban. I also support provisions that clearly ban cruel, inhuman treatment or intentionally causing great suffering or serious injury. These are serious felonies, as they should be. But what we cannot do is give up tough treatment short of this that protects our families from attack.

What do critics think would happen if we went soft on terrorists? Would they be satisfied with only name, rank and serial number? Would they have us say to our terror suspects, "Oh gosh darn, I was so hoping you would willingly tell us your terror plots. Oh well, here's your 50 Swiss franc advance pay, don't eat too much from your cookie care package, we've scheduled a dentist appointment for you for Tuesday."

Of course not, that would be absurd to think that terrorists will willingly tell us their plots. Terror war critics have been watching too many Law and Order TV shows if they think some hokey good cop—bad cop law enforcement approach will work on al-Qaida.

These people flew airplanes into buildings for heaven's sake, or should I say for hell's sake.

America must fight with honor. We must fight from the moral high ground.

But do not tell me we lack a moral basis for our fight against terror. Show me someone who doubts America's moral basis in this fight against terror and I will show you someone who has lost their own moral compass.

The compass of America's future points to this bill. We live in an age where we must fight terror. To win, we must fight tough in that fight against terror. We must give our terror fighters the tools they need and the protections they require to protect our families from terror.

We cannot fall into the traps our terror war critics suggest: handcuffing our law enforcement and intelligence agents, blocking our terror fighting leadership, releasing and spreading our terror war secrets, giving terror suspects our terror fighting methods and techniques, granting terrorists overly-comfortable protections, going soft on terrorists who hold the secrets of their plots, their attacks.

Our agents deserve better, our soldiers deserve better, our families deserve better.

To start where I began, this is what all our efforts are about. Protecting our vulnerable families. Protecting our children, protecting our mothers and fathers, protecting grandparents and grandchildren. None of the vulnerable it protects deserved to die in the 9/11 attacks, and none deserve to die again in another terrorist attack.

I urge my colleagues to support this legislation.

Mr. WARNER. Mr. President, we are anxious to move to a vote on the Specter amendment to accommodate a number of colleagues. Therefore, I urge that the remaining time on the Specter amendment under the control of Senator SPECTER, and the time in opposition under my control, be now utilized by colleagues, such that we can move to that vote.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. That is not a unanimous consent request, is it?

Mr. WARNER. No.

Mr. LEVIN. We have three Senators who have been allocated time specifically, and that time may be used relative to the amendment or in general debate on the bill. I will not agree to any restriction on the use of time that the Senator has been allocated.

Mr. WARNER. I recognize that. It is in our mutual interests to the move ahead on the bill. There will be time after the vote for Senators to speak. You have 18 minutes on the bill. I have 47 under my control on general debate.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WARNER. Mr. President, the time for the Senator from California is under which category?

The PRESIDING OFFICER. General debate time.

Mrs. FEINSTEIN. Mr. President, I strongly believe the true test of a nation comes when we face hard decisions and hard times. It is really not the easy decisions that test our character and our commitment to fundamental principles and values. It is when the easy answer is not the right answer, but is politically expedient.

We face one of those times right now. The war against terror has challenged our country to fight a nontraditional enemy—one that is not part of any State or military. The enemy does not wear a uniform, it has no code of ethics, and it relishes in the killing of innocents. It strikes in cowardly ways. They have also challenged us as to whether we can continue during this period in fighting this enemy to abide by the bedrock of our justice system, the Constitution.

Before us on the floor of the Senate is a bill to address how our country will interpret the Geneva Conventions, and how we will treat those we apprehend and detain in this nontraditional, asymmetric war.

I truly believe that how we answer these challenges will not only test our commitment to our Constitution, but it will also test our very foundation of justice. It sends a message, also, to other countries—a message that will ultimately dictate how our soldiers and personnel are treated should they be captured by others.

Earlier this month, a bipartisan group of Senators worked together to develop a solution to these complex issues, and the Armed Services Committee reported a compromise military commissions bill to the Senate by a vote of 15 to 9.

Unfortunately, that is not the bill that is before this body today. Instead, House and Senate Republicans met with the White House and made changes that significantly altered the impact of this legislation and changed the bill in such a manner that I cannot at present support its passage without substantial amendment.

I do not believe the bill before us is constitutional. It is being rushed through a month before a major election in which the leadership of this very body is challenged.

The first of my concerns is the issue of habeas corpus. I very much support the amendment offered by the chairman of the Judiciary Committee. The bill before us eliminates a basic right of the American justice system, and that is the right of habeas corpus review. It is constitutionally provided to ensure that innocent people are not held captive or held indefinitely.

Habeas corpus has been a cornerstone of our legal system. It goes back, as it has been said, to the days of the Magna Carta. Our Founding Fathers enshrined this right in the Constitution because they understood mistakes happen and there is need for someone to appeal a mistake or a wrong conviction.

Just a few weeks ago, a man named Abu Bakker-Qassim, who was held at Guantanamo, described how he was held for years, even though he had never been a terrorist or a soldier. He was never even on a battlefield. He had been sold by Pakistani bounty hunters to the United States military for $5,000. Qassim said it was only because of the availability of habeas corpus that this mistake was able to be corrected. That is why Senator SPECTER's amendment is right.

If innocent people are at Guantanamo—and they presumably are and have been—or if abuses are taking place—and its likely some have—there must be an avenue to address these problems. Eliminating habeas corpus rights is a serious mistake and it will open the door to other efforts to remove habeas corpus.

Next, I am very concerned about the ability to use coerced testimony. This will be the first time in modern history that United States military tribunals will be free to admit evidence that was obtained through abusive tactics so long as the judge determines it is reliable and relevant or so long as it was obtained before December 30, 2005.

We have heard from countless witnesses that coerced testimony is inherently unreliable. We don't want to send the message that coercion is an acceptable tactic to use on Americans as well.

The fact is we had testimony in the Judiciary Committee from the head of all of the Judge Advocate Corps who said they did not believe torture worked.

I am very concerned about the definition of torture and the lack of clarity on cruel and inhumane treatment—especially combined with giving the President discretion to decide what he believes interrogation methods are permissible.

We have already seen through press reports that this administration pushes the boundaries on allowable interrogation techniques and these abuses cannot continue.

Finally, I am concerned about the rules for what evidence may be used to convict someone and then their limited ability to have a court review their case.

If one is not allowed to know what the basis of conviction was and then is only given limited judicial review of their conviction, how can we be confident that we are not holding innocent people who were caught in the wrong place at the wrong time—such an outcome severely harms our standing in the global community.

I believe these issues are too important for us to rush through a bill of this magnitude.

These are difficult times and difficult issues. However, I do not believe the expediency of the moment or the political winds of an impending election should lead us to abandon our core values as a Nation.

The Founding Fathers created specific constitutional limitations. And since that time the United States has been at the forefront of demanding humane treatment of all people. We must not turn our back on these fundamental principles.

I am disappointed to be voting against this bill. I had hoped a real bipartisan compromise could be reached.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The distinguished Senator is recognized for 10 minutes.

Mr. SMITH. Mr. President, this is a most difficult issue we are engaged in. We are arguing about what I believe is a cornerstone principle of the rule of law, and that is the issue of habeas corpus.

I know this is an unusual war, and I don't know its duration. No one fully does. But I do know if we are going to be true to our Constitution and to the rule of law, we have to be true to that law.

I have traveled as a Senator all over this globe and have spoken with great pride about our rule of law and the superiority of democracy to other means of government. While I support this bill in providing due process for these detainees, I rise because I am concerned about the provisions relating to habeas corpus.

I am reminded of the words of Thomas Jefferson who once said:

> The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.

On another occasion he said:

> I would rather be exposed to the inconveniences attending too much liberty than to those attending too small a degree of it.

What we are talking about is section 7 of this bill, which will further strip the Federal courts of jurisdiction to hear pending Gitmo cases as it applies to all pending and future cases. Had this proposal been law earlier this year, the Supreme Court may not have had jurisdiction to hear the Hamdan case, which is what brings us here today.

At the heart of the habeas issue is whether the President should have the sole authority to indefinitely detain unlawful enemy combatants without any judicial restraints. Congress will provide the President with this unilateral authority by enacting legal restrictions aimed at stripping courts of jurisdiction to hear habeas claims. In doing so, the President does not have to show any cause for detaining an individual labeled an "unlawful enemy combatant."

Stripped of jurisdiction by recent legislation, U.S. courts will not have the ability to hear an individual's request to learn why he is even being detained. Providing detainees with the right to ask a court to evaluate the legality of their detention I believe would not cost U.S. lives. However, it will test American laws.

Claims have been made that providing detainees the right to hear why they are being detained necessitates providing them with classified information. I do not believe this to be true. Similar to the military commission legislation, it would only allow a judge or an attorney with security clearance to see the evidence against the defendant to evaluate its reliability and probative value.

Permanent detention of foreigners without reason damages our moral integrity regarding international rule of law issues. To quote: "History shows that in the wrong hands, the power to jail people without showing cause is a tool of despotism." A responsibility this Nation has always assumed is to ensure that no one is held prisoner unjustly.

Stripping courts of their authority to hear habeas claims is a frontal attack on our judiciary and its institutions, as well as our civil rights laws. Habeas corpus is a cornerstone of our constitutional order, and a suspension of that right, whether for U.S. citizens or foreigners under U.S. control, ought to trouble us all. It certainly gives me pause.

The right to judicial appeal is enshrined in our Constitution. It is part and parcel of the rule of law. The Supreme Court has described the writ of habeas corpus as "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless State action."

Some of the darkest hours in our Nation's history have resulted from the suspension of habeas corpus, notably the internment of Japanese Americans during World War II.

Obviously, I am not here to question the wisdom of Abraham Lincoln. We have had no wiser President. But one of the most controversial decisions of his administration was the suspension of habeas corpus for all military-related cases, ignoring the ruling of a U.S. circuit court against this order. He, in fact, I believe, if my memory of history serves me, imprisoned the entire Maryland Legislature because of their attempts to secede from the Union. He did it. It happened. It is not necessarily the proudest moment of his administration. But it is something that has been raging with controversy ever since.

Habeas petitions are not clogging the courts and are not frivolous. The administration claims that the approximately 200 pending habeas claims are clogging our courts and are for the most part frivolous. These petitions are not an undue administrative burden. Judges always have the discretion to dismiss frivolous claims, and indefinite detainment of a foreigner without showing cause, Mr. President, is not frivolous.

I suppose what brings me to the floor today is my memory of my study of the law. While I was in law school, I was particularly taken with the study of the Nuremberg trials. The words of Justice Robert H. Jackson inspired me then and inspire me still. He was our chief counsel for the allied powers. What he said on that occasion in his closing address to the international military tribunal is an inspiration. Said he:

> That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.

On the fairness of the Nuremberg proceedings, he said in his closing statement:

> Of one thing we may be sure. The future will never have to ask with misgiving, what could the Nazis have said in their favor. History will know that whatever could be said, they were allowed to say. They have been given the kind of a Trial which they, in the days of their pomp and power, never gave to any man. But fairness is not weakness. The extraordinary fairness of these hearings is an attribute to our strength.

I simply feel this particular provision in this bill ought to be taken out. We ought not to suspend the writ of habeas corpus. We should go the extra mile, not as a sign of weakness, but as evidence of our strength.

I intend to vote for the underlying bill and ultimately will leave the judgment of its constitutionality without habeas to the judgment of the judiciary, but I believe we are called upon to go the extra mile to show our strength and not our weakness, and ultimately our Nation will be stronger if we stand by the rule of law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Oregon for those very cogent remarks, especially in the context of additional Republican support, stated bluntly, and in light of more moderate Republican support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Democratic leader has yielded 2 minutes of his leadership time to me. I ask unanimous consent that I be allowed to proceed on that basis.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I support the Specter-Leahy amendment on the writ of habeas corpus. The habeas corpus language in this bill is as legally abusive of the rights guaranteed in the U.S. Constitution as the actions at Abu Ghraib, Guantanamo, and the CIA's secret prisons were physically abusive of the detainees themselves.

The Supreme Court has long held that all persons inside the United States, including lawful permanent residents and other aliens, have a constitutional right to the writ of habeas corpus. Yet, this provision purports to apply even to aliens who are detained inside the United States, including lawful permanent residents.

Unlike the provision that was included in the Detainee Treatment Act last year, this court-stripping provision would apply on a world-wide basis, not just at Guantanamo. It would apply to detainees of all Federal agencies, not just the Department of Defense. It would attempt to expressly strip the courts of jurisdiction over all pending cases.

This provision goes beyond stripping the courts of habeas corpus jurisdiction. It also prohibits the U.S. courts from hearing or considering "any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial" of an alien detainee. As a result, this provision would leave many detainees without any alternative legal remedy at all, even after released, even if there is every reason to believe that the detention was in error, and even if the detainee was tortured or abused while in U.S. custody.

For example, the Canadian Government recently concluded, after a comprehensive review, that one of its citizens had been handed over by U.S. authorities to a foreign country which subjected him to torture and cruel and inhuman treatment, without any evidence that he was an enemy combatant or that he supported any terrorist group. Under this habeas corpus court-stripping provision, this individual would have no legal remedy in the U.S. courts even after he was finally released from illegal detention, unless the United States acknowledges that it made a mistake when it determined that he was an enemy combatant.

The fundamental premise of last year's Detainee Treatment Act, DTA, was that we could restrict future habeas corpus suits, because we were providing an alternative course of access to the courts.

The language in the bill before us would deprive many detainees of the right to file a writ of habeas corpus without providing any alternative form of relief. For example: The provision applies on a worldwide basis, not just at Guantanamo. DOD detainees outside Guantanamo do not have access to Combatant Status Review Tribunals—CSRTs—so they can't get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision applies to detainees of all Federal agencies, not just DOD. Detainees of other Federal agencies do not get CSRTs, so they can't get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision even applies to lawful resident aliens who are detained and held inside the United States. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

Even in cases where DOD regulations provide detainees a right to Combatant Status Review Tribunals—CSRTs—such tribunals may not be an adequate substitute for judicial review under a writ of habeas corpus. CSRTs are permitted to use coerced testimony, hearsay evidence, and evidence that is never disclosed to the accused. Detainees before those status review tribunals are denied access to witnesses and documents needed to rebut allegations made by the government. Courts reviewing CSRT determinations are not authorized to make an independent determination whether there is a lawful basis for the detention.

The court stripping provision in the bill does more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering "any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial" of an alien detainee.

A separate provision in the bill adds that no person—whether properly held as an alien detainee or not—may invoke the Geneva Conventions as a source of rights in any court of the United States. Other provisions establish new defenses for individuals who may be accused of violating standards for the treatment of detainees under U.S. and international law.

Taken together, these provisions do not just deprive detainees of the ability to challenge the basis on which they have been detained—they are an effort to insulate the United States from any judicial review of our treatment detainees, an effort to ensure that there will be no accountability for actions that violate the laws and the standards of the United States.

Last year, this Congress took an important stand for the rule of law by enacting the Detainee Treatment Act, which prohibits the cruel, inhuman or degrading treatment of detainees in the custody of any U.S. agency anywhere in the world. That landmark provision is at risk of being rendered meaningless, if we establish rules ensuring that it can never be enforced.

Earlier this month, we received a letter from three retired Judge Advocates General, who urged us not to strip the courts of habeas corpus jurisdiction. That letter, signed by Admiral Hutson, Admiral Guter, and General Brahms, stated:

> We urge you to oppose any further erosion of the proper authority of our courts and to reject any provision that would strip the courts of habeas jurisdiction.
>
> As Alexander Hamilton and James Madison emphasized in the Federalist Papers, the writ of habeas corpus embodies principles fundamental to our nation. It is the essence of the rule of law, ensuring that neither king nor executive may deprive a person of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved. Fair hearings do not jeopardize our security. They are what our country stands for.

We have received similar letters from nine distinguished retired Federal judges, from hundreds of law professors from around the United States, and from many others.

If we don't strike this court-stripping language in the bill before us, if instead of Congress being a check on excessive executive power, Congress attempts to write a blank check to the executive branch, our expectation is that the courts will find this provision to be a legislative excess and strike it down as unconstitutional. We have a chance to do the right thing and not just to rely on the courts. This body is the body of last resort legislatively when it comes to protecting that great writ of habeas corpus which is in the Constitution. I hope we live up to that responsibility today.

Mr. BYRD. Mr. President, the military commissions bill before us would strip from the U.S. Constitution of one of its most precious protections: the writ of habeas corpus. The Great Writ. The bill would deny those who are detained indefinitely—even those who may be innocent—the opportunity to challenge their detention in court.

Habeas corpus is a procedure whereby a Federal court may review whether an individual is being improperly detained. The concept of habeas corpus is deeply rooted in the English common law and was specifically referenced in the Magna Carta of 1215, which stated:

> No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land.

The legal procedure for issuing writs of habeas corpus was codified by the English Parliament in response to concerns by the British people that no monarch should be permitted to hold innocent people against their will without due process of law.

It is precisely because the Founders of the United States feared elimination of the writ that, when they enumerated the powers of the Congress in the very first article of the U.S. Constitution, they included specific reference to the writ of habeas corpus and sought to protect it. The language they included in article I, section 9, clause 2 of the Constitution, also known as the "Suspension Clause," reads as follows. It states:

> The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

I wonder whether those who drafted the provision in this bill to eliminate habeas corpus have read this clause of the Constitution. Inconceivably, the U.S. Senate is being asked to abolish a fundamental right that has been central to democratic societies, including our own, for centuries. The outrageous provision we debate today could imprison indefinitely, without access to the courts, not just suspects picked up overseas but even those taken into custody on U.S. soil.

Some persons detained at Guantanamo may be terrorists guilty of plotting against the people and the Government of these United States. Of course terrorists must be properly detained and prosecuted for their evil deeds. But some detainees may be innocent. Some may be persons simply swept up because they were in the wrong place at the wrong time. How can we know which truly deserve to be held and tried as enemy combatants if we abolish the legal right of the incarcerated to fairly challenge their detention in court?

The provision in the bill before us deprives Federal courts of jurisdiction over matters of law that are clearly entrusted to them by the Constitution of the United States. The Constitution is clear on this point: The only two instances in which habeas corpus may be suspended are in the case of a rebellion or an invasion. We are not in the midst of a rebellion, and there is no invasion. It is notable that those who drafted the Constitution deliberately used the word "suspended." They did not say that habeas corpus could be forever denied, abolished, revoked, or eliminated. They said that, in only two instances, it could be "suspended," meaning temporarily. Not forever. Not like in this bill.

How can we, the U.S. Senate, in this bill abolish habeas corpus by approving a provision that so clearly contravenes the text of the Constitution? Where is our respect for the checks and balances that were built into our system by the Framers? They included an explicit prohibition against blanket suspension of the writ of habeas corpus precisely to protect innocent persons from being subject to arbitrary and unfair action by the state.

This flagrant attempt to deny a fundamental right protected by the Constitution reveals how White House and Pentagon advisers continue to chip away at the separation of powers. They relentlessly pursue their dangerous goal of consolidating power in the hands of the Executive at the expense of the Congress, the judiciary, and, sadly, the People. How can we even contemplate such an irresponsible and dangerous course as this de facto canceling of the writ of habeas corpus.

The Constitution of the United States is a time-tested contract between our people and their Government, for which thousands of American military men and women have died. Why would we seek to violate its terms? Aren't we fighting the terrorists precisely to preserve individual liberties and the rule of law? If we as a people jettison the very democratic ideals that have made our Nation great and we become, instead, exactly like those whom we seek to imprison—standing for nothing and capable of anything—then what are we fighting for? And if we indefinitely and illegally detain innocent parties of other nations, with what credibility can we request that they release our own?

Mr. President, I ask my colleagues to join me in support of the amendment that has been offered to preserve the writ of habeas corpus.

Mr. REID. Mr. President, I have received a letter from over 100 law professors and other distinguished citizens expressing their opposition to the habeas corpus provisions in the military tribunal bill. They urge support for the Specter-Leahy amendment to remedy that flaw. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.
Hon. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.
Hon. HARRY REID,
Democratic Leader, U.S. Senate, Washington, DC.
Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SENATOR FRIST, SENATOR REID, SPEAKER HASTERT AND REP. PELOSI: We agree with the views set forth in the undated letter sent this month to Members of Congress from Judge John J. Gibbons, Judge Shirley M. Hufstedler, Judge Nathaniel R. Jones, Judge Timothy K. Lewis, Judge William A. Norris, Judge George C. Pratt, Judge H. Lee Sarokin, Judge William S. Sessions, and Judge Patricia M. Wald.

These nine distinguished, retired federal judges expressed deep concern about the lawfulness of a provision in the Military Commissions Act of 2006 stripping the courts of jurisdiction to test the lawfulness of Executive detention outside the United States.

This matter is even more urgent now. The provision would eliminate habeas for all alleged alien enemy combatants, whether lawful or unlawful, even if they are detained in the United States.

We concur with the request made by the judges that Congress remove the provision stripping habeas jurisdiction from the proposed Military Commissions Act.

Respectfully, (100 Signatures)

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining?

The PRESIDING OFFICER. On which side?

Mr. GRAHAM. On the Warner side.

The PRESIDING OFFICER. Senator WARNER has 4 minutes in opposition to the Specter amendment.

Mr. WARNER. Mr. President, I yield that to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. GRAHAM. Mr. President, this has been a very spirited debate and I am going to give you a spirited answer to what I am proposing with my vote. No. 1, my moral compass is very much intact, and when people mention moral compasses and the conscience of the Senate, I am going to sleep very good casting my vote. I think I have a decent moral compass about what we should be doing to people: What is humane, what is not; what is right, what is wrong. I have tried to balance the interests of our troops and the interests of our country when it comes to dealing with people who find themselves in our capture.

Why not habeas for noncitizen, enemy combatant terrorists housed at Gitmo? No. 1, the whole Congress has agreed prospectively habeas is not available; the Detainee Treatment Act will be available. The only reason we are here is because of the Hamdan decision. The Hamdan decision did not apply to the Detainee Treatment Act retroactively, so we have about 200 and some habeas cases left unattended and we are going to attend to them now.

Why do we—I and others—want to take habeas off the table and replace it with something else? I don't believe judges should be making military decisions in a time of war. There is a reason the Germans and the Japanese and every other prisoner held by America have never gone to Federal court and asked the judge to determine their status. That is not a role the judiciary should be playing. They are not trained to make those decisions.

Under the Geneva Conventions article 5, the combatant tribunal requirement is a military decision. So I believe very vehemently that the military of our country is better qualified to determine who an enemy combatant is over a Federal judge. That is the way it has been, that is the way it should be and, with my vote, that is the way it is going to be.

What is the problem? Why am I worried about having Federal judges turning every enemy combatant decision into a trial? In 1950 the Supreme Court, denying habeas rights to German and Japanese prisoners, said:

> Such trials would hamper the war effort and bring aid and comfort to the enemy.

I agree with that.

> They would diminish the prestige of our commanders not only with enemies, but wavering neutrals.

I agree with that.

> It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he has ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.

I agree with that. That is why we shouldn't be doing habeas cases in a time of war. Nor is it unlikely that the result of such enemy litigiousness would be conflict between judicial and military opinion—highly comforting to the enemies of the United States.

These trials impede the war effort. It allows a judge to take what has historically been a military function.

What I am proposing for this body and our country is to allow the military to do what they are best at doing: controlling the battlefield. Let them define who an enemy combatant is under the Geneva Conventions requirements, under the Combatant Status Review Tribunal system, which is Geneva Conventions compliant, in my opinion, and let the Federal courts come in after they made their decision to see if the military applied the correct law, the procedures were followed, and the evidence justifies the decision of the military.

To substitute a judge for the military in a time of war to determine something as basic as who our enemy is is not only not necessary under our Constitution, it impedes the war effort, it is irresponsible, it needs to stop, and it should never have happened. I am confident Congress has the ability, if we choose to redefine the rights of an enemy combatant, noncitizen—what rights they have in a time of war and what has happened.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Mr. President, I will ask unanimous consent to have printed in the RECORD, if I may, examples of the habeas petitions filed on behalf of detainees against our troops.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF HABEAS PETITIONS FILED OF BEHALF OF DETAINEES

1. Canadian detainee who threw a grenade that killed an Army medic in firefight and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him or engaging in "cruel, inhuman, or degrading" treatment of him (n.b. this motion was denied by Judge Bates).

2. "Al Odah motion for dictionary internet security forms"—Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO's force protection policy and that their counsel be given high-speed internet access at their lodging on the base and be allowed to use classified DoD telecommunications facilities, all on the theory that otherwise their "right to counsel" is unduly burdened.

3. "Alladeen—Motion for TRO re transfer"—Egyptian detainee who Combatant Status Review Tribunal adjudicated as no longer an enemy combatant, and who was therefore due to be released by the United States, files motion to block his repatriation to Egypt.

4. "Paracha—Motion for PI re Conditions"—Motion by high level al Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment; seeking an order that he be transferred to the "least onerous conditions" at GTMO and asking the court to order that GTMO allow him to keep any books and reading materials sent to him and to "report to the Court" on "his opportunities for exercise, communication, recreation, worship, etc."

5. "Motion for PI re Medical Records"—Motion by detainee accusing military's health professionals of "gross and intentional medical malpractice" in alleged violation of the 4th, 5th, 8th, and 14th Amendments, 42 USC 1981, and unspecified international agreements.

6. "Abdah—Emergency Motion re DVDs"—"emergency" motion seeking court order requiring GTMO to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

7. "Petitioners' Supp. Opposition"—Filing by detainee requesting that, as a condition of a stay of litigation pending related appeals, the Court involve itself in his medical situation and set the stage for them to second-guess the provision of medical care and other conditions of confinement.

8. "Al Odah Supplement to PI Motion"—Motion by Kuwaiti detainees unsatisfied with the Koran they are provided as standard issue by GTMO, seeking court order that they be allowed to keep various other supplementary religious materials, such as a "tafsir" or 4-volume Koran with commentary, in their cells.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. SPECTER. Mr. President, I think it would be appropriate, if I may have Senator WARNER's concurrence, to tell our colleagues that this will be the end of the time allocated for this amendment and we could expect to vote at about 11:45 or 11:50?

Mr. WARNER. Mr. President, very definitely. As soon as all time on this amendment is allocated or yielded back, my intention is to move to a vote.

Mr. SPECTER. I thank my distinguished colleague.

Mr. President, I fully realize it is unpopular to speak for aliens, unpopular to speak on what might be interpreted to be in favor of enemy combatants, but that is not what this Senator is doing. What I am trying to establish is a course of judicial procedure to determine whether they are enemy combatants.

I submit that the materials produced on this floor and in the hearings of the Judiciary Committee show conclusively that the Combatant Status Review Tribunals do not have an adequate way of determining whether these individuals are enemy combatants. What we are doing is defending the jurisdiction of the Federal courts to maintain the rule of law. If the Federal courts are not open, if the Federal courts do not have jurisdiction to determine constitutionality, then how are we to determine what is constitutional?

My own background is one of a reverence for the law, a reverence for the independence of the judiciary, and a reverence for the rule of law as interpreted by our Constitution. If it hadn't been for the Federal courts, the Supreme Court of the United States, we would not have seen the decision in Brown v. Board of Education in 1954. The legislative branches were too mired in politics, the executive was too mired in politics, and it was only the Supreme Court which could recognize the injustice of segregation and it led to that decision.

Similarly, it was the Federal courts which changed the criminal procedure in this country as a matter of basic fairness. Prior to the decision of the case of Brown v. Mississippi in 1936, the Federal courts did not establish standards for State criminal courts. It was determined as a matter of States rights that States could establish their own determinations. But in that case, the evidence was overwhelming about a brutal, coerced confession and, for the first time, the Supreme Court of the United States stepped in and said: States may not take an individual, take him across State lines, have a feigned hanging, extract a confession, and use that to convict him. That was done by the Federal courts.

I had the occasion when I was in the Philadelphia district attorney's office to witness firsthand on a daily basis a revolution in constitutional criminal procedure. I was litigating the issues in the criminal courts when Mapp v. Ohio came down, imposing the rule of exclusion of evidence in State courts if obtained in violation of the fourth amendment and, when Escobedo came down, limiting admissions and confessions if not in conformity with rules. Then Miranda v. Ohio came down. I found those decisions as a prosecutor very limiting and impeding. But the course of time has demonstrated that those decisions have improved the quality of justice in America. Chief Justice Rehnquist, a recognized conservative, sought to eliminate or limit Miranda when he came to the Supreme Court of the United States. Later in his career, he said in Miranda that the protections of those warnings were appropriate and were helpful in our society.

There are four fundamental, undeniable principles and facts involved in the issue we are debating today. The first undeniable principle is that a statute cannot overrule a Supreme Court decision on constitutional grounds, and a statute cannot contradict an explicit constitutional provision. That is point No. 1.

Point No. 2, the Constitution is explicit in the statement that habeas corpus may be suspended only with rebellion or invasion.

Fact No. 3, uncontested. We do not have a rebellion or an invasion.

Fact and principle No. 4, the Supreme Court says that aliens are covered by habeas corpus.

We have already had considerable exposition of the opinion by Justice O'Connor that the constitutional right of habeas corpus applies to individuals, which means citizens and aliens. The case of Rasul v. Bush, which explicitly involved an alien, says this in the opinion of Justice Stevens speaking for the Court:

> Habeas corpus received explicit recognition in the Constitution, which forbids the suspension of—

Then Justice Stevens cites the constitutional provision.

The privilege of the writ of habeas corpus cannot be suspended unless in the cases of rebellion or invasion, and neither is present here. So you have the express holding of the Supreme Court in Rasul v. Bush that habeas corpus applies to aliens.

Justice Stevens went on to say that:

> Executive imprisonment has been considered oppressive and lawless since John, at Runnymede.

What this bill would do in striking habeas corpus would take our civilized society back some 900 years to King John at Runnymede which led to the adoption of the Magna Charta in 1215, which is the antecedent for habeas corpus and was the basis for including in the Constitution of the United States the principle that habeas corpus may not be suspended.

I believe it is unthinkable, out of the question, to enact Federal legislation today which denies the habeas corpus right which would take us back some 900 years and deny the fundamental principle of the Magna Charta imposed on King John at Runnymede.

Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. SPECTER. Mr. President, the argument has been made that there is an alternative procedure which passes constitutional muster. But the provisions of the statute which set up the Combatant Status Review Tribunal are conclusively insufficient on their face. The statute provides that the Combatant Status Review Tribunal may be reviewed by the Court of Appeals for the District of Columbia only to the extent that the ruling was consistent with the standards and procedures specified by the Secretary of Defense.

Now, to comply with the standards of procedures determined by the Secretary of Defense does not mean exclude on its face a factual determination as to what happens to the detainees.

When the Senator from South Carolina argues that judges should not make military decisions, I agree with him totally. But the converse of that is that judges should make judicial decisions, to decide whether due process is decided. The converse, that judges should not make military decisions, is the principle that the Secretary of Defense ought not to decide what the constitutional standards are. The Secretary of Defense should not decide what the constitutional standards are. That is up to the Supreme Court of the United States, and the Supreme Court of the United States has decided that aliens are entitled to the explicit constitutional protection of habeas corpus.

The argument is made that the Swain case allows for alternative procedures. The Swain case involved a District of Columbia habeas corpus proceeding which was virtually identical with habeas corpus provided under Federal statute 2241, so of course it was satisfactory.

A number of straw men have been set up: One, that we could not apply these principles to the 18,000 detainees in Iraq—nobody seeks to do that; the straw man that we should not give search and seizure protections of the fourth amendment—no one seeks to do that; or the fifth amendment protection against the privilege of self-incrimination.

In essence and in conclusion, what this entire controversy boils down to is whether Congress is going to legislate to deny a constitutional right which is explicit in the document of the Constitution itself and which has been applied to aliens by the Supreme Court of the United States.

The distinguished chairman of the Armed Services Committee has said that he does not want to have this matter come back to Congress. But surely as we are standing here, if this bill is passed and habeas corpus is stricken, we will be on this floor again rewriting the law.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Is there further debate on the amendment?

Mr. WARNER. Mr. President, may I inquire, the distinguished Senator from Michigan seeks a little additional time on leader time, is that correct?

Mr. LEVIN. I have already accomplished that. I thank my friend.

Mr. WARNER. At this time I would like to yield to the Senator from South Carolina 3 minutes off of the time under my control on the bill.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. GRAHAM. What I am trying to stress to the body is that this is a war we are fighting, not crime, and habeas corpus rights have not been given to any other prisoners under U.S. control in the past, for very good reason. It impedes the war effort.

Let me give you a flavor of what is coming out of Guantanamo Bay. This is what is happening to the troops defending America by the people who are incarcerated, determined by our military to be an enemy combatant. A Canadian detainee, who threw a grenade that killed an Army medic in a firefight and who comes from a family with longstanding al-Qaida ties, moved for a preliminary injunction forbidding interrogation of him or engaging in cruel, inhuman or degrading treatment. In other words, he was going to ask the judge to take over running the jail and his interrogation.

A Kuwaiti detainee sought a court order that would provide dictionaries in contravention of Gitmo force protection policy and that their counsel have high-speed Internet access.

Another one applied for a motion that would allow them to change the base security procedures to allow speedy mail delivery medical treatment. He sought an order transferring him to the least onerous condition at Gitmo. He asked the court to allow him to keep any books and reading materials sent to him and report to the court over his opportunities for exercise, communication, recreation and worship.

We are not going to turn this war over to a series of court cases, where our troops are having to account for a bunch of junk by people trying to kill Americans. They will have their day in court, but they are not going to turn this whole war into a mockery with my vote.

I yield back.

Mr. WARNER. Mr. President, I believe there is no time remaining?

The PRESIDING OFFICER. There is no time remaining.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Specter
Stabenow
Sununu
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Snowe

The amendment (No. 5087) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers of the bill have been notified there are still three amendments remaining, one by Senator ROCKEFELLER, one by Senator KENNEDY, one from Senator BYRD. If I understand from my distinguished ranking member, we will proceed to the amendment of Senator ROCKEFELLER.

Mr. ROCKEFELLER. I have yielded 5 minutes to the Senator from Massachusetts, if that is okay, on a separate matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the ranking member is about to advise the Senator with regard to which amendment might be forthcoming.

Mr. LEVIN. If Senator ROCKEFELLER is ready, I understand there is a time agreement of 1 hour equally divided.

The PRESIDING OFFICER. That is correct.

Five minutes of the time of the Senator from West Virginia has been previously allocated to the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. If I could correct that, my time is not supposed to come from the Senator from West Virginia. I believe I have time already allocated, so it would be separate.

Mr. ROCKEFELLER. If the situation is it is deducted from this Senator's time, I would object.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Massachusetts, the unanimous consent was obtained at 10 o'clock with 5 minutes coming from the time of the Senator from West Virginia.

Mr. LEVIN. Mr. President, that unanimous consent request was apparently agreed to and is in place right now?

The PRESIDING OFFICER. That is correct.

The Senator from West Virginia.

AMENDMENT NO. 5095

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk on behalf of myself, and Senators CLINTON, WYDEN, MIKULSKI and FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The Senator from West Virginia, [Mr. ROCKEFELLER], for himself, Mrs. CLINTON, Mr. WYDEN, Ms. MIKULSKI, and Mr. FEINGOLD, proposes an amendment numbered 5095.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for congressional oversight of certain Central Intelligence Agency programs)

At the end, add the following:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY PROGRAMS.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program of the Central Intelligence Agency during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of any detention facility operated or used by the Central Intelligence Agency.

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) where each detainee was apprehended;

(iii) the suspected activities on the basis of which each detainee is being held; and

(iv) where each detainee is being held.

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detainees who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) For each detainee who was transferred to the custody of the Department of Defense for prosecution before a military commission, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(B) For each detainee who was transferred to the custody of the Department of Defense for any other purpose, the name of the detainee and the purpose of the transfer.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;

(ii) the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three months—

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the efforts made by the United States Government to obtain that information;

(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee;

(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee;

(iv) the current status of the detainee;

(v) the status of any parliamentary, judicial, or other investigation about the rendition or other transfer; and

(vi) any other information about potential risks to United States interests resulting from the rendition or other transfer.

(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORTS.—

(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation and rendition programs of the Central Intelligence Agency during the preceding year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:

(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(B) Any violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else associated with the detention, interrogation, and rendition programs of the Central Intelligence Agency in the conduct of such programs.

(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.

(3) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) or any other law.

(d) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques for use by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(1) an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations; and

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.

(f) AVAILABILITY OF REPORTS.—Each report under this section shall be fully accessible by each member of the congressional intelligence committees.

(g) DEFINITIONS.—In this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) LAW.—The term "law" includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.

Mr. ROCKEFELLER. Mr. President, for 4 years the Central Intelligence Agency's program was kept from the full membership of the Senate and House Intelligence Committees.

For 4 years the CIA imprisoned and interrogated suspected terrorists at secret black sites under a policy that prevented Congress from not only knowing about the program but from acting on it and regulating it.

For 4 years, the White House refused to brief Intelligence Committee members about the program's legal business and operations, as is required by law.

For 4 years, the members of the Senate and the House Intelligence Committees, whose duty it is to authorize the funding of every CIA program, were kept in the dark by an administration which ignored the legal requirement to keep the Congress fully and currently informed on all intelligence activities.

The amendment I have offered reverses the executive branch's 4-year policy of indifference toward Congress.

My amendment corrects a serious omission in the pending bill: the need for Congress to reassert its fundamental right to understand the intelligence activities it authorizes and funds.

My amendment would subject the CIA's detention and interrogation to meaningful congressional oversight for the first time in 4 years by requiring a series of reviews and reports that will enable the Congress to evaluate the program's scope and legality, as well as its effectiveness.

The amendment establishes this absent congressional oversight in four ways. First, my amendment requires the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees in both the House and the Senate detailing the detention facilities, how they are operated, and how they are used by the CIA.

It requires that the detainees held at these facilities be listed by name as well as the basis for their detention and the description of interrogation techniques used on them and the accompanying legal rationale.

This quarterly report also requires the recording of any violation or abuse under the CIA program as well as an assessment of the effectiveness of the detention and interrogation program.

This issue of the effectiveness of interrogation techniques is incredibly important and often overlooked as an aspect of the debate over the CIA program. Interrogations that coerce information can produce bad intelligence—not necessarily, but they can produce misleading intelligence—fabricated intelligence to get out of the treatment, information that can harm, not help, our efforts to locate and capture terrorists.

Second, my amendment would require the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees on the disposition of each detainee transferred out of the CIA prisons, whether the detainee was transferred to the Department of Defense for prosecution before a military commissioner for further detention, whether the detainee was transferred to the custody of the Attorney General to stand trial in civilian court, or whether the detainee was rendered or otherwise transferred to the custody of another nation.

There needs to be a comprehensive and accurate accounting of detainees held by the CIA. Congress has a responsibility to know who is held by the CIA, why they are held and for how long they are held.

The CIA detention and interrogation program cannot function as a black hole into which people disappear for years on end.

We have been told by CIA leaders that the agency does not want to be—they say this constantly to us—they do not want to be the prison warden for the United States Government. The goal of the CIA program should be to obtain, through lawful means, intelligence information that can identify other terror suspects to prevent further terrorist attacks and then to bring to justice those who we believe to be criminals. This is the so-called endgame that everyone talks about.

If the CIA detention program is allowed to function as some sort of prisoner purgatory, we have then failed.

Also of concern to me is the lack of existing oversight in how the United States transports or renders detainees to other countries for imprisonment and interrogation.

The limited information the administration has shared with the Senate Intelligence Committee on the CIA's rendition program does not by any means assure, at least this Senator, that the intelligence community has a program in place, so to speak, to assert what happens to these individuals when they are transferred to foreign custody, such as how they are treated, how they are interrogated, whether they divulge intelligence information of value, and whether this information is then provided to the CIA.

The CIA's rendition program deserves far greater scrutiny and congressional oversight than it has been given to date.

The third way in which this amendment establishes a meaningful oversight of the CIA detention and interrogation program is to require the CIA Inspector General and the CIA general counsel each separately review the program on an annual basis to report their findings to the Intelligence Committees. These independent Agency reviews would assess the CIA's compliance with any applicable law or regulation and the conduct of detention, interrogation and rendition activities as well as to report to Congress any violations of law or other abuse on the part of personnel involved in the program.

The annual reviews of the Inspector General and the general counsel also would evaluate the effectiveness of the detention and interrogation program; effectiveness at obtaining valuable and reliable intelligence.

Finally, my amendment requires the Attorney General to submit to Congress an unclassified certification whether or not each interrogation technique approved for use by the CIA complies with the United States Constitution and all applicable treaties, statutes and regulations. I believe this is a very important certification.

All Americans, not just the Congress, need an ironclad assurance from our Nation's top enforcement officer that the CIA program and the interrogation techniques it employs are lawful in all respects. The CIA officers in the field, I might say, above all, need this assurance.

I do not believe there is anything particularly controversial about this amendment, and I hope that Democrats and Republicans alike can embrace the need for restoring respect for the oversight role of the Intelligence Committees of the Congress over intelligence.

Only through reports that will be provided under this amendment will the Congress have the information it lawfully deserves to understand the CIA's detention and interrogation program and determine whether the program is producing the unique intelligence mission that justifies its continued operation.

Only when the President works with the Congress are we able to craft intelligence programs that are legally sound and operationally effective. Only when the President works with the Congress can America stand strong in its fight against terrorism.

Intelligence gathering through interrogation is one of the most important tools we have in the war on terrorism. My amendment would provide the congressional oversight necessary to assure that our intelligence officers in the field have clear guidelines for effective and legal interrogation.

Before yielding the floor, I will address two other matters very briefly.

Those who have taken the time to read through the bill we are debating will find the word "coercion" repeatedly in the text of the legislation. Coercion is a fitting word when considering how the Senate finds itself rushed into voting on a bill with far-reaching legal and national security implications.

The final text of the underlying bill was negotiated by a handful of Republican Senators, many of whom I respect, and the White House. Democrats were not consulted. I was not consulted. This Senator was not consulted. Senator LEVIN was not consulted. We were kept out of these closed-door sessions.

I say that because the Senate Intelligence Committee is the only Senate committee responsible for authorizing CIA activities and the only committee briefed on classified details of the CIA's detention and interrogation program. We were denied an opportunity to consider this bill, in fact, on sequential referral, which is our due.

In the mad dash to pass this bill before the Senate recesses, Senators are being given only five opportunities, I believe, to amend the bill, effectively preventing the Senate from trying to produce the best bill possible on the most important subject possible with respect to the gathering of intelligence. It does not have to be this way.

Finally, I am troubled by what I view as misleading statements about the current state of the CIA detention and interrogation program made by President Bush and senior administration officials. I say this for the record, and strongly.

The President and others have stated in recent weeks that the CIA program was halted as a result of the Supreme Court's Hamdan decision on June 29, 2006. This assertion is false.

Significant aspects of this program were halted following the passage of the Detainee Treatment Act in 2005, prohibiting cruel, inhuman, or degrading treatment of detainees, well before the Supreme Court decision.

The President has also been very forceful in his public statements asserting that the post-Hamdan application of Geneva Conventions Common Article 3 has created legal uncertainties about the CIA interrogation procedures that the Congress must resolve through legislation—only us—in order for the CIA program to continue. This assertion is misleading, and it is false as well.

Concerns over the legal exposure of CIA officers have existed since the program's inception and did not begin with the Supreme Court's Hamdan decision. These mischaracterizations illustrate to me why it is important for Congress to understand all facts about the CIA program.

Congress cannot and should not sit on the sidelines blithely ignorant about the details of a critical intelligence program that has been operating without meaningful congressional scrutiny for years.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. LEVIN. Mr. President, will the Senator from Massachusetts yield for a unanimous consent request?

Mr. KERRY. Yes.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be added as a cosponsor to the Rockefeller amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, the last week before we leave for a long recess has always been extraordinarily busy—particularly when an election is only 42 days away. But, sadly, this has become too much the way the Senate does business and often its most important business.

Today, the leadership of the Senate has decided that legislation that will directly impact America's moral authority in the world merits only a few hours of debate. What is at stake is the authority that is essential to winning and to waging a legitimate and effective war on terror, and also one that is critical to the safety of American troops who may be captured.

If, in a few hours, we squander that moral authority, blur lines that for decades have been absolute, then no speech, no rhetoric, and no promise can restore it.

Four years ago, we were in a similar situation. An Iraq war resolution was rushed through the Senate because of election-year politics—a political calendar, not a statesman's calendar. And 4 years later, the price we are paying is clear for saying to a President and an administration that we would trust them.

Today, we face a different choice—to prevent an irreversible mistake, not to correct one. It is to stand and be counted so that election-year politics do not further compromise our moral authority and the safety of our troops.

Every Senator must ask him or herself: Does the bill before us treat America's authority as a precious national asset that does not limit our power but magnifies our influence in the world? Does it make clear that the U.S. Government recognizes beyond any doubt that the protections of the Geneva Conventions have to be applied to prisoners in order to comply with the law, restore our moral authority, and best protect American troops? Does it make clear that the United States of America does not engage in torture, period?

Despite protests to the contrary, I believe the answer is clearly no. I wish it were not so. I wish this compromise actually protected the integrity and letter and spirit of the Geneva Conventions. But it does not. In fact, I regret to say, despite the words and the protests to the contrary, this bill permits torture. This bill gives the President the discretion to interpret the meaning and application of the Geneva Conventions. It gives confusing definitions of "torture" and "cruel and inhuman treatment" that are inconsistent with the Detainee Treatment Act, which we passed 1 year ago, and inconsistent with the Army Field Manual. It provides exceptions for pain and suffering "incidental to lawful sanctions," but it does not tell us what the lawful sanctions are.

So what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incident to some undefined lawful sanctions.

This bill gives an administration that lobbied for torture exactly what it wanted. And the administration has been telling people it gives them what they wanted. The only guarantee we have that these provisions will prohibit torture is the word of the President. Well, I wish I could say the word of the President were enough on an issue as fundamental as torture. But we have been down this road.

The administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to al-Qaida, that they would exhaust diplomacy before they went to war, that the insurgency was in its last throes. None of these statements were true.

The President said he agreed with Senator McCAIN's antitorture provisions in the Detainee Treatment Act. Yet he issued a signing statement reserving the right to ignore them. Are we supposed to trust that word?

He says flatly that "The United States does not torture," but then he tries to push the Congress into allowing him to do exactly that. And even here he has promised to submit his interpretations of the Geneva Conventions to the Federal Register. Yet his Press Secretary announced that the administration may not need to comply with that requirement. And we are supposed to trust that?

Obviously, another significant problem with this bill is the unconstitutional limitation of the writ of habeas corpus. It is extraordinary to me that in 2 hours, and a few minutes of a vote, the Senate has done away with something as specific as habeas corpus, of which the Constitution says: "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

Well, we are not in a rebellion, nor are we being invaded. Thus, we do not have the constitutional power to suspend the writ. And I believe the Court will ultimately find it unconstitutional.

The United States needs to retain its moral authority to win the war on terror. We all want to win it. We all want to stop terrorist attacks. But we need to do it keeping faith with our values and the Constitution of the United States.

Mr. President, a veteran of the Iraq War whom I know, Paul Rieckhoff, wrote something the other day that every Senator ought to think about as they wrestle with this bill. He wrote that he was taught at Fort Benning, GA, about the importance of the Geneva Conventions. He didn't know what it meant until he arrived in Baghdad. Paul wrote:

> America's moral integrity was the single most important weapon my platoon had on the streets of Iraq. It saved innumerable lives, encouraged cooperation with our allies and deterred Iraqis from joining the growing insurgency. But those days are over. America's moral standing has eroded, thanks to its flawed rationale for war and scandals like Abu Ghraib, Guantánamo and Haditha. The last thing we can afford now is to leave Article 3 of the Geneva Conventions open to reinterpretation, as President Bush proposed to

> do and can still do under the compromise bill that emerged last week.

We each need to ask ourselves, in the rush to find a "compromise" we can all embrace, are we strengthening America's moral authority or eroding it? Are we on the sides of the thousands of Paul Rieckhoffs in uniform today, or are we making their mission harder and even worse, putting them in greater danger if they are captured?

Paul writes eloquently:

> If America continues to erode the meaning of the Geneva Conventions, we will cede the ground upon which to prosecute dictators and warlords. We will also become unable to protect our troops if they are perceived as being no more bound by the rule of law than dictators and warlords themselves. The question facing America is not whether to continue fighting our enemies in Iraq and beyond but how to do it best. My soldiers and I learned the hard way that policy at the point of a gun cannot, by itself, create democracy. The success of America's fight against terrorism depends more on the strength of its moral integrity than on troop numbers in Iraq or the flexibility of interrogation options.

I wish I could say this compromise serves America's moral mission and protects our troops, but it doesn't. No eloquence we can bring to this debate can change what this bill fails to do.

We have been told in press reports that it is a great compromise between the White House and my good friends, Senator MCCAIN, Senator WARNER, and Senator GRAHAM. We have been told that it protects the "integrity and letter and spirit of the Geneva Conventions."

I wish that what we are being told is true. It is not. Nothing in the language of the bill supports these claims. Let me be clear about something—something that it seems few people are willing to say. This bill permits torture. This bill gives the President the discretion to interpret the meaning and application of the Geneva Conventions. This bill gives an administration that lobbied for torture exactly what it wanted.

We are supposed to believe that there is an effective check on this expanse of Presidential power with the requirement that the President's interpretations be published in the Federal Register.

We shouldn't kid ourselves. Let's assume the President publishes his interpretation of permissible acts under the Geneva Convention. The interpretation, like the language in this bill, is vague and inconclusive. A concerned Senator or Congresswoman calls for oversight. Unless he or she is in the majority at the time, there won't be a hearing. Let's assume they are in the majority and get a hearing. Do we really think a bill will get through both houses of Congress? A bill that directly contradicts a Presidential interpretation of a matter of national security? My guess is that it won't happen, but maybe it will. Assume it does. The bill has no effect until the President actually signs it. So, unless the President chooses to reverse himself, all the power remains in the President's hands. And all the while, America's moral authority is in tatters, American troops are in greater jeopardy, and the war on terror is set back.

Could the President's power grab be controlled by the courts? After all, it was the Supreme Court's decision in Hamdan that invalidated the President's last attempt to consolidate power and establish his own military tribunal system. The problem now is that the bill strips the courts the power to hear such a case when it says "no person may invoke the Geneva Conventions . . . in any habeas or civil action."

What are we left with? Unfettered Presidential power to interpret what—other than the statutorily proscribed "grave violations"—violates the Geneva Conventions. No wonder the President was so confident that his CIA program could continue as is. He gets to keep setting the rules—rules his administration have spent years now trying to blur.

Presidential discretion is not the only problem. The definitions of what constitute "grave breaches" of Article 3 are murky. Even worse, they are not consistent with either the Detainee Treatment Act or the recently revised Army Field Manual. These documents prohibit "cruel, inhumane, or degrading treatment" defined as "the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments." The definition is supported by an extensive body of case law evaluating what treatment is required by our constitutional standards of "dignity, civilization, humanity, decency, and fundamental fairness." And, I think quite tellingly, it is substantially similar to the definition that my good friend, Senator MCCAIN, chose to include in his bill. And there is simply no reason why the standard adopted by the Army Field Manual and the Detainee Treatment Act, which this Congress has already approved, should not apply for all interrogations in all circumstances.

In the bill before us, however, there is no reference to any constitutional standards. The prohibition of degrading conduct has been dropped. And, there are caveats allowing pain and suffering "incidental to lawful sanctions." Nowhere does it tell us what "lawful sanctions" are.

So, what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incident to some undefined lawful sanctions. The only guarantee we have that these provisions really will prohibit torture is the word of the President.

The word of the President. I wish I could say the words of the President were enough on an issue as fundamental as torture. Fifty years ago, President Kennedy sent his Secretary of State abroad on a crisis mission—to prove to our allies that Soviet missiles were being held in Cuba. The Secretary of State brought photos of the missiles. As he prepared to take them from his briefcase, our ally, a foreign head of state said, simply, "put them away. The word of the President of the United States is good enough for me."

We each wish we lived in times like those—perilous times, but times when America's moral authority, our credibility, were unquestioned, unchallenged.

But the word of the President today is questioned. This administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to Al Qaeda, that they would exhaust diplomacy before we went to war, that the insurgency was in its last throes. None of these statements were true, and now we find our troops in the crossfire of civil war in Iraq with no end in sight. They keep saying the war in Iraq is making us safer, but our own intelligence agencies say it is actually fanning the flames of jihad, creating a whole new generation of terrorists and putting our country at greater risk of terrorist attack. It is no wonder then that we are hesitant to blindly accept the word of the President on this question today.

The President said he agreed with Senator MCCAIN's antitorture provisions in the Detainee Treatment Act. Yet, he issued a signing statement reserving the right to ignore them. He says flatly that "The United States does not torture"—and then tries to bully Congress into allowing him to do exactly that. And even here, he has promised to submit his interpretations of the Geneva Convention to the Federal Register—yet his Press Secretary announced that the administration may not need to comply with that requirement.

We have seen the consequences of simply accepting the word of this administration. No, the Senate cannot just accept the word of this administration that they will not engage in torture given the way in which everything they have already done and said on this most basic question has already put our troops at greater risk and undermined the very moral authority needed to win the war on terror. When the President says the United States doesn't torture, there has to be no doubt about it. And when his words are unclear, Congress must step in to hold him accountable.

The administration will use fear to try and bludgeon anyone who disagrees with them.

Just as they pretended Iraq is the central front in the war on terror even as their intelligence agencies told them their policy made terrorism worse, they will pretend America needs to squander its moral authority to win the war on terror.

They are wrong, profoundly wrong. The President's experts have told him that not only does torture put our troops at risk and undermine our moral authority, but torture does not work. As LTG John Kimmons, the Army's deputy chief of staff for intelligence, put it:

> No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last five years, hard years, tell us that. Any piece of intelligence which is obtained under duress, through the use of abusive techniques, would be of questionable credibility. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can't afford to go there.

Neither justice nor good intelligence comes at the hands of torture. In fact, both depend on the rule of law. It would be wrong—tragically wrong—to authorize the President to require our sons and daughters to use torture for something that won't even work.

Another significant problem with this bill is the unconstitutional elimination of the writ of habeas corpus. No less a conservative than Ken Starr got it right:

> Congress should act cautiously to strike a balance between the need to detain enemy combatants during the present conflict and the need to honor the historic privilege of the writ of habeas corpus.

Ken Starr says, "Congress should act cautiously." How cautiously are we acting when we eliminate any right to challenge an enemy combatant's indefinite detention? When we eliminate habeas corpus rights for aliens detained inside or outside the United States so long as the Government believes they are enemy combatants? When we not only do this for future cases but apply it to hundreds of cases currently making their way through our court system?

The Constitution is very specific when it comes to habeas corpus. It says, "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." We are not in a case of rebellion, nor are we being invaded. Thus, we really don't have the constitutional power to suspend the Great Writ. And, even if we did, the Constitution allows only for the writ to be suspended. It does not allow the writ to be permanently taken away. Yet, this is exactly what the bill does. It takes the writ away—forever—from anyone the administration determines is an "enemy combatant," even if they are lawfully on U.S. soil and otherwise entitled to full constitutional protections, and even if they have absolutely no other recourse.

Think of what this means. This bill is giving the administration the power to pick up any non-U.S. citizen inside or outside of the United States, determine in their sole and unreviewable discretion that he is an unlawful combatant, and hold him in jail—be it Guantanamo Bay or a secret CIA prison—indefinitely. Once the Combatant Status Review Tribunal determines that person is an enemy combatant, that is the end of the story—even if the determination is based on evidence that even a military commission would not be allowed to consider because it is so unreliable. That person would never get the chance to challenge his detention; to prove that he is not, in fact, an enemy combatant.

We are not talking about whether detainees can file a habeas suit because they don't have access to the Internet or cable television. We are talking about something much more fundamental: whether people can be locked up forever without even getting the chance to prove that the Government was wrong in detaining them. Allow this to become the policy of the United States and just imagine the difficulty our law enforcement and our Government will have arranging the release of an American citizen the next time our citizens are detained in other countries.

Mr. President, we all want to stop terrorist attacks. We all want to effectively gather as much intelligence as humanly possible. We all want to bring those who do attack us to justice. But, we weaken—not strengthen—our ability to do that when we undermine our own Constitution; when we throw away our system of checks and balances; when we hold detainees indefinitely without trial by destroying the writ of habeas corpus; and when we permit torture. We endanger our moral authority at our great peril. I oppose this legislation because it will make us less safe and less secure. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Mr. President, I yield 5 minutes to our colleague from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. BOND. Mr. President, I thank the manager of the bill for yielding me 5 minutes.

There is no question that this bill, this military commissions bill, is absolutely essential if we are going to continue to have good intelligence and move forward with the program of interrogating and containing detainees in an appropriate manner that will maintain our standing, our honor, and puts tighter control on the United States than other countries do on their unlawful combatants.

I respectfully suggest that the Rockefeller amendment is not only unnecessary, but the simple fact is, the unintended effect is it would complicate the passage of this important military commissions bill. It would either delay or perhaps even derail this bill, which is absolutely essential if we are to get our CIA agents back in the field doing appropriately limited interrogation techniques to find out what attacks are planned against the United States.

The President has pointed out, the interrogation is the thing that has uncovered plots that could have been very serious. We need to have our CIA professionals under carefully controlled circumstances doing the interrogation that gets the information.

As to the question about whether this is about oversight, well, our committee should be all about oversight. We need to be looking at these things. We need to be looking every day at what the agencies are doing, what the intelligence community is doing. But as I have said here on the floor before, unfortunately, for the last 4 years, we have been looking in the rearview mirror. It has been our fault, not the fault of the agencies, that we have not done enough oversight because when we spent 2 years in the Phase I investigation, we found out the intelligence was flawed, the intelligence was inadequate because our intelligence assets were cut 20 percent in the 1990s. We had no human intel on the ground.

But, most of all, there was no pressure, no coercion by administration officials of the intelligence agencies, and there was no misrepresentation of the findings of the intelligence community—same intelligence that we in the Congress relied upon in supporting the decision to go to war against the hotbed of terrorism, Iraq.

Now, I do not take issue with that first phase. But Phase II has cost us another 2 years, and we have not learned anything more than we learned in the first phase and with the WMD and the 9/11 Commission.

If we would get back to looking out the front windshield, instead of looking in the rearview mirror, we should be doing precisely this kind of interrogation in the oversight committee. And I take no issue with many of the questions the Senator from West Virginia raises. As a matter of fact, I probably would have some of my own. But I do question the need for a very lengthy, detailed report every 3 months. If you read all of the requirements, this is a paperwork nightmare. They are going to have to comply and tell us how they are going to comply, and we are going to oversee them.

I believe putting out this lengthy report gets us nowhere. Frankly, if our past experience is any guide, we will probably see those reports leaked to the press because reports have a way, regrettably, of being leaked and being disclosed.

I think there is one big problem with the Rockefeller amendment. In the amendment, he requires every 3 months the Attorney General—any time there are any new interrogation techniques, the Attorney General shall submit an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States, applicable treaty statutes, Executive orders, relations, and an explanation of why it complies.

Mr. President, what we would just order in this amendment is to spread out for the world—and especially for al-Qaida and its related organizations—precisely what interrogation techniques are going to be used. Let me tell you something. I visited with intelligence agents around the world, some of whom have been in on the most sensitive interrogations we have had. I have asked them about that, and they have explained to me how they interrogate people. These interrogations I have learned about comply—even though they were before the passage of this law—with the detainee treatment law. They do comply, and I think they are appropriate. The important thing, they say, is that what the terrorists don't know is most important. They don't know how they are going to be questioned or what is going to happen to them. The uncertainty is the thing that gets them to talk. If we lay out, in an unclassified version, a description of the techniques by the Attorney General, that description will be in al-Qaida and Hezbollah and all of the other terrorist organizations' playbook. They will train their assets that: This is what you must be expected to do, and Allah wants you to resist these techniques.

Mr. ROCKEFELLER. Will the Senator yield for a question?

Mr. BOND. Yes, I am happy to.

Mr. ROCKEFELLER. Is the Senator aware, when he talks about delaying implementation of this program, that there are no CIA detainees? What are we holding up?

Mr. BOND. Mr. President, we are passing this bill so that we can detain people. If we catch someone like Khalid Shaikh Mohammed, we have no way to hold him, no way to ask him the questions and get the information we need, because the uncertainty has brought the program to a close. It is vitally important to our security, and unfortunately the Rockefeller amendment would imperil it.

General Hayden promised to come before the committee, and I look forward, in our oversight responsibilities, to hearing how they are implementing this act.

I thank the Chair.

Mr. ROCKEFELLER. That is simply not true.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this juncture, I ask unanimous consent that we step off of this amendment and allow the distinguished Senator from New Mexico to speak for up to 10 minutes regarding the bill.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I will speak on this vital subject. I rise to speak in support of the Military Commission Act of 2006.

First off, we must all ask ourselves a very simple question: Do we believe the United States must have a terrorist attack prevention program?

I submit that the answer is a clear and resounding yes. I believe the American people expect us to have a strong terrorist attack prevention program and that they believe if we don't, we are derelict in our duty. They know that we are at risk, that this is a war, and that there are many people out there who are waiting to do damage and harm to our people. To have anything less than a terrorist prevention program, which is the best we can put together, is shameful. I cannot support any legislation that would prevent the CIA from protecting America and its citizens.

The legislation before us allows the Federal Government to continue using one of the most valuable tools we have in our war on terror—the CIA terrorist interrogation program.

The global war on terror is a new type of war against a new type of enemy, and we must use every tool at our disposal to fight that war—not just some tools, but all of them. These tools include interrogation programs that help us prevent new terrorist attacks.

The CIA interrogation program is such a program. It is helping us deny terrorists the opportunity to attack America. It has allowed us to foil at least eight terrorist plots, including plans to attack west coast targets with airplanes, blow up tall buildings across our Nation, use commercial airliners to attack Heathrow Airport and bomb our U.S. Marine base in Africa.

Mr. President, clearly, this program is valuable. Clearly, this program is necessary in the global war on terror. We must take legislative action that will allow the program to continue. The CIA must be allowed to continue going after those who have information about planned terrorist attacks against our Nation and our friends. The CIA must be allowed to go after those who are in combat with us.

I applaud the White House, the Senate leadership, and the Armed Services Committee for working together to craft a bill that, No. 1, authorizes military tribunals and establishes the trial and evidentiary rules for such tribunals; and No. 2, clarifies the standards the CIA must comply with in conducting terrorist interrogations. We must keep the bill in its current form, fending off amendments that would put the CIA's program in jeopardy.

Regarding the Byrd sunset amendment, we don't know when the global war on terror will end, so we cannot arbitrarily tie one hand behind the CIA's back by suddenly terminating the interrogation program with a sunset provision.

We have already voted on the habeas corpus amendment, and I am glad we did not add habeas provisions to this bill. We cannot give terrorists the right to bring a habeas corpus petition that seeks release from prison on the grounds of unlawful imprisonment, as the Specter amendment would. Such legislation will clog our already overburdened courts.

Additionally, such petitions are often frivolous and disrupt operations at Guantanamo Bay. Examples of the frivolous petitions that have been filed include an al-Qaida terrorist complaining about base security procedures, speed of mail delivery, and medical treatment; as well as a detainee asking that normal security policies be set aside so that he could be shown DVDs that are alleged to be family videos. Such petitions are not necessary.

The underlying bill allows appeals of judgments rendered by military commissions to the District of Columbia Circuit Court of Appeals—a very significant court. These are appeals of judgments rendered by the military commissions. That is a totally appropriate way to do it. When I finally understood that, I could not believe that some would come to the floor and argue as they did. My colleagues have said we are abandoning habeas corpus; we have never done anything like this before. They act as if we have decided to be totally unjust and unfair when, as a matter of fact, this is about as fair a treatment as you could give terrorist suspects and still have an orderly process. I think we have done the right thing. Giving terrorist suspects access to the court known as the second highest court in America provides an adequate opportunity for review of detainees' cases.

I laud the occupant of the chair for explaining this matter early on to many of us who did not understand the issue, and it has become clear to many of us that we have done the right thing in terms of the habeas corpus rule that we have adopted. It will be upheld, in my opinion, after I have read some other cases, by the courts.

Mr. President, my primary standard in determining whether to support this legislation is whether the legislation will allow the CIA interrogation program to continue. The answer to that question must be yes. If the answer to that question is no, then we are foolhardy, at a minimum, and totally stupid at a maximum, if we decide that the kinds of enemies we have will not be subject to the CIA terrorist interrogation program we have now. The program must continue.

The administration has informed me that this bill, in its current form, will allow the CIA terrorist interrogation program to continue. I sought that information as a critical piece of information before I started looking at all of the amendments to see where we were. Therefore, this bill must pass, and it must pass in its current form.

We must remember that we are dealing with terrorists, not white-collar criminals. We are not even dealing with the types of prisoners of war there were in the Second World War, some of whom, from the German area, might have been severely abusing the rights of prisoners-of-war. But we still did not in any way have the situation we have now with reference to prisoners of war in the Second World War.

We must remember that we are dealing with terrorists who know no limits, follow no rules, have no orderliness about them. They are just going to do what we let them do. We must give our best—the CIA—the tools they need to do their job to fight this war on terror against these terrorists.

It is my privilege to be on the side of this bill. I believe the American people will be on the side of this bill. Some thought early that it was the wrong thing to do. Just as it happens with many bills, we got off on the wrong foot. But we are back straight, with both feet on the right path, and we must pass the bill as is.

I wonder if those who want to destroy this bill or make it ineffective would really ask the American people in honesty and sincerity, do they want the CIA program to continue or are they really trying to say we should not allow the program? If my colleagues are on the side of the latter, they ought to tell us and tell the American people. Then we would understand whom they are for and there would be no question in the American people's minds.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the chairman of the Intelligence Committee, the Senator from Kansas, such time as he needs.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank the chairman of the Armed Services Committee, who is an ex officio member of the Intelligence Committee and does extremely valuable work as we try to work in a commensurate fashion on national security.

I rise in opposition to the amendment being offered by my good friend from West Virginia, Senator ROCKEFELLER, who is vice chairman of our committee. The amendment calls for yet another unnecessary and repetitious requirement of reporting.

Now, I do not take issue with some of the numerous questions the Senator from West Virginia seeks. Some of these questions should be answered in the context of our regular committee oversight.

The issue is not if reasonable questions are answered, but how and how often. I really question the need for a formal quarterly report—four times a year—unreasonable in scope and length that will be a very unnecessary burden on the hard-working men and women at the CIA.

The simple fact is that the vice chairman and other members of the committee have been fully briefed in the past, present, and prospective future about CIA's detention and interrogation operations and will continue to be briefed. The vice chairman and other members of the Intelligence Committee can get answers to their questions and more through the course of the committee's normal oversight activities. They only need to ask.

I just mentioned the prospective future of the CIA's interrogation program. That is because without this legislation, there will be no CIA program. Let's be clear. If we adopt what I believe is an unnecessary amendment, contrary with the House, this bill will end up in conference with the House. If that happens, I fear the bill will languish throughout the fall while Members are out campaigning. Meanwhile, the CIA will be unable to interrogate captured unlawful alien combatants.

Forgive me, Mr. President, but I think the American people deserve better than to have this Nation's efforts against al-Qaida bog down because some in this body—and I don't question their intent—are insisting on an unnecessary symbolic and redundant series of reporting requirements that could and will be answered through the regular committee oversight. All we have to do is ask and then to listen and then to respond. Where are our priorities? Where should they be?

As I have listened to the debate on this bill in the relative safety and comfort of Capitol Hill, I cannot help but wonder whether some of us have lost our perspective. While we must do our duty as elected officials—and we will do that—we cannot forget that we are a nation at war. Consequently, our first and foremost duty should be to support our troops and intelligence officers at home and abroad, not to mandate four times a year reporting requirements that are unprecedented in scope and detail. The CIA will not be detecting and interdicting unlawful alien combatants; it will be writing one report after another.

I am on the side of our hard-working intelligence officers and against the terrorists. I think that is an obvious choice. I think most Members would think they would be in that position. But I do not believe in making their job more difficult by legislating additional reporting requirements which are needless and burdensome and which will likely delay enactment of this vital national security legislation.

If this were to pass, we can be reasonably certain that it will have a chilling effect on interrogation operations. We are sending a signal to our intelligence officers to be risk averse, the very thing we don't want to do. In fact, the very implication of this amendment is they are unable to carry out their duties with honor and respect for the law, and that, my colleagues, is just not true.

So let us do our duty, as we should, and get this bill done and to the President.

Mr. President, I oppose the amendment and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wonder if I may engage my distinguished chairman in a colloquy. I am privileged to serve on his committee. Some years ago I served on the committee and at one time was vice chairman of the committee. So I draw on, if I may say with some modesty, a long experience of working with the Intelligence Committee, and, as the chairman knows, the chairman and ranking member of the Armed Services Committee have always had a role of participation in his committee. I guess if I can add up all the years as chairman and ranking, it is about 12 or 15, I think, of my 28 years on the Armed Services Committee. I have watched this committee and have been a participant for many years.

As I read through the amendment offered by our distinguished colleague from West Virginia—he has the title of vice chairman. That came about because the chairman and the vice chairman traditionally on this committee work to achieve the highest degree I guess the word is the committee working together as an entity.

I say to the chairman, it is my judgment that this amendment is really in the nature of a substitute for the oversight responsibilities of the committee.

As we both know, the world environment changes overnight. This business of trying to operate on the basis of reports is simply, in my judgment, not an effective way for the committee to function. The Senator from Kansas, as chairman, in consultation with the vice chairman, has to call hearings and meetings and briefings in a matter of hours in order to keep the committee currently informed about world situations.

I say with all due respect to my colleagues here and to our vice chairman of the Intelligence Committee, this amendment is a substitute for the committee's responsibilities, the basic responsibilities to be performed by this committee. It is for that reason I oppose the amendment. But I would like to have the chairman's views.

Mr. ROBERTS. Mr. President, if the chairman will yield.

Mr. WARNER. Yes.

Mr. ROBERTS. Let me repeat what I said in my statement—and I share the distinguished Senator's views, more especially from his experience on both committees, the Intelligence Committee and the Armed Services Committee. We both face the same kind of responsibilities, our oversight responsibilities. We take them very seriously. We may have differences of opinion on the Intelligence Committee or on the Armed Services Committee, but we do our oversight.

The simple fact is that the vice chairman, myself, and other members of the committee—and let me stress now full membership of the committee: we worked very hard to get that access—have been fully briefed in the past and the present and also prospectively of the CIA's detention and interrogation operations.

The vice chairman and other members of the Intelligence Committee, if people have problems, if people have questions, if people need to get more briefs, if people want to basically get into some—I say "some" because I think some of the questions are not reasonable—say they have questions about this, all they have to do is ask. I can guarantee as chairman that those in charge of this particular program at the CIA will be there and have been there.

The inspector general of the CIA has briefed the committee—I am not going to get into the details of that briefing—both the vice chair and myself in regards to any question on what has happened, with what has gone wrong allegedly or otherwise with the interrogation and detention program, and we get an update as to where are those cases. If there was egregious behavior, what is happening to those people? Are they being prosecuted? And the answer to that is yes.

All we have to do is ask. As I look at this, I must say in scope, it is unprecedented. They ask questions that I think, quite frankly, if I were an interrogator working within the confines of the Central Intelligence Agency, would have a very chilling effect on me to know that four times a year I would be held responsible for all of these questions which I think those in charge at the Agency can certainly respond to any committee request in terms of a briefing. I would be a little nervous.

And that is not the case because, as I said in my remarks, the CIA will not be detecting and interdicting unlawful alien combatants; it will be writing one report after another, four times a year. If we look at the length, breadth, and depth, it is not whether we get this information, it is how we get the information. All we have to do is ask.

This is a tremendous burden. I must tell my colleagues that I don't know where we are going to get enough staff on the committee to respond to these four mandated reports. It is going to be a rather unique situation when we have a lot of work to do. We have briefings, as the Senator from Virginia indicated, every week. We have one this afternoon—it is terribly important—requested by members. Yet I think we are going to have to hire more people to do this if, in fact, we do this, and I think the CIA will as well.

I am not too sure, again, if I were an individual interrogator that I would want to stay in the business.

Mr. WARNER. Mr. President, I thank my colleague. Another observation of all of us who have had the responsibility of being a chairman and ranking member of committees, I know it is sometimes difficult to get witnesses to appear, but I found thus far, certainly with General Hayden—and I have known him for a number of years—I have a high degree of confidence in his ability to administer this Agency, the CIA. It is of great importance to this Senator because it is in Virginia, if I may say. I view the agency and each and every one of its employees as someone for whom I have an obligation to speak on their behalf when necessary.

I find that General Hayden is very forthcoming, very responsive. When the Chair and ranking member desire to see him, my understanding is he makes himself available. It is not as if we have to wait until a report comes, read it, and then decide to bring him down. The Chair, in consultation with the ranking member—he and his team are quite responsive; am I not correct in that?

Mr. ROBERTS. I am happy to respond to the distinguished chairman. What he has described is accurate. It may be the situation with General Hayden, the Inspector General, or anybody else we request to appear before the committee that they may be in a situation where there would be sensitive intelligence information that at that particular time would not be provided, but there certainly would be the promise that it will be provided if at all possible.

So I am not saying that it is a carte blanche kind of situation. That is to be expected. But the great preponderance of requests we make of the General and of the Inspector General have been very prompt and very full, and, again, all we have to do is ask.

It is just that—I don't want to call it a book report, but that is about where we are. It is on some very important matters. I know members of the committee feel very strongly about this. I can't recall a time when members on the committee have asked me for help to get information from the executive or from the CIA or from any of our intelligence agencies where I haven't worked overtime to get that job done.

I thank the chairman for his question.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I think we have framed for the full Senate the parameters of what I regard are the points to be considered at such time we vote on this amendment.

On that matter, I see the distinguished vice chairman and my colleague. How much time remains under the control of the Senator from Virginia?

The PRESIDING OFFICER. There is 8½ minutes remaining under the control of the Senator from Virginia.

Mr. WARNER. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, if I might speak for 2 or 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President I have a one-page summary. Some of the arguments I have heard are absolutely incredible. The fact of the matter is there isn't any reporting done. For 4 years this has gone on. People say: Just call them in; call in the head of the CIA, whoever it is, before the committee. That doesn't yield information. We have so many requests for information from the CIA that have not been responded to. They are not responsive to the committee because they don't want to be responsive to the committee, because they are directed not to be responsive to the committee, I am assuming, by the Director of the National Intelligence Office.

We don't have oversight on these programs we are talking about. Anybody who suggests otherwise is wrong. I heard the opposition to the amendment say it is going to slow down the passage of the bill. Now, that is brilliant. We could have started this in a timely fashion, and all the House has to do is accept the Senate amendment, if one were to pass. In a heartbeat, it is done. So what is in that argument?

The Senator from Missouri has stated—and this is very important for my colleagues to hear—that the amendment would require public disclosure of the CIA's interrogation techniques. That is categorically false—wrong. It is a dangerous thing to say. It is an irresponsible thing to say on the floor of the Senate. The reports on the CIA program would be classified and they would be sent to the congressional Intelligence Committees and them alone. So we need to get that straight right now.

The information that is provided in the reports is made to sound like we are rewriting the Constitution 17 times in a hot summer's several months. This is information which has not been provided to us for 4 years, what these reports would be asked to do, and then they could taper off if we found a responsive intelligence community. But we have not been provided these in 4 years. Am I meant to be worried about that? Is it the job of the Senate Intelligence Committee and the House to do oversight? Yes, it is, and we can't because they won't give us the information. The chairman can say that he and I are briefed, but that is seldom and on very discrete matters that don't cover this bill.

So the Senator from Virginia, whom I obviously greatly respect, suggests this amendment is a substitute for oversight. This amendment, to the contrary, is going to allow us to do oversight, and that is my point. It is our responsibility under the law to do it. We cannot do it. We are not allowed to do it. We are systematically prevented from getting information from the people who are required by law to give it to us. That is called not being transparent, and that is called us not knowing what is going on and thus not being able to help with the war on terror.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. LEVIN. I thank the Chair, and I thank my friend from West Virginia.

Mr. President, this amendment just simply requires regular reports on detention and interrogation programs. It will give us access to legal opinions. It is essential that this amendment be adopted.

I just want to ask my good friend from West Virginia if he heard the chairman of the Intelligence Committee say that all we have to do is ask for reports and we will get them. Did I hear that right?

Mr. ROCKEFELLER. The Senator from Michigan heard that correctly.

Mr. LEVIN. Well, Mr. President, just one example here. I have been trying to get a memo called the second Bybee memo now for 2½ years. I haven't asked once, I haven't asked twice, I have probably asked a dozen times for the Bybee memo, and my good friend, the chairman of the Armed Services Committee, has asked for the Bybee memo, without any luck. So the idea that all we have to do is ask is just simply wrong.

Chairman WARNER asked on May 13, 2004—2004—that all legal reviews and related documentation concerning approval of interrogation techniques be provided to the committee. It has never been provided.

On April 12, 2005, I submitted questions to John Negroponte, who was the nominee for the Director of National Intelligence, requesting to see if the intelligence community has copies of the so-called Bybee memo.

In April of 2005, I asked General Hayden, on his nomination to be Deputy National Intelligence Director, to see if he could determine if the intelligence community has a copy of the second Bybee memo and to provide it to the committee.

Then on the intelligence budget hearing, April 28, 2005, I asked Secretary Cambone: Can you get us a copy of the second Bybee memo? This has to do with what interrogation techniques are legal. This is written by the Office of Legal Counsel, this memo. He says he will get a reply to me. That was April 2005.

In May of 2005, I wrote the Director of Central Intelligence, Porter Goss, requesting the second Bybee memo. Then I get a letter from the Director of Congressional Affairs, Joe Whipple, saying the memorandum can only be released by the Department of Justice. So in July, I write the Department of Justice, the Attorney General: Can we get a copy of the second Bybee memo? Letter after letter after letter.

Then there is a hearing by the Senate Intelligence Committee, July 2005. This is a hearing on Benjamin Powell's nomination to be general counsel in the Office of the Director of National Intelligence. I asked Mr. Powell: Can you provide us for the record a copy of that second Bybee memo? That decision, we are told a week later, is not a decision he can make; that is within the Department of Justice's purview, and on it goes.

Another year of stonewalling, of denial, of coverup by the Department of Justice of a memo which is so critically important, according to press reports and according now also to the acknowledgment by the Department of Justice. It sets a legal framework for the interrogation of detainees, and the Senate can't get a copy.

Apparently, two Members of the Senate, the chairman and vice chairman of the Intelligence Committee, have seen this memo. That is it. Members of the Intelligence Committee can't get it. Members of the Armed Services Committee can't get it. All we have to do is ask? How many times do we have to ask before we get documents?

There are 70 documents we still can't get from the Department of Defense relative to the operation of the Feith shop. All we have to do is ask? There are documents we have asked of the Intelligence Committee for years beyond the Bybee amendment without any response.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. LEVIN. I thank the Chair, and I thank my good friend from West Virginia for trying to get some institutional support behind these requests that are made by Senators and committees frequently for documents.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, in consultation with my distinguished ranking member, I would like to inquire if there is further debate desired on this amendment. If not, my understanding is the leadership will select a time—joint leadership—for votes on this amendment and others at some point this afternoon and with the full expectation that this matter will be voted on final passage.

So at this time, could I inquire as to the time for the Senator from Virginia and the Senator from Michigan?

The PRESIDING OFFICER. The time is 18 minutes for the Senator from Virginia and 5 minutes 10 seconds for the Senator from West Virginia.

Mr. LEVIN. Mr. President, may I inquire of the Senator from West Virginia as to whether, if he has completed debate on this amendment, he would be willing to yield the balance of his time to the Senator from Michigan for use on the bill?

Mr. ROCKEFELLER. I would, with the exception of 1 minute to summarize just before we vote on it, so you can have the balance of the time.

Mr. LEVIN. Mr. President, I ask unanimous consent that the balance of the time of the Senator from West Virginia minus that 1 minute be assigned to the Senator from Michigan for use or allocation on the bill itself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would make a similar request that the balance of my time be allocated to me for use on the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Therefore, I believe all time has been yielded back on both sides, and we can prepare the floor now for the receiving of an amendment from the distinguished Senator from Massachusetts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 5088

Mr. KENNEDY. Mr. President, I believe my amendment No. 5088 is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 5088.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 5088

(Purpose: To provide for the protection of United States persons in the implementation of treaty obligations)

On page 83, between lines 8 and 9, insert the following:

(2) PROTECTION OF UNITED STATES PERSONS.—The Secretary of State shall notify other parties to the Geneva Conventions that—

(A) the United States has historically interpreted the law of war and the Geneva Conventions, including in particular common Article 3, to prohibit a wide variety of cruel, inhuman, and degrading treatment of members of the United States Armed Forces and United States citizens;

(B) during and following previous armed conflicts, the United States Government has prosecuted persons for engaging in cruel, inhuman, and degrading treatment, including the use of waterboarding techniques, stress positions, including prolonged standing, the use of extreme temperatures, beatings, sleep deprivation, and other similar acts;

(C) this Act and the amendments made by this Act preserve the capacity of the United States to prosecute nationals of enemy powers for engaging in acts against members of the United States Armed Forces and United States citizens that have been prosecuted by the United States as war crimes in the past; and

(D) should any United States person to whom the Geneva Conventions apply be subjected to any of the following acts, the United States would consider such act to constitute a punishable offense under common Article 3 and would act accordingly. Such acts, each of which is prohibited by the Army Field Manual include forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shocks, burns, or other forms of physical pain to the person; waterboarding the person; using dogs on the person; inducing hypothermia or heat injury in the person; conducting a mock execution of the person; and depriving the person of necessary food, water, or medical care.

Mr. KENNEDY. Mr. President, I understand we have an hour evenly divided on the amendment.

The PRESIDING OFFICER. Under the agreement, the Senator has 25 minutes under his control.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I have here before me the Department of Army regulations and rules for interrogating prisoners. In the document I have here, which is the official military document to define permissible interrogation techniques, it outlines certain interrogations which are prohibited and it lists these: forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shock, burns, or other forms of physical pain; waterboarding; using dogs; inducing hypothermia or heat injury; conducting mock executions; depriving the person of necessary food, water, and medical care.

Those techniques are prohibited by the Department of Defense. Those techniques are prohibited from being used against adversaries in any kind of a conflict, blatant violations the requirement for humane treatment, and what I would consider to be torture. Certainly the Army and Department of Defense have effectively found that out that these techniques do not work. They have banned them and there has not been any objection to it.

What does our amendment say? Well, it says we in the United States are not going to tolerate those techniques if any of our military personnel are captured. But not all of the people who are representing the United States in the war on terror are wearing a uniform. For example, we have SEALs, we have some special operations, special forces, we have CIA agents. We have contractors and aid workers. We have more people around the world looking out after our security interests than any other country in the world.

What does this amendment say? Well, if our military personnel are not going to do this those we capture, we are saying to countries around the world: You cannot do this against any American personnel you are going to capture in this war on terror, or in any other conflict. This amendment is about protecting American personnel who are involved in the war on terror. It is saying to foreign countries: If you use any of these techniques, the United States will say this is a war crime and you will be held accountable. How can anybody be against that? This administration has sown confusion about our commitments to the Geneva Conventions, so that protection does not exist now. That protection does not exist now. Restoring that protection is basically what this amendment is all about.

I am not going to take much time, but I just want to remind our colleagues about how we viewed some of these techniques in our conflicts in previous wars.

On the issue of waterboarding, the United States charged Yukio Asano, a Japanese officer on May 1 to 28, 1947, with war crimes. The offenses were recounted by John Henry Burton, a civilian victim:

> After taking me down into the hallway they laid me out on a stretcher and strapped me on. The stretcher was then stood on end with my head almost touching the floor and my feet in the air. They then began pouring water over my face and at times it was impossible for me to breathe without sucking in water. The torture continued and continued. Yukio Asano was sentenced to fifteen years of hard labor. We punished people with fifteen years of hard labor when waterboarding was used against Americans in World War II.

What about the case of Matsukichi Muta, another Japanese officer, tried on April 15 to 25, 1947, for, among other charges, causing a prisoner to receive shocks of electricity and beating prisoners. Shocks of electricity. He was sentenced to death by hanging. Death by hanging. We could go on.

In another case prosecuted from March 3 to April 30, 1948—the Japanese officer was sentenced for exposing prisoners to extreme cold temperatures, forcing them to spend long periods of time in the nude, making the prisoner stand in the cold for long periods of time, hour after hour, throwing water on him and inducing hypothermia. This officer received 15 years of hard labor. Fifteen years.

We didn't tolerate those abuses, and we should not tolerate those abuses inflicted on any Americans who are going to be taken in the war on terror. That is what this amendment is all about. It will tell the Secretary of State to notify every signatory from 194 nations, that if any of their governments are going to use any of these techniques on any Americans that are taken in this war on terror, that we will consider this a violation of the Geneva Conventions and that they will be accountable.

This is to protect our servicemen and servicewomen, those who are in the intelligence agencies, those performing dangerous duties, those who are not wearing the uniform in their battle against terror. We are putting everyone on notice.

We did not make up this list. All these techniques are taken right out of the Defense Department's code of conduct for interrogations.

I would take more time and review for my colleagues, where we tried individuals in World War II and sentenced individuals who performed these kinds of abuses on Americans to long periods of incarceration and even to death.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this moment I suggest the absence of a quorum, with the time not chargeable to either side.

Mr. KENNEDY addressed the Chair.

Mr. WARNER. I beg your pardon. I thought my colleague yielded the floor.

Mr. KENNEDY. I did. If you want to yield your time, I wouldn't object to it, but I object if you are calling for equal time.

Mr. WARNER. No, I said charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, do I have additional time? How much time have I used?

The PRESIDING OFFICER. There are 18 minutes 20 seconds remaining on the time of the Senator.

Mr. KENNEDY. I would like to yield myself 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. KENNEDY. Mr. President, it will be quite surprising to me if the Senate is not prepared to accept this amendment. I look back at the time that we actually passed the War Crimes Act of 1996. At that time it was offered by Walter B. Jones, a Republican Congressman. It was offered in response to our Vietnam experience, where American servicemen—including one of our own colleagues and dear friends, Senator MCCAIN—had been subject to torture during that period of time.

When this matter came up, both in the House of Representatives and the Senate of the United States, it passed in the Senate of the United States without a single objection. It passed the House by voice vote. This is what it says, under War Crimes, chapter 118:

> Whoever, whether inside or outside the United States, commits a war crime . . .

And it talks about the circumstances—

> . . . as a member of the armed forces of the United States or a national United States. It is in Title 18 so those out of uniform are subject to the code.

So that is the CIA. Those are the SEALS. Those are the people involved now in our war on terror. Then it continues along to define a war crime as a violation of Common Article 3 of the Geneva Conventions. That provision protects against cruel treatment and torture. It prevents the taking of hostages. It prohibits outrages upon personal dignity. Those are effectively the kinds of protections that act affords.

We heard a great deal from the administration, from the President, that he wanted specificity in the War Crimes Act and the Geneva Conventions in terms of what is permitted and what is not permitted. He felt those terms are too vague. Well, on that he is right. There is confusion in the world. There is confusion in the world about our commitment to the Geneva Conventions and what we think it means. There is a good deal of confusion in the world in the wake of what happened at Abu Ghraib. There we found out that these harsh interrogation techniques had been used. Sure, we have had 10 different reviews of what happened over there. What we always find out is it is the lower lights, the corporals and the sergeants who are the ones being tried and convicted. Those in the higher ranks are not. No one has stood up and said clearly, those are violations of the Geneva Conventions. So we have Abu Ghraib, which all of us remember. And it has caused confusion.

We have the circumstances in Guantanamo—the conduct of General Miller, who brought these harsh interrogation techniques to Guantanamo at Secretary Rumsfeld's direction. When the Armed Services Committee questioned his whole standard of conduct, he moved toward early retirement to avoid coming up and facing the music. This caused confusion about our commitments to the Geneva Conventions.

Then you had the Bybee memorandum, which was effectively the rule of law for some 2 years, which permitted torture, any kind of torture, and it said that any individual who is going to be involved in torturing would be absolved from any kind of criminality if the purpose of their abusing any individual was to get information and there was no specific intent to have bodily harm for that individual. This caused confusion about our commitments to the Geneva Conventions.

That was the Bybee amendment. Finally, Attorney General Gonzales had to repudiate that or he never would have been approved as the Attorney General of the United States. That is the record in the Judiciary Committee. I sat through those hearings. I heard the Attorney General say they were repudiating the Bybee memorandum on that.

This is against a considerable background of where we have seen some extraordinary abuses.

Then we have tried to clarify our commitment. We have the action in the Senate of the United States, by a vote of 90 to 9, accepting Senator MCCAIN's Amendment to prohibit cruel, inhumane, and degrading treatment; to make the Army Field Manual the law of the land; to say we are not interested in torture. Senator MCCAIN understands. He believes that waterboarding is torture. He believes using dogs is torture. This is not complicated. We don't have to cause confusion. We have it written down on this list of prohibited techniques. It is not my list of prohibited techniques, but it is written down by the Department of Defense. This amendment says if a foreign country is going to practice these kinds of behavior against an American national who is out there in the war on terror and is being picked up, we are going to consider this to be a war crime. This is about protecting Americans.

I don't understand the hesitancy on the other side, not being willing to accept this amendment. Let's go on the record about what we say is absolutely prohibited and what we know has been favored techniques that have been used by our adversaries at other times. Let's go on the record for clarity.

Looking back in history, at the end of World War II and otherwise, we are all familiar with the different examples where these techniques—frighteningly familiar to the series of techniques used in Iraq and Guantanamo—and are often frequently used against Americans.

I am reminded—I gave illustrations: electric shocks, waterboarding, hypothermia, heat injury. We all remember the 52 American hostages who were held in the U.S. Embassy in Iran. They were subjected to the mock executions.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. KENNEDY. Mr. President, I hope we could accept this amendment. I yield myself 1 more minute.

It basically incorporates what the Senate did several years ago with war crimes. It is trying to respond to what the President says. He wants specificity about what is going to be prohibited and what will not be.

The Department of Defense has found these areas to be off limits for the military. All we are saying is if other countries are going to do that to Americans, they are going to be held accountable.

This is about protecting Americans. That is the least we ought to be able to do for those who are risking their lives in very difficult circumstances.

I yield the floor.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, the Senate is currently debating a bill on how we treat detainees in our custody, and, more broadly, on how we treat the principles on which our Nation was founded.

The implications are far reaching for our national security interests abroad; the rights of Americans at home; our reputation in the world; and the safety of our troops.

The threat posed by the evil and nihilistic movement that has spawned terrorist networks is real and gravely serious. We must do all we can to defeat the enemy with all the tools in our arsenal and every resource at our disposal. All of us are dedicated to defeating this enemy.

The challenge before us on this bill, in the final days of session before the November election, is to rise above partisanship and find a solution that serves our national security interests. I fear that there are those who place a strategy for winning elections ahead of a smart strategy for winning the war on terrorism.

Democrats and Republicans alike believe that terrorists must be caught, captured, and sentenced. I believe that there can be no mercy for those who perpetrated 9/11 and other crimes against humanity. But in the process of accomplishing that I believe we must hold on to our values and set an example we can point to with pride, not shame. Those captured are going nowhere—they are in jail now—so we should follow the duty given us by the Supreme Court and carefully craft the right piece of legislation to try them. The President acted without authority and it is our duty now to be careful in handing this President just the right amount of authority to get the job done and no more.

During the Revolutionary War, between the signing of the Declaration of Independence, which set our founding ideals to paper, and the writing of our Constitution, which fortified those ideals under the rule of law, our values—our beliefs as Americans—were already being tested.

We were at war and victory was hardly assured, in fact the situation was closer to the opposite. New York City and Long Island had been captured. General George Washington and the Continental Army retreated across New Jersey to Pennsylvania, suffering tremendous casualties and a body blow to the cause of American independence.

It was at this time, among these soldiers at this moment of defeat and despair, that Thomas Paine would write, "These are the times that try men's souls." Soon afterward, Washington lead his soldiers across the Delaware River and onto victory in the Battle of Trenton. There he captured nearly 1,000 foreign mercenaries and he faced a crucial choice.

How would General Washington treat these men? The British had already committed atrocities against Americans, including torture. As David Hackett Fischer describes in his Pulitzer Prize winning book, "Washington's Crossing," thousands of American prisoners of war were "treated with extreme cruelty by British captors." There are accounts of injured soldiers who surrendered being murdered instead of quartered, countless Americans dying in prison hulks in New York harbor, starvation and other acts of inhumanity perpetrated against Americans confined to churches in New York City.

Can you imagine.

The light of our ideals shone dimly in those early dark days, years from an end to the conflict, years before our improbable triumph and the birth of our democracy.

General Washington wasn't that far from where the Continental Congress had met and signed the Declaration of Independence. But it is easy to imagine how far that must have seemed. General Washington announced a decision unique in human history, sending the following order for handling prisoners: "Treat them with humanity, and let them have no reason to complain of our Copying the brutal example of the British Army in their treatment of our unfortunate brethren."

Therefore, George Washington, our commander-in-chief before he was our President, laid down the indelible marker of our Nation's values even as we were struggling as a Nation—and his courageous act reminds us that America was born out of faith in certain basic principles. In fact, it is these principles that made and still make our country exceptional and allow us to serve as an example. We are not bound together as a nation by bloodlines. We are not bound by ancient history; our Nation is a new nation. Above all, we are bound by our values.

George Washington understood that how you treat enemy combatants can reverberate around the world. We must convict and punish the guilty in a way that reinforces their guilt before the world and does not undermine our constitutional values.

There is another element to this. I can't go back in history and read General Washington's mind, of course, but one purpose of the rule of law is to organize a society's response to violence. Allowing coercion, coercive treatment, and torturous actions toward prisoners not only violates the fundamental rule of law and the institutionalization of justice, but it helps to radicalize those who are tortured.

Zawahiri, bin Laden's second in command, the architect of many of the attacks on our country, throughout Europe and the world, has said repeatedly that it is his experience that torture of innocents is central to radicalization. Zawahiri has said over and over again that being tortured is at the root of jihad; the experience of being tortured has a long history of serving radicalized populations; abusing prisoners is a prime cause of radicalization.

For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do this job right than to do it quickly and badly. There is no reason we need to rush to judgment. This broken process and the blatant politics behind it will cost our Nation dearly. I fear also that it will cost our men and women in uniform. The Supreme Court laid out what it expected from us.

I ask unanimous consent to have printed in the RECORD letters and statements from former military leaders, from 9/11 families, from the religious community, retired judges, legal scholars, and law professors. All of them have registered their concerns with this bill and the possible impact on our effort to win the war against terrorism.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 12, 2006.

Hon. JOHN WARNER, *Chairman*,
Hon. CARL LEVIN, *Ranking Member*,
Senate Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN WARNER AND SENATOR LEVIN: As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, introduced last week at the behest of the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards contained in the Detainee Treatment Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely. That was particularly important, because the Administration determined that it was not bound by the basic humane treatment standards contained in Geneva Common Article 3. Now that the Supreme Court has made clear that treatment of al Qaeda prisoners is governed by the Geneva Convention standards, the Administration is seeking to redefine Common Article 3, so as to downgrade those standards. We urge you to reject this effort.

Common Article 3 of the Geneva Conventions provides the minimum standards for humane treatment and fair justice that apply to anyone captured in armed conflict. These standards were specifically designed to ensure that those who fall outside the other, more extensive, protections of the Conventions are treated in accordance with the values of civilized nations. The framers of the Conventions, including the American representatives, in particular wanted to ensure that Common Article 3 would apply in situations where a state party to the treaty, like the United States, fights an adversary that is not a party, including irregular forces like al Qaeda. The United States military has abided by the basic requirements of Common Article 3 in every conflict since the Conventions were adopted. In each case, we applied the Geneva Conventions—including, at a minimum, Common Article 3—even to enemies that systematically violated the Conventions themselves.

We have abided by this standard in our own conduct for a simple reason: the same standard serves to protect American servicemen and women when they engage in conflicts covered by Common Article 3. Preserving the integrity of this standard has become increasingly important in recent years when our adversaries often are not nation-states. Congress acted in 1997 to further this goal by criminalizing violations of Common Article 3 in the War Crimes Act, enabling us to hold accountable those who abuse our captured personnel, no matter the nature of the armed conflict.

If any agency of the U.S. government is excused from compliance with these standards, or if we seek to redefine what Common Article 3 requires, we should not imagine that our enemies will take notice of the technical distinctions when they hold U.S. prisoners captive. If degradation, humiliation, physical and mental brutalization of prisoners is decriminalized or considered permissible under a restrictive interpretation of Common Article 3, we will forfeit all credible objections should such barbaric practices be inflicted upon American prisoners.

This is not just a theoretical concern. We have people deployed right now in theaters where Common Article 3 is the only source of legal protection should they be captured. If we allow that standard to be eroded, we put their safety at greater risk.

Last week, the Department of Defense issued a Directive reaffirming that the military will uphold the requirements of Common Article 3 with respect to all prisoners in its custody. We welcome this new policy. Our servicemen and women have operated for too long with unclear and unlawful guidance on detainee treatment, and some have been left to take the blame when things went wrong. The guidance is now clear.

But that clarity will be short-lived if the approach taken by Administration's bill prevails. In contrast to the Pentagon's new rules on detainee treatment, the bill would limit our definition of Common Article 3's terms by introducing a flexible, sliding scale that might allow certain coercive interrogation techniques under some circumstances, while forbidding them under others. This would replace an absolute standard—Common Article 3—with a relative one. To do so will only create further confusion.

Moreover, were we to take this step, we would be viewed by the rest of the world as having formally renounced the clear strictures of the Geneva Conventions. Our enemies would be encouraged to interpret the Conventions in their own way as well, placing our troops in jeopardy in future conflicts. And American moral authority in the war would be further damaged.

All of this is unnecessary. As the senior serving Judge Advocates General recently testified, our armed forces have trained to Common Article 3 and can live within its requirements while waging the war on terror effectively.

As the United States has greater exposure militarily than any other nation, we have long emphasized the reciprocal nature of the Geneva Conventions. That is why we believe—and the United States has always asserted—that a broad interpretation of Common Article 3 is vital to the safety of U.S. personnel. But the Administration's bill would put us on the opposite side of that argument. We urge you to consider the impact that redefining Common Article 3 would have on Americans who put their lives at risk in defense of our Nation. We believe their interests, and their safety and protection should they become prisoners, should be your highest priority as you address this issue.

With respect,

General John Shalikashvili, USA (Ret.); General Joseph Hoar, USMC (Ret.); Admiral Gregory G. Johnson, USN (Ret.); Admiral Jay L. Johnson, USN (Ret.); General Paul J. Kern, USA (Ret.); General Merrill A. McPeak, USAF (Ret.); Admiral Stansfield Turner, USN (Ret.); General William G.T. Tuttle, Jr., USA (Ret.); Lieutenant General Daniel W. Christman, USA (Ret.); Lieutenant General Paul E. Funk, USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Lieutenant General Jay M. Garner, USA (Ret.); Vice Admiral Lee F. Gunn, USN (Ret.); Lieutenant General Arlen D. Jameson, USAF (Ret.); Lieutenant General Claudia J. Kennedy, USA (Ret.).

Lieutenant General Donald L. Kerrick, USA (Ret.); Vice Admiral Albert H. Konetzni Jr., USN (Ret.); Lieutenant General Charles Otstott, USA (Ret.); Vice Admiral Jack Shanahan, USN (Ret.); Lieutenant General Harry E. Soyster, USA (Ret.); Lieutenant General Paul K. Van Riper, USMC (Ret.); Major General John Batiste, USA (Ret.); Major General Eugene Fox, USA (Ret.); Major General John L. Fugh, USA (Ret.); Rear Admiral Don Guter, USN (Ret.); Major General Fred E. Haynes, USMC (Ret.); Rear Admiral John D. Hutson, USN (Ret.); Major General Melvyn Montano, ANG (Ret.); Major General Gerald T. Sajer, USA (Ret.); Major General Michael J. Scotti, Jr., USA (Ret.).

Brigadier General David M. Brahms, USMC (Ret.); Brigadier General James P. Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (Ret.); Brigadier General David R. Irvine, USA (Ret.); Brigadier General John H. Johns, USA (Ret.); Brigadier General Richard O'Meara, USA (Ret.); Brigadier General Murray G. Sagsveen, USA (Ret.); Brigadier General John K. Schmitt, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.); Ambassador Pete Peterson, USAF (Ret.); Colonel Lawrence B. Wilkerson, USA (Ret.); Honorable Richard Danzig; Honorable William H. Taft IV; Frank Kendall III, Esq.

THE AMERICAN JEWISH COMMITTEE,
New York, NY, September 27, 2006.

DEAR SENATOR: We write on behalf of the American Jewish Committee, a national human relations organization with over 150,000 members and supporters represented by 32 regional chapters, to urge you to oppose the compromise Military Commissions Act of 2006, S. 3930, and to vote against attaching the bill to H.R. 6061, absent correcting amendments.

To be sure, the compromise that produced the current bill resulted in the welcome addition of provisions making clear that the humane treatment standards of Common Article 3 of the Geneva Conventions provide a floor for the treatment of detainees as well as specifying that serious violations are war crimes. Nevertheless, S. 3930 is unacceptable in its present form for the following reasons:

The bill arguably opens the door to the use of interrogation techniques prohibited by the Geneva Conventions.

It opens the door to the admission of evidence in military commissions obtained by coercive techniques in contravention of constitutional standards and international treaty.

It permits the prosecution to introduce evidence that has not been provided to a defendant in a form sufficient to allow him or her to participate in the preparation of his or her defense.

It unduly restricts defendants' access to exculpatory evidence available to the government.

It unduly restricts access to the courts by habeas corpus and appeal.

It interprets the definition of Common Article 3 violations to exclude sexual assaults such as those that occurred at Abu Ghraib.

There is no doubt that the authorities entrusted with our defense must be afforded the resources and tools necessary to protect us from the serious threat that terrorists continue to pose to all Americans, and, indeed, the civilized world. But the homeland can be secured in a fashion consistent with the values of due process and fair treatment for which Americans have fought and for which they continue to fight. We urge you to revisit and revise this legislation so that it accords with our highest principles.

Respectfully,

E. ROBERT GOODKIND,
President.
RICHARD T. POLTIN,
Legislative Director and Counsel.

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK,
New York, NY, September 27, 2006.

Re Military Commission Act of 2006.

Hon. BILL FRIST,
U.S. Senate Majority Leader,
Washington, DC.

DEAR MAJORITY LEADER FRIST: I am writing on behalf of the New York City Bar Association to urge you to oppose the Administration's proposed Military Commissions Act of 2006 (the "Act"). The Association is an independent non-governmental organization of more than 22,000 lawyers, judges, law professors and government officials. Founded in 1870, the Association has a long history of dedication to human rights and the rule of law, and a particularly deep historical engagement with the law of armed conflict and military justice.

The Association has now reviewed the amended version of this legislation introduced on September 22, 2006, following the compromise agreement between Senators WARNER, MCCAIN and GRAHAM, on one side, and the Administration on the other. The compromise addresses two distinct aspects of the Administration's proposal: first, the operation of the military commissions which have been envisioned, and second, aspects of United States enforcement of its treaty obligations under the Geneva Conventions. We will address our concerns in this order, keeping in mind particularly the position of our members who may be called upon to serve as defense counsel, prosecutors and judges in the commissions process, and the interests of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.

The compromise clarifies many of the most important failings of the prior draft by bringing the military commissions process far closer to the standards established by the Uniform Code of Military Justice and the Manual on Courts-Martial. The Association shares the view presented by the service judge advocates general that the existing court-martial system, which in many respects is exemplary, provides an appropriate process for trial of traditional battlefield detainees as well as the command and control structures of terrorist organizations engaged in combat with the United States, and that the commissions should closely follow that model. The changes produced here in that regard are therefore welcome.

However, the bill gives the military judge discretion to admit coerced testimony if, as will presumably be the case, the coercion occurred before the enactment of the Detainee Treatment Act on December 31, 2005. Hearsay can also be admitted into evidence unless the accused carries a burden (traditionally accorded to the party offering the evidence, i.e., the prosecution) to show that the hearsay is not probative or reliable. This shift of burden is inconsistent with historical practice and would probably taint the proceedings themselves, particularly if the accused is not given access to the facts underlying the evidence. Admission of evidence in this circumstance would discredit the proceedings, undermine the appearance of fairness, and might, if it was critical to a conviction, constitute a grave breach of Common Article 3. These provisions do not serve the interests of the United States in demonstrating the heinous nature of terrorist acts, if such can be established in the military commissions.

The enforcement provisions raise far more troubling issues. In particular, we are concerned by the definition of "cruel treatment" which does not correspond to the existing law interpreting and enforcing Common Article 3's notion of "cruel treatment." The definition incorporates a category of "serious physical pain or suffering," but defines that category in a way that does not encompass many types of serious physical suffering that can be and are commonly the result of "cruel treatment" prohibited by Common Article 3. The Common Article 3 offense of "cruel treatment" will remain prohibited, even if not specifically criminalized by this provision. There is really no basis to doubt that Common Article 3 prohibits techniques such as waterboarding, long-time standing, and hypothermia or cold cell if indeed they are not precluded as outright torture. However, the language of the current draft would create a crime defined in terms different from the accepted Geneva meanings, thereby introducing ambiguity where none previously existed.

This ambiguity produces risks for United States personnel since it suggests that those who employ techniques such as waterboarding, long-time standing and hypothermia on Americans cannot be charged for war crimes. Moreover, Common Article 3 contains important protections for United States personnel who do not qualify for prisoner of war treatment under the Third Geneva Convention. This may include reconnaissance personnel, special forces operatives, private military contractors and intelligence service paramilitary professionals. Erosion of Common Article 3 standards thus directly imperils the safety of United States personnel in future conflicts. We strongly share the perspective of five former chairs of the Joint Chiefs of Staff in their appeal to Congress to avoid any erosion of these protections.

The draft also seeks to strike the ability of hundreds of detainees held as "enemy combatants" to seek review of their cases through petitions of habeas corpus. The Great Writ has long been viewed as one of the most fundamental rights under our legal system. It is an essential guarantor of justice in difficult cases, particularly in a conflict which the Administration suggests is of indefinite duration, possibly for generations. Holding individuals without according them any right to seek review of their status or conditions of detention raises fundamental questions of justice. This concern is compounded by the draft's provision that the Geneva Convention is unenforceable, thus leaving detainees with no recourse should they receive cruel and inhuman treatment.

On July 19, 2006, Michael Mernin, the chair of our Committee on Military Affairs and Justice, testified before the Senate Armed Services Committee concerning this legislative initiative. He appealed at that time for caution and proper deliberation in the legislative process and urged that a commission of military law experts be convened to advise Congress on the weighty issues presented. The current legislative project continues to show severe flaws which are likely to prove embarrassing to the United States if it is enacted. We therefore strongly urge that the matter receive further careful consideration before it is acted upon and that the advice of prominent military justice and international humanitarian law experts be secured and followed in the bill's finalization.

Very truly yours,

BARRY KAMINS,
President.

SEPTEMBER 14, 2006.

DEAR SENATOR: As members of families who lost loved ones in the 9/11 attacks, we are writing to express our deep concern over the provisions of the Administration's proposed Military Commissions Act of 2006.

There are those who would like to portray the legislation as a choice between supporting the rights of terrorists and keeping the United States safe. We reject this argument. We believe that adopting policies against terrorism which honor our values and our international commitments makes us safer and is the smarter strategy.

We do not believe that the United States should decriminalize cruel and inhuman interrogations. The Geneva Convention rules against brutal interrogations have long had the strong support of the U.S. because they protect our citizens. We should not be sending a message to the world that we now believe that torture and cruel treatment is sometimes acceptable. Moreover, the Administration's own representatives at the Pentagon have strongly affirmed in just the last few days that torture and abuse do not produce reliable information. No legislation should have your support if it is at all ambiguous on this issue.

Nor do we believe that it is in the interest of the United States to create a system of military courts that violate basic notions of due process and lack truly independent judicial oversight. Not only does this violate our most cherished values and send the wrong message to the world, it also runs the risk that the system will again be struck down resulting in even more delay.

We believe that we must have policies that reflect what is best in the United States rather than compromising our values out of fear. As John McCain has said, "This is not about who the terrorists are, this is about who we are." We urge you to reject the Administration's ill-conceived proposals which will make us both less safe and less proud as a nation.

Sincerely,

Marilynn Rosenthal, Nicholas H. Ruth, Adele Welty, Nissa Youngren, Terry Greene, John LeBlanc, Andrea LeBlanc, Ryan Amundson, Barry Amundson, Colleen Kelly, Terry Kay Rockefeller, John William Harris.

David Potorti, Donna Marsh O'Connor, Kjell Youngren, Blake Allison, Tia Kminek, Jennifer Glick, Lorie Van Auken, Mindy Kleinberg, Anthony Aversano, Paula Shapiro, Valerie Lucznikowska, Lloyd Glick.

James and Patricia Perry, Anne M. Mulderry, Marion Kminek, Alissa Rosenberg-Torres, Kelly Campbell, Bruce Wallace, John M. Leinung, Kristen Breitweiser, Patricia Casazza, Michael A. Casazza, Loretta J. Filipov, Joan Glick.

SEPTEMBER 20, 2006.

Re Evangelical religious leaders speak out on cruel, inhuman, degrading treatment.

DEAR MEMBERS OF CONGRESS: The Congress faces a defining question of morality in the coming hours: whether it is ever right for Americans to inflict cruel and degrading treatment on suspected terrorist detainees. We are writing to express our strong support for the approach taken on this issue by Senators McCain, Warner and Graham and a strong, bipartisan majority of the Senate Armed Services Committee.

We read credible reports—some from FBI agents—that prisoners have been stripped naked, sexually humiliated, chained to the floor, and left to defecate on themselves. These and other practices like "waterboarding" (in which a detainee is made to feel as if he is being drowned) may or may not meet the technical definition of torture, but no one denies that these practices are cruel, inhuman, and degrading.

Today, the question before the Congress is whether it will support Sen. McCain's efforts to make it clear to the world that the U.S. has outlawed such abuse or support an Administration proposal which creates grave ambiguity about whether prisoners can legally be abused in secret prisons without Red Cross access.

Evangelicals have often supported the Administration on public policy questions because they believe that no practical expediency, however compelling, should determine fundamental moral issues of marriage, abortion, or bioethics. Instead, these questions should be resolved with principles of revealed moral absolutes, granted by a righteous and loving Creator.

As applied to issues of cruel, inhuman and degrading treatment, the practical application of this moral outlook is clear: even if it is expedient to inflict cruelty and degradation on a prisoner during interrogation (and experts seem very much divided on this question), the moral teachings of Christ, the Torah and the Prophets do not permit it for those who bear the Imago Dei.

It will not do to say that the President's policy on the treatment of detainees already rules out torture because serious ambiguities still remain—ambiguities that carry heavy moral implications and that are intended to preserve options that some would rather not publicly defend.

The terrorist attacks of September 11 were one of the most heinous acts ever visited upon this nation. The Commander in Chief must provide U.S. authorities with the practical tools and policies to fight a committed, well-resourced, and immoral terrorist threat. At the same time, the President must also defend the deepest and best values of our moral tradition.

As Christians from the evangelical tradition, we support Senator McCain and his colleagues in their effort to defend the perennial moral values of this nation which are embodied in international law and our domestic statutes. The United States Congress must send an unequivocal message that cruel, inhuman and degrading treatment has no place in our society and violates our most cherished moral convictions.

Sincerely,

Rev. Dr. David Gushee, Union University, Jackson, TN.

Gary Haugen, president, International Justice Mission.

Rev. Dr. Roberta Hestenes, teaching pastor, Community Presbyterian Church, Danville, CA.

Frederica Mathewes-Green, author and commentator.

Dr. Brian D. McLaren, founder, Cedar Ridge Community Church, Spencerville, MD.

Rev. Dr. Richard Mouw, president, Fuller Theological Seminary.

Dr. Glen Stassen, professor of Christian Ethics, Fuller Theological Seminary.

Dr. Nicholas Wolterstorff, professor of Philosophical Theology, Yale University.

Mrs. CLINTON. Now these values—George Washington's values, the values of our founding—are at stake. We are debating far-reaching legislation that would fundamentally alter our Nation's conduct in the world and the rights of Americans here at home. And we are debating it too hastily in a debate too steeped in electoral politics.

The Senate, under the authority of the Republican majority and with the blessing and encouragement of the Bush-Cheney administration, is doing a great disservice to our history, our principles, our citizens, and our soldiers.

The deliberative process is being broken under the pressure of partisanship and the policy that results is a travesty.

Fellow Senators, the process for drafting this legislation to correct the administration's missteps has not befitted the "world's greatest deliberative body." Legitimate, serious concerns raised by our senior military and intelligence community have been marginalized, difficult issues glossed over, and debates we should have had have been shut off in order to pass a misconceived bill before Senators return home to campaign for reelection.

For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do the job right than to do it quickly and badly. There is no reason other than partisanship for not continuing deliberation to find a solution that works to achieve a true consensus based on American values.

In the last several days, the bill has undergone countless changes—all for the worse—and differs significantly from the compromise brokered between the Bush administration and a few Senate Republicans last week.

We cannot have a serious debate over a bill that has been hastily written with little opportunity for serious review. To vote on a proposal that evolved by the hour, on an issue that is so important, is an insult to the American people, to the Senate, to our troops, and to our Nation.

Fellow Senators, we all know we are holding this hugely important debate in the backdrop of November's elections. There are some in this body more focused on holding on to their jobs than doing their jobs right. Some in this chamber plan to use our honest and serious concerns for protecting our country and our troops as a political wedge issue to divide us for electoral gain.

How can we in the Senate find a proper answer and reach a consensus when any matter that does not serve the majority's partisan advantage is mocked as weakness, and any true concern for our troops and values dismissed demagogically as coddling the enemy?

This broken process and its blatant politics will cost our Nation dearly. It allows a discredited policy ruled by the Supreme Court to be unconstitutional to largely continue and to be made worse. This spectacle ill-serves our national security interests.

The rule of law cannot be compromised. We must stand for the rule of law before the world, especially when we are under stress and under threat. We must show that we uphold our most profound values.

We need a set of rules that will stand up to judicial scrutiny. We in this Chamber know that a hastily written bill driven by partisanship will not withstand the scrutiny of judicial oversight.

We need a set of rules that will protect our values, protect our security, and protect our troops. We need a set of rules that recognizes how serious and dangerous the threat is, and enhances, not undermines, our chances to deter and defeat our enemies.

Our Supreme Court in its Hamdan v. Rumsfeld decision ruled that the Bush administration's previous military commission system had failed to follow the Constitution and the law in its treatment of detainees.

As the Supreme Court noted, the Bush administration has been operating under a system that undermines our Nation's commitment to the rule of law.

The question before us is whether this Congress will follow the decision of the Supreme Court and create a better system that withstands judicial examination—or attempt to confound that decision, a strategy destined to fail again.

The bill before us allows the admission into evidence of statements derived through cruel, inhuman and degrading interrogation. That sets a dangerous precedent that will endanger our own men and women in uniform overseas. Will our enemies be less likely to surrender? Will informants be less likely to come forward? Will our soldiers be more likely to face torture if captured? Will the information we obtain be less reliable? These are the questions we should be asking. And based on what we know about warfare from listening to those who have fought for our country, the answers do not support this bill. As Lieutenant John F. Kimmons, the Army's Deputy Chief of Staff for Intelligence said, "No good intelligence is going to come from abusive interrogation practices."

The bill also makes significant changes to the War Crimes Act. As it is now written, the War Crimes Act makes it a federal crime for any soldier or national of the U.S. to violate, among other things, Common Article 3 of the Geneva Conventions in an armed conflict not of an international character. The administration has voiced concern that Common Article—which prohibits "cruel treatment or torture," "outrages against human dignity," and "humiliating and degrading treatment"—sets out an intolerably vague standard on which to base criminal liability, and may expose CIA agents to jail sentences for rough interrogation tactics used in questioning detainees.

But the current bill's changes to the War Crimes Act haven't done much to clarify the rules for our interrogators. What we are doing with this bill is passing on an opportunity to clearly state what it is we stand for and what we will not permit.

This bill undermines the Geneva Conventions by allowing the President to issue Executive orders to redefine what permissible interrogation techniques happen to be. Have we fallen so low as to debate how much torture we are willing to stomach? By allowing this administration to further stretch the definition of what is and is not torture, we lower our moral standards to those whom we despise, undermine the values of our flag wherever it flies, put our troops in danger, and jeopardize our moral strength in a conflict that cannot be won simply with military might.

Once again, there are those who are willing to stay a course that is not working, giving the Bush-Cheney administration a blank check a blank check to torture, to create secret courts using secret evidence, to detain people, including Americans, to be free of judicial oversight and accountability, to put our troops in greater danger.

The bill has several other flaws as well.

This bill would not only deny detainees habeas corpus rights—a process that would allow them to challenge the very validity of their confinement it would also deny these rights to lawful immigrants living in the United States. If enacted, this law would give license to this Administration to pick people up off the streets of the United States and hold them indefinitely without charges and without legal recourse.

Americans believe strongly that defendants, no matter who they are, should be able to hear the evidence against them. The bill we are considering does away with this right, instead providing the accused with only the right to respond to the evidence admitted against him. How can someone respond to evidence they have not seen?

At the very least, this is worth a debate on the merits, not on the politics. This is worth putting aside our differences—it is too important.

Our values are central. Our national security interests in the world are vital. And nothing should be of greater concern to those of us in this chamber than the young men and women who are, right now, wearing our Nation's uniform, serving in dangerous territory.

After all, our standing, our morality, our beliefs are tested in this Chamber and their impact and their consequences are tested under fire, they are tested when American lives are on the line, they are tested when our strength and ideals are questioned by our friends and by our enemies.

When our soldiers face an enemy, when our soldiers are in danger, that is when our decisions in this Chamber will be felt. Will that enemy surrender? Or will he continue to fight, with fear for how he might be treated and with hate directed not at us, but at the patriot wearing our uniform whose life is on the line?

When our Nation seeks to lead the world in service to our interests and our values, will we still be able to lead by example?

Our values, our history, our interests, and our military and intelligence experts all point to one answer. Vladimir Bukovsky, who spent nearly 12 years in Soviet prisons, labor camps, and psychiatric hospitals for nonviolent human rights activities had this to say. "If Vice President Cheney is right, that some 'cruel, inhumane, or degrading' treatment of captives is a necessary tool for winning the war on terrorism, then the war is lost already."

Let's pass a bill that's been honestly and openly debated, not hastily cobbled together.

Let's pass a bill that unites us, not divides us.

Let's pass a bill that strengthens our moral standing in the world, that declares clearly that we will not retreat from our values before the terrorists. We will not give up who we are. We will not be shaken by fear and intimidation. We will not give one inch to the evil and nihilistic extremists who have set their sights on our way of life.

I say with confidence and without fear that we are the United States of America, and that we stand now and forever for our enduring values to people around the world, to our friends, to our enemies, to anyone and everyone.

Before George Washington crossed the Delaware, before he could achieve that long-needed victory, before the tide would turn, before he ordered that prisoners be treated humanely, he ordered that his soldiers read Thomas Paine's writing. He ordered that they read about the ideals for which they would fight, the principles at stake, the importance of this American project.

Now we find ourselves at a moment when we feel threatened, when the world seems to have grown more dangerous, when our Nation needs to ready itself for a long and difficult struggle against a new and dangerous enemy that means us great harm.

Just as Washington faced a hard choice, so do we. It's up to us to decide how we wage this struggle and not up to the fear fostered by terrorists. We decide.

This is a moment where we need to remind ourselves of the confidence, fearlessness, and bravery of George Washington—then we will know that we cannot, we must not, subvert our ideals—we can and must use them to win.

Finally, we have a choice before us. I hope we make the right choice. I fear that we will not; that we will be once again back in the Supreme Court, and we will be once again held up to the world as failing our own high standards.

When our soldiers face an enemy, when our soldiers are in danger, will that enemy surrender if he thinks he will be tortured? Will he continue to fight? How will our men and women be treated?

I hope we both pass the right kind of legislation and understand that it may very well determine whether we win this war against terror and protect or troops who are valiantly fighting for us.•

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ten minutes remain under the Senator's control.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I want to point out why this is so necessary and so essential.

In reviewing the underlying legislation, if you look under the provisions dealing with definitions on page 70 and 71, and then read on, you will find that it is difficult to read that without having a sense of the kind of vagueness which I think surrounds prohibited interrogation techniques. It talks about substantial risks and extreme physical pain. But the statute does not have specifics to define the areas which are prohibited. The techniques in my amendment are the same ones the Department of the Army and, to my best knowledge, our colleague and friend from Arizona has identified. Voting for my amendment would provide those specifics.

The President has asked for specificity, but he has refused to say whether Common Article 3 would prohibit these kinds of acts. That has left the world doubting our commitment to Common Article 3 and has endangered our people around the globe—those who are working for the United States in the war on terror. The administration's obfuscation comes at a great risk.

This amendment provides the clarity and sends a message to the world that these techniques are prohibited. They are prohibited from our military bringing them to bear on any combatants. We interpret the legislation so that any country in the world that has signed on to the Geneva Conventions, any of those countries that are going to practice activities prohibited by the field manual, that I consider to be torture, are going to be held by the United States interrogation committing a war crime. This is important. It is essential. It is necessary.

The general concept was improved without objection a number of years ago in the wake of the Vietnam situation, regarding the definition of war crimes. We ought to restate and recommit ourselves to protecting Americans involved in the war on terror and ensure they will not be subject to these activities.

At the present time, without this amendment, it will be left open. If we accept this amendment, it would make it clear it is prohibited. That is what we should do.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia.

Mr. WARNER. I suggest the absence of a quorum and that it not be chargeable to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent the pending amendment be laid aside so that I may offer an amendment.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object, I would simply like to make it clear in laying aside the amendment the times remaining under the control of the Senator from Virginia and the Senator from Michigan remain in place. We will now, to accommodate our distinguished senior colleague, go off of the Kennedy amendment and proceed to address his amendment.

The PRESIDING OFFICER. That would be the case.

Without objection, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 5104

(Purpose: To prohibit the establishment of new military commissions after December 31, 2011)

Mr. BYRD. Mr. President, I thank the Chair, and I also thank my very able and distinguished friend from Virginia.

Mr. President, I shall offer an amendment today that provides a 5-year sunset to any Presidential authorization of any military commission enacted under the legislation currently being debated. This amendment which I shall offer is essential to the ability of the Congress to retain its power of oversight and as an important check on future executive actions.

As I stand here now, Members are readying themselves to beat a path home to their States—I understand that—so they may get in their final politicking. Unfortunately, though, in the feverish climate of a looming election, the most important business of the Senate may suffer. I have seen that happen over the years. This is no surprise. We have seen before the fever of politics can undermine the serious business of the Congress once November and the winds of November draw nigh. We have seen the mistakes that can come when Congress rushes to legislate without the benefit of thorough vetting by committees, without adequate debate, without the opportunity to offer amendments.

Likewise, when legislation is pushed as a means of political showboating—we all know what that is—instead of by a diligent commitment to our constitutional duties, the results can be disastrous.

In fact, there have been various proposals to bring congressional oversight to the military tribunals which were first authorized in November, 2001. Senators SPECTER, LEAHY, and DURBIN were instrumental in attempting to push back against unilateral actions by the President to establish these commissions. These attempts were to reassert the power of the Congress—yes, the constitutional duty embodied in Article I of this Constitution that is vested in the Congress and in the Congress alone, to make our country's laws and specifically to make rules concerning captures on land and water.

Let me say that again. I will repeat the verbiage of the Constitution: to make our country's laws and specifically to "make rules concerning captures on land and water."

Nothing came of these proposals: Since then, the Congress has ignored its responsibilities and this most important issue has been shoved aside.

What is this new impetus spurring congressional action and a renewed interest in the issue? Did Congress find its way back to embracing its Article I duties? No. Did the executive branch wake up to realize it is not within its purview to dictate the laws of the land? No. It was the Supreme Court's decision in the Hamdan case.

While the President grabbed the wheel and the Congress dozed, the Court stepped in to remind us of the separation of powers and the constitutional role of each branch, thank God. Yes, thank God for the separation of powers envisioned by our forefathers. Thank God for the Supreme Court. Yes, I said this before; I say it again: Thank God for the Supreme Court.

It is no coincidence that the traditional pathways of legislation through the committee and amendment process and ample opportunity for debate are the best recourse against the enactment of bad, bills.

This is the way the Senate was designed to operate and this is how it separates in the best interests of the people.

Unfortunately, because of the timing of the Supreme Court's decision and the charged atmosphere of the midterm elections, we are again confronted with slap-happy legislation that is changing by the minute.

The bill reported by the Senate Committee on Armed Services, which I supported, was the product of a thorough process, a deliberative process. Unfortunately, this bill's progress was halted by the administration's objections, and the product suffered mightily. Then, in closed-door negotiations with the White House, many of the successes announced less than a week ago in the previous version were trashed.

When the administration met stiff opposition to its views by former JAG—judge advocate general—officers and previous members of its own Cabinet, it realized it must come back to the table. Last Friday's version of the bill was superseded by Monday's version, and changes are still forthcoming. In such a frenzied, frenetic, and uncertain state, who really knows the nature of the beast? This bill could very well be the most important piece of legislation—certainly one of the most important pieces of legislation—this Congress enacts, and the adoption of my amendment, which I shall offer, ensures—ensures—a reasonable review of the law authorizing military tribunals.

There is nothing more important to scrutinize than the process of bringing suspected terrorists to justice for their crimes in a fair proceeding, without the taint—without the taint—of a kangaroo court. Those are the values of our country. We dare not handle the matter sloppily. The Supreme Court has once struck down the President's approach to military commissions, has it not? Do we want the product of this debate subjected to the same fate? Do we want it stricken also?

The original authorization of the PATRIOT Act is a case study of the risks we run in legislating from the hip—too much haste—and how, in our haste, we can place in jeopardy those things we hold most dear. Apparently, the Senate has not recognized the error of its ways. This legislation is complex. This legislation defines the processes and the procedures for bringing enemy combatants to trial for offenses against our country, and it involves our obligations under the Geneva Conventions. This bill defines rules of evidence, it determines defendants' access to secret evidence, and it seeks to clarify what constitutes torture. We cannot afford to get this wrong.

As with the PATRIOT Act, my amendment offers us an opportunity to provide a remedy for the unanticipated consequences that may arise as a result of hasty congressional action. Along with the sweeping changes made by the PATRIOT Act, the great hope included in it was the review that was required by the sunset provision. Everyone knows the saying that hindsight is 20-20, but the use of this type of congressional review gives us the opportunity both to strengthen the parts of the law that may be found to be weak, and to right the wrongs of past transgressions.

So if we will not today legislate in a climate of steady deliberation, then let us at least prescribe for ourselves an antidote for any self-inflicted wounds. Let us prescribe for ourselves the remedy of reason—the remedy of reason. Let this be the age of reason once more. Sunset provisions have historically been used to repair the unforeseen consequences of acting in haste. You have heard that haste makes waste. If ever there were a piece of legislation that cries out to be reviewed with the benefit of hindsight, it is the current bill.

My amendment, which I hold in my hand, provides that opportunity through a 5-year sunset provision. Now, what is wrong with that? There is nothing wrong with that—a 5-year sunset provision. And I thank Senator OBAMA and I thank Senator CLINTON for their cosponsorship of my amendment. I urge my colleagues to support it.

Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. OBAMA, and Mrs. CLINTON, proposes an amendment numbered 5104:

On page 5, line 19, add at the end the following: "The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date.".

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, we are about to receive a copy of the amendment. But I listened very carefully to my distinguished colleague's remarks. As he well knows, in my relatively short 28 years in the Senate, I have listened to him and I have the highest respect for his judgment, and particularly as it relates to how the legislative body should discharge its constitutional responsibilities and how, also, it should not try to discharge its constitutional responsibilities. And I guess my opposition falls, most respectfully, in the latter category because I find this Congress has a very high degree of vigilance in overseeing the exercise of the executive powers as it relates to the war against those whom I view as jihadists, those who have no respect for, indeed, the religion which they have ostensibly committed their lives to, and those who have no respect for human life, including their human life.

It is a most unusual period in the history of our great Republic. The good Senator, having been a part of this Chamber for nearly a half century, has seen a lot of that history unfold. The Senator and I have often discussed the World War II period. That is when my grasp of history began to come into focus. And, indeed, the Senator himself was engaged in his activities in the war effort, as we all were in this Nation.

The ensuing conflicts, while they have been not exactly like World War II, have been basically engaging those individuals acting in what we refer to as their adhering to a state, an existing government that has promulgated rules and regulations, such as they may be, for the orders issued to their troops, most of whom wore uniforms, certainly to a large degree in the war that followed right after World War II, the Korean war. Most of those individuals in that conflict had some vestige of a uniform, conducting their warfare under state-sponsored regulations. I had a minor part in that conflict and remember it quite well.

Vietnam came along, and there we saw the beginning of the blurring of state sponsored. Nevertheless, it was present. The uniforms certainly lacked the clarity that had been in previous conflicts. And on the history goes.

But this one is so different, I say to my good friend, the Senator from West Virginia. And I think our President, given his duty as Commander in Chief under the Constitution, has to be given the maximum flexibility as to how he deals with these situations. We see that in a variety of issues around here. But, nevertheless, it is the exercise of executive authority, and that exercise of executive authority must also be subject to the oversight of the Congress of the United States.

But I feel that in the broad powers conferred on the executive branch to carry out its duty to defend the Nation in the ongoing threat against what we generally refer to as terrorism—but more specifically the militant jihadists—we have to fight with every single tool we have at our disposal, consistent with the law of this Nation and international law. And, therefore, we are here in this particular time addressing a bill which provides for meting out justice, a measure of justice, to certain individuals who have been apprehended in the course of the war against this militant jihadist terrorist group.

I find it remarkable, as I have worked it through with my other colleagues, that they are alien, they are unlawful by all international standards in the manner they conduct the war. Yet this great Nation, from the passage of this bill, is going to mete out a measure of justice as we understand it.

Now, the Senator's concern is—and it always should be; it goes back to the time of George Washington and the Congress at that time—the fear of the overexercise of the authorities within the executive branch. But I think to put a clause and restriction, such as the Senator recommends in his amendment, into this bill would, in a sense, inhibit the ability of the President to rapidly exercise all the tools at his disposal.

I say to the Senator, your bill says:

> The authority of the President to establish new military commissions under this section shall expire. . . . However, the expiration of that authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date.

That could be misconstrued. This war we are engaged in, most notably on the fronts of Afghanistan and Iraq today, we see where it could spread across our globe and has—not to the degree of the significance of Iraq or Afghanistan, but it has spread. Other nations have become the victims, subject to the threats, subject to the overt actions such as took place in Spain and other places of the world. We should not have overhanging this important bill any such restriction as you wish to impose by virtue of what we commonly call a sunset. I think that would not be correct. It could send the wrong message. We have to rely upon the integrity of the two branches of the Congress to be ever watchful in their oversight, ever unrestrained in the authority they have under the Constitution. As we commonly say around here, what the Congress does one day, it can undo the next day.

If, in the course of exercising our authority under the doctrine of the separation of powers—how many times have I heard the distinguished Senator from West Virginia discuss the doctrine of the separation of powers? So often. I remember when we were vigilantly trying to protect those powers reserved unto the Congress from an encroachment by the executive branch.

So for that reason I most respectfully say that I do not and I urge other colleagues not to support this amendment but to continue in their trust in this institution, in the Senate and in the House, to exercise their constitutional responsibilities in such a way that we will not let the executive branch at any time transcend what we believe are certain parameters that we have set forth in this bill regarding the trials and the conduct of interrogations.

I think an extraordinary legislation that I was privileged to be involved in, which garnered 90-some votes, was the Detainee Act, sponsored by our distinguished colleague, Mr. McCAIN. That was landmark legislation. From that legislation has come now what we call the Army Field Manual, in which we published to the world what America will do in connection with those persons—the unlawful aliens who come into our custody by virtue of our military operations, and how they will be dealt with in the course of interrogation. That was an extraordinary assertion by the Congress, within the parameters of its powers, as to what they should do, the executive branch.

But a sunset date for the authority to hold military commissions, in my judgment, is not in the best interests, at this time in this war, of our country.

I know there are other speakers. How much time do I have remaining?

The PRESIDING OFFICER. Nineteen minutes 20 seconds.

Mr. WARNER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the Senator knows my great respect for him. It is an abiding respect. When I look at him, I see a man—a Member of this Senate—who has had vast experience and worn many coats of honor. I see a man who stands by his word, who keeps his word, and is always very meticulous in criticizing another Senator or criticizing legislation. He is most circumspect, most respectful to his colleagues, and most respectful to the Constitution. But I am abhorrent—I cannot write very well anymore. I would like to be able to write down words that other Senators say in a debate. But I cannot write. So I may have misinterpreted, or I may misstate the words. But I cannot understand why this legislation would not be in the best interests of my country.

I believe the Senator said—he certainly implied strongly—that this legislation would not be in the best interests of our country. If I am wrong, I know the Senator will correct me. Let me read, though, the amendment:

> On page 5, line 19, add at the end the following: "the authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date."

Mr. President, what is wrong with that language? How would that language not be in the interest of our country? I think we are all subject to error. Adam and Eve were driven from the Garden of Eden because of error. So from the very beginning of history, the very history of mankind, this race of human beings, there has been evidence of errors, mistakes. People did not foresee the future, and this language is a protection against that.

What is wrong with providing an expiration date for the authority given to the President in this bill, after a period of 5 years? Can we not be mistaken? Might we not see the day when we wish that we had an automatic opportunity to review this? Five years is a long time. Five years is ample time.

So I must say that I am somewhat surprised that my friend, the great Senator from Virginia, would seek to oppose this amendment. Let me read it once again. This is nothing new, having sunset provisions in bills. I think they are good. We can always review them, and if mistakes have not been made, we can renew them. There is that opportunity. But it does guarantee that there will come a time when this legislation will be reviewed. Only the word of Almighty God is so perfect that there is no sunset provision in the Holy Writ. No. But the sunset provision there is with us, and the time will come when all of us will take a voyage into the sunset.

Mr. WARNER. May I reply at the appropriate time?

Mr. BYRD. Absolutely. I will yield right now.

Mr. WARNER. Many times, the two of us have stood right here and had our debates together. It is one of those rich moments in the history of this institution when two colleagues, without all of the prepared text and so forth, can draw upon their experience and knowledge and their own love for the Constitution of the United States and engage.

I say to my good friend, 3 weeks ago, there were headlines that three Senators were in rebellion against their President, three Senators were dissidents, and on and on it went. Well, the fact is, the three of us—and there were others who shared our views, but somehow the three of us were singled out—believed as a matter of conscience we were concerned about an issue.

The concern was that the bill proposed by the administration, in our judgment, could be construed as in some way—maybe we were wrong—indicating that America was not going to follow the treaties of 1949—most particularly, Common Article 3. Common Article 3 means that article in each of these three treaties. As my good friend knows—and we draw on our own individual recollections about the horrors of World War II. I was involved in the foreign battlefield. We certainly knew about it back here at home and studied it. I was a youngster, a skinny youngster in my last year in the Navy. So much for that. But we were very conscious of what was going on, and the frightful treatment of human beings as a consequence of that war.

The world then came together—and I say the world—after that and enacted these three treaties. The United States was in the lead of putting those treaties in. Those treaties were for the purpose of ensuring that future mankind, generations, hopefully, would not experience what literally millions of people experienced by death and maiming—not only soldiers but civilians.

Mr. President, we believed that the administration's approach to this could be interpreted by the world as somehow we were not behind those treaties. If we were to put a sunset in here after all of the deliberation and all of the work on the current bill that is before this body, it could once again raise the specter that, well, if in fact the United States was trying to not live up to the treaties that brought on this debate in the Senate, then at the end of 5 years we go back to where we were. That could happen. We do not want to send that message. We want to send a message that this Nation has reconciled, hopefully, this body, as we vote this afternoon, and will send a strong bipartisan message that we are reconciled behind this legislation to ensure that in the eyes of the world we are going to live fully within the confines of the treaties of 1949.

Mr. BYRD. We are not dealing with the treaties of 1949.

Mr. WARNER. I respectfully say that our bill does, in my judgment. Clearly, it constitutes an affirmation of the treaties. I would not want to send a message at this time that there could come a point, namely, December 31, 2011, that such assurances as we have given about those treaties might expire. That is what concerns me.

Mr. BYRD. Mr. President, I am almost speechless. I listened to the words that have just been uttered by my friend. My amendment does not affect, in any way, the portions of this bill that relate to the Geneva Conventions.

It sunsets only the authority of the President to convene military commissions and, of course, the Senate can renew that authority. That is done in many instances here. I think it is insurance for our country and the welfare of our country and the welfare of the people who serve in the military.

We say 5 years. Do we want to make that 6 years? Do we want to make it 7 years? Fine. It will expire at that time. It simply means that the Senate and the House take a look at it again and renew it. What is wrong with that?

Mr. WARNER. I say to my friend, Mr. President, from a technical standpoint, he is correct. He is going in there and incising out regarding commissions. But the whole debate has been focused around how those commissions will conduct themselves in accordance with the common understanding of Article 3, particularly.

So while the Senator, in his very fine and precise way of dealing with the legislation, takes out just that, it might not be fully understood beyond our shores. The headline could go out that there is going to be an expiration.

I say to my good friend, it is just not wise to go in and try and put any imprint on this that expiration could occur. It could raise, again, the debate, and I do not think that is in the interest of the country. I think this debate, this legislation has been settled, and I don't think it was ever the President's intention in the course of the preparation of his legislation, but some fear it could.

Mr. BYRD. Mr. President, it could be a Democratic President, as far as I am concerned. I think this is wise on the part of the Senate in conducting its constitutional oversight, to say that we will do it this far and then we will take another look at it in the light of the new day, in the light of the new times, the new circumstances: we will take another look at it. We are not passing any judgment on that legislation 5 years out.

I am flabbergasted—flabbergasted—that my friend would take umbrage at this legislation.

I only have a few minutes left.

Mr. LEVIN. Will the Senator from West Virginia yield for 3 minutes?

Mr. BYRD. Yes. I yield 3 minutes.

Mr. LEVIN. Mr. President, I think the Senator from West Virginia is, more than any other person in the history of this body, the custodian in his person of the Constitution of the United States. The bill that is before us obviously raises a number of very significant issues involving our Constitution.

What the amendment of Senator BYRD does very wisely is say that after 5 years, let us double back and doublecheck—double back and doublecheck—so that we can be confident that what we have done comports with the Constitution of the United States. This amendment does it very carefully. It does not disturb any pending proceeding under the commission. The Senator has written this amendment so carefully that he says even though it will sunset, forcing us to go back and doublecheck, to look at our work, that it will not in any way disturb any existing or pending proceeding.

I believe this is such an important statement of our determination that we act in a way that is constitutional, not in the heat of a moment which is obviously critical to us, but that we comport in every way with this Constitution. We ought to heed the words of Senator BYRD, who understands the importance of this Constitution and that this body be the guardian of the Constitution. We are the body that must protect this Constitution.

Mr. BYRD. Yes.

Mr. LEVIN. And this, as he puts it, is an insurance policy that we will do just that.

Mr. BYRD. Yes.

Mr. LEVIN. I ask unanimous consent that I be added as a cosponsor to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have 4 minutes remaining; do I?

The PRESIDING OFFICER. The Senator has 5 minutes 14 seconds remaining.

Mr. BYRD. I yield 5 minutes to my friend, the distinguished Senator from Illinois, Mr. OBAMA.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank my dear friend and colleague from West Virginia.

I am proud to be sponsoring this amendment with the senior Senator from West Virginia. He is absolutely right that Congress has abrogated its oversight responsibilities, and one way to reverse that troubling trend is to adopt a sunset provision in this bill. We did it in the PATRIOT Act, and that allowed us to make important revisions to the bill that reflected our experience about what worked and what didn't work during the previous 5 years. We should do that again with this important piece of legislation.

It is important to note that this is not a conventional war we are fighting, as has been noted oftentimes by our President and on the other side of the aisle. We don't know when this war against terrorism might end. There is no emperor to sign a surrender document. As a consequence, unless we build into our own processes some mechanism to oversee what we are doing, then we are going to have an open-ended situation, not just for this particular President but for every President for the foreseeable future. And we will not have any formal mechanism to require us to take a look and to make sure it is being done right.

This amendment would make a significant improvement to the existing legislation, and it is one of those amendments that would, in normal circumstances, I believe, garner strong bipartisan support. Unfortunately, we are not in normal circumstances.

Let me take a few minutes to speak more broadly about the bill before us.

I may have only been in this body for a short while, but I am not naive to the political considerations that go along with many of the decisions we make here. I realize that soon—perhaps today, perhaps tomorrow—we will adjourn for the fall. The campaigning will begin in earnest. There are going to be 30-second attack ads and negative mail pieces criticizing people who don't vote for this legislation as caring more about the rights of terrorists than the protection of Americans. And I know that this vote was specifically designed and timed to add more fuel to the fire.

Yet, while I know all of this, I am still disappointed because what we are doing here today, a debate over the fundamental human rights of the accused, should be bigger than politics. This is serious and this is somber, as the President noted today.

I have the utmost respect for my colleague from Virginia. It saddens me to stand and not be foursquare with him. I don't know a more patriotic individual or anybody I admire more. When the Armed Services bill that was originally conceived came out, I thought to myself: This is a proud moment in the Senate. I thought: Here is a bipartisan piece of work that has been structured and well thought through that we can all join together and support to make sure we are taking care of business.

The fact is, although the debate we have been having on this floor has obviously shown we have some ideological differences, the truth is we could have settled most of these issues on habeas corpus, on this sunset provision, on a whole host of issues. The Armed Services Committee showed us how to do it.

All of us, Democrats and Republicans, want to do whatever it takes to track down terrorists and bring them to justice as swiftly as possible. All of us want to give our President every tool necessary to do this, and all of us were willing to do that in this bill. Anyone who says otherwise is lying to the American people.

In the 5 years the President's system of military tribunals has existed, the fact is not one terrorist has been tried, not one has been convicted, and in the end, the Supreme Court of the United States found the whole thing unconstitutional because we were rushing through a process and not overseeing it with sufficient care. Which is why we are here today.

We could have fixed all this several years ago in a way that allows us to detain and interrogate and try suspected terrorists while still protecting the accidentally accused from spending their lives locked away in Guantanamo Bay. Easily. This was not an either-or question. We could do that still.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. OBAMA. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, charged against the allocation under the proponent of the amendment.

The PRESIDING OFFICER. The proponent has no time remaining.

Mr. WARNER. We are under fairly rigid time control, but I will give the Senator from Illinois a minute.

Mr. OBAMA. I will conclude, then. I appreciate the Senator from Virginia.

Instead of allowing this President—or any President—to decide what does and does not constitute torture, we could have left the definition up to our own laws and to the Geneva Conventions, as we would have if we passed the bill that the Armed Services committee originally offered.

Instead of detainees arriving at Guantanamo and facing a Combatant Status Review Tribunal that allows them no real chance to prove their innocence with evidence or a lawyer, we could have developed a real military system of justice that would sort out the suspected terrorists from the accidentally accused.

And instead of not just suspending, but eliminating, the right of habeas corpus—the seven century-old right of individuals to challenge the terms of their own detention, we could have given the accused one chance—one single chance—to ask the Government why they are being held and what they are being charged with.

But politics won today. Politics won. The administration got its vote, and now it will have its victory lap, and now they will be able to go out on the campaign trail and tell the American people that they were the ones who were tough on the terrorists.

And yet, we have a bill that gives the terrorist mastermind of 9/11 his day in court, but not the innocent people we may have accidentally rounded up and mistaken for terrorists—people who may stay in prison for the rest of their lives.

And yet, we have a report authored by sixteen of our own Government's intelligence agencies, a previous draft of which described, and I quote, ". . . actions by the United States government that were determined to have stoked the jihad movement, like the indefinite detention of prisoners at Guantanamo Bay . . ."

And yet, we have al-Qaida and the Taliban regrouping in Afghanistan while we look the other way. We have a war in Iraq that our own Government's intelligence says is serving as al-Qaida's best recruitment tool. And we have recommendations from the bipartisan 9/11 commission that we still refuse to implement 5 years after the fact.

The problem with this bill is not that it is too tough on terrorists. The problem with this bill is that it is sloppy. And the reason it is sloppy is because we rushed it to serve political purposes instead of taking the time to do the job right.

I have heard, for example, the argument that it should be military courts, and not Federal judges, who should make decisions on these detainees. I actually agree with that.

The problem is that the structure of the military proceedings has been poorly thought through. Indeed, the regulations that are supposed to be governing administrative hearings for these detainees, which should have been issued months ago, still haven't been issued. Instead, we have rushed through a bill that stands a good chance of being challenged once again in the Supreme Court.

This is not how a serious administration would approach the problem of terrorism. I know the President came here today and was insisting that this is supposed to be our primary concern. He is absolutely right it should be our primary concern—which is why we should be approaching this with a somberness and seriousness that this administration has not displayed with this legislation.

Now let me make clear—for those who plot terror against the United State. I hope God has mercy on their soul, because I certainly do not.

For those who our Government suspects of terror, I support whatever tools are necessary to try them and uncover their plot.

We also know that some have been detained who have no connection to terror whatsoever. We have already had reports from the CIA and various generals over the last few years saying that many of the detainees at Guantanamo shouldn't have been there—as one U.S. commander of Guantanamo told the Wall Street Journal, "Sometimes, we just didn't get the right folks." And we all know about the recent case of the Canadian man who was suspected of terrorist connections, detained in New York, sent to Syria, and tortured, only to find out later that it was all a case of mistaken identity and poor information. In the future, people like this may never have a chance to prove their innocence. They may remain locked away forever.

The sad part about all of this is that this betrayal of American values is unnecessary.

We could have drafted a bipartisan, well-structured bill that provided adequate due process through the military courts, had an effective review process that would've prevented frivolous lawsuits being filed and kept lawyers from clogging our courts, but upheld the basic ideals that have made this country great.

Instead, what we have is a flawed document that in fact betrays the best instincts of some of my colleagues on both sides of the aisle—those who worked in a bipartisan fashion in the Armed Services Committee to craft a bill that we could have been proud of. And they essentially got steamrolled by this administration and by the imperatives of November 7.

That is not how we should be doing business in the U.S. Senate, and that is not how we should be prosecuting this war on terrorism. When we are sloppy and cut corners, we are undermining those very virtues of America that will lead us to success in winning this war. At bare minimum, I hope we can at least pass this provision so that cooler heads can prevail after the silly season of politics is over.

I conclude by saying this: Senator BYRD has spent more time in this Chamber than many of us combined. He has seen the ebb and flow of politics in this Nation. He understands that sometimes we get caught up in the heat of the moment. The design of the Senate has been to cool those passions and to step back and take a somber look and a careful look at what we are doing.

Passions never flare up more than during times where we feel threatened. I strongly urge, despite my great admiration for one of the sponsors of the underlying bill, that we accept this extraordinarily modest amendment that would allow us to go back in 5 years' time and make sure what we are doing serves American ideals, American values, and ultimately will make us more successful in prosecuting the war on terror about which all of us are concerned.

Thank you, Mr. President.

Mr. BYRD. Mr. President, I ask the distinguished Senator from Virginia, may I have 10 seconds?

Mr. WARNER. I am going to give the Senator more than 10 seconds. I have to do a unanimous consent request on behalf of the leadership.

ORDER VITIATED—S. 295

I ask unanimous consent that the order with respect to S. 295 be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

No objection.

Mr. WARNER. I understand there is no objection. Will the Chair kindly rule?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I yield such time as Mr. BYRD wishes to take.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my friend from Virginia. I merely wanted to thank the distinguished Senator from Illinois, Mr. OBAMA, for his statement. I think it was well said, I think it was wise, and I thank him for his strong support of this amendment.

I also close by asking that the clerk once again read this amendment. I will then yield the floor. I thank the Senator from Virginia.

Mr. WARNER. Mr. President, I say to my good friend, I fully understand what you endeavor to do here, and I respectfully strongly disagree with it. I think many of us share this. This is going to be a very long war against those people whom we generically call terrorists. In the course of that war, this President and his successor must have the authority to continue to conduct these courts-martial—these trials under these commissions—and not send out a signal to terrorists: If you get under the time limit and you don't get caught, this thing may end.

If you are not caught within this period of time, when this went into effect, then you are no longer going to be held accountable. I, and I think every Member of this body, regret that this Nation or other nations or a consortium of nations have not captured Osama bin Laden. There is a debate going on about that, and I am not going to get into that debate, but the fact is he is still at large. There could be other Osama bin Ladens, and it may take years to apprehend them, no matter how diligently we pursue them. We cannot send out a signal that at this definitive time, it is the responsibility of the President, of the executive branch, to hold those accountable for crimes against humanity. They would not be held accountable if this provision went into power.

Need I remind this institution of the most elementary fact that every Senator understands, that what we do one day can be changed the next. If there comes a time when we feel this President or a subsequent President does not exercise authority consistent with this act, Congress can step in, and with a more powerful action than a sunset, a very definitive action.

Mr. President, it is my understanding I have a few minutes left under this amendment.

The PRESIDING OFFICER (Mr. COLEMAN). The time of the Senator from Virginia is 9½ minutes.

Mr. WARNER. I would like to have that time transferred under my time on the bill as a whole. I hope Senator CORNYN, who has expressed an interest in this, gets the opportunity to use that time to address this amendment.

Now, Mr. President, as I look at the number of Senators who are desiring to speak on my side—and I think perhaps it would be helpful if you could. I say to my colleague, the ranking member, check on the other side—we still have some debate, and we are prepared to get into debate on the Kennedy amendment now. Therefore, I will undertake to do that just as soon as I finish.

But then we are in that time period where all time has expired or utilized or otherwise allocated on the several amendments. We will soon receive an indication from the leadership as to the time to vote on the stacked votes. But under the time reserved for the bill, I have, of course, the distinguished Senator from Arizona, Mr. MCCAIN, and Senator GRAHAM are going to be given by me such time as they desire, and then subject to the time utilized by those two Senators. I would hope to have time for Senator HUTCHISON, Senator CHAMBLISS, and again Senator CORNYN, Senator GRASSLEY, and Senator MCCONNELL, the distinguished majority whip.

So I am going to manage that as fairly and as equitably as I can. That is what we propose to do. I will go into the subject of the Kennedy amendment right now.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am afraid that the way this now is set up.

the Senator from Virginia has about six speakers who will have time, and we have on this side, because of the interest in the amendment process, used up our time and had to use time on the bill, so that on our side we only have—how much time left on the bill, if I could inquire of the Chair?

The PRESIDING OFFICER. The Senator from Michigan has 4 minutes remaining on the bill. The Senator from Vermont has 12 minutes remaining on the bill.

Mr. LEVIN. And the Senator from Massachusetts has how many minutes on his amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes 20 seconds.

Mr. LEVIN. How much time all together on the majority side?

The PRESIDING OFFICER. On the bill, 50 minutes; on the Kennedy amendment, 30 minutes.

Mr. LEVIN. I think everybody ought to recognize the situation we are in. I hope we will withhold our comments until those on the other side who have been indicated as having time allocated to them speak so that we will have some time to respond to them.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 5088

Mr. WARNER. Mr. President, I would now like to address the amendment offered by the senior Senator from Massachusetts.

I have read this very carefully and I have studied it, I say to my good friend. There are certain aspects of this amendment that are well-intentioned. But I strongly oppose it, and I do encourage colleagues to oppose it, because the question of the separation of powers is involved here, and that is the subject on which this Chamber has resonated many times. But here I find the amendment invades the authority of the executive branch in the area of the conduct of its foreign affairs by requiring the Secretary of State to notify other state parties to the Geneva Conventions of certain U.S. interpretations of the Geneva Conventions, in particular Common Article 3 and the law of war.

It is up to the executive branch in its discretion to take such actions in terms of its relations with other several states in this world—not the Congress directing that they must do so—such communications with foreign governments. But in the balance of powers, it is beyond the purview of the Congress to say to the Secretary of State: You shall do thus and so.

This bill speaks for itself by defining grave breaches of Common Article 3 that amount to war crimes under U.S. law. Any congressional listing of specific techniques should be avoided simply because Congress cannot foresee all of the techniques considered to maybe fall within the category of cruel and inhuman conduct, and therefore, they would become violations of Article 3. We can't foresee all of those situations. Again, it is the responsibility of this body to administer, to see that this bill becomes law in a manner of oversight.

Senator KENNEDY's amendment, depending on how the vote comes—and I am of the opinion that this Chamber will reject it—I don't want that rejection to be misconstrued by the world in any way as asserting that the techniques mentioned in the amendment are consistent with the Geneva Conventions or that they could legitimately be employed against our troops or anyone else. We must not leave that impression as a consequence of the decision soon to be made by way of a vote on the Kennedy amendment.

The types of conduct described in this amendment, in my opinion, are in the category of grave breaches of Common Article 3 of the Geneva Conventions. These are clearly prohibited by our bill. Rather than listing specific techniques, Congress has exercised its proper constitutional role by defining such conduct in broad terms as a crime under the War Crimes Act. The techniques in Senator KENNEDY's amendment are not consistent with the Common Article 3 and would strongly protest their use against our troops or any others.

So I say with respect to my good friend, this is not an amendment that I would in any way want to be a part of this bill.

Mr. LEVIN. Mr. President, the Kennedy amendment would require the Secretary of State to notify other countries around the world that seven specific categories of actions, each of which is specifically prohibited by the Army Field Manual, are punishable offenses under common Article 3 of the Geneva Conventions that would be prosecuted as war crimes if applied to any United States person. Those seven categories of actions are: (1) Forcing the detainee to be naked, perform sexual acts, or pose in a sexual manner; (2) applying beatings, electric shock, burns, or other forms of physical pain; (3) "waterboarding"; (4) using military working dogs; (5) inducing hypothermia or heat injury; (6) conducting mock executions; and (7) depriving the detainee of necessary food, water, or medical care.

I listened very carefully to what my colleague from Virginia, the Chairman of the Armed Services Committee, had to say about this amendment. He stated:

> Now Senator Kennedy's amendment, depending on how the votes come, and I'm of the opinion that this chamber will reject it, I don't want that rejection to be misconstrued by the world in any way as asserting that the techniques mentioned in the amendment are consistent with the Geneva Convention or that they could legitimately be employed against our troops or anyone else. . . . We must not leave that impression as a consequence of the decisions soon to be made by way of vote on the Kennedy amendment. The types of conduct described in this amendment, in my opinion, are in the category of grave breaches of Common Article Three of the Geneva Convention. These are clearly prohibited by the bill.

I am in complete agreement with Senator WARNER that each of these practices is a grave breach of Common Article 3. I agree that these practices are unlawful today and that they will continue to be unlawful if this bill is enacted into law.

However, I am concerned that the administration may have muddied the record on these issues through its unwillingness to clearly state what practices are permitted, and what practices are prohibited, under Common Article 3. While I reach the same conclusion as Senator WARNER as to the lawfulness of the practices listed in the Kennedy amendment, I am afraid that others around the world may not.

We agree that these practices are prohibited by Common Article 3. We need to send a clear message to the world that this is the case, so that the rest of the world will abide by the same standard. That is why I strongly support the Kennedy amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I would like to inquire of the Senator from Virginia, and I yield myself 3 minutes. As I understand, one of the reasons this amendment is being rejected is because of the burden that it is going to place on our State Department to notify the 194 countries that we expect, if these techniques are used against Americans, they would be considered a war crime. That is a possible difficulty for us? That is a burden for our State Department? Or, rather is he objecting because, we can't foresee all of the different kinds of techniques that might be used against individuals and therefore we shouldn't list these. We list them in the Army Field Manual specifically. They are not pulled out of the air; they are listed specifically in the Army Field Manual. That is where they come from. And a number of the Members on the other side of the aisle have said that those techniques are prohibited. So we have taken the Department of Defense list and incorporated it.

Then the last argument is that: Well, if it is rejected, we don't want this to be interpreted as a green light for these techniques. There must be stronger arguments. Maybe I am missing something around here. With all respect, I have difficulty in understanding why the Senator from Virginia, the chairman of the Armed Services Committee, does not address the fundamental issue which is included in this amendment, and that is this amendment protects Americans who are out on the front lines of the war on terror, the SEALS, the CIA, others who are fighting, and it gives warning to any country: You go ahead with any of these techniques and you are committing a war crime and will be held accountable.

Now, if I could get a good answer to that, I would welcome it, but I haven't heard it yet. With all respect, I just haven't heard why the Senator is refusing and effectively denying—opposition to this amendment is denying that kind of protection. I read, and it was when the Senator was here, when we found out that similar kinds of techniques were used against Americans in World War II, and we sentenced offenders to 10, 15 years and even executed some. Now we are saying: Oh, no, we can't list those because it is going to be a bother to our State Department, notifying these countries. My, goodness.

There has to be a better reason that we are not going to protect our service men and women from these kinds of techniques. We are saying to those countries: If you use these techniques, you are a war criminal. What are those techniques? They are in the Department of Defense listing. That is what they are. How often are they used? I gave the illustrations of how they were used repeatedly, whether it has been by Iran or whether it has been by Japan, or any of our adversaries in any other war.

The PRESIDING OFFICER. The Senator has consumed 3 minutes.

Mr. KENNEDY. I yield myself 1 minute. I want to put in the RECORD the excellent letter from Jack Vessey, who is a distinguished former Joint Chief of Staff:

> I continue to read and hear that we are facing a different enemy in the war on terror. No matter how true that may be, inhumanity and cruelty are not new to warfare nor to enemies we have faced in the past. In my short 46 years in the armed forces, Americans confronted the horrors of the prison camps of the Japanese in World War II, the North Koreans in 1950 to 1953, and the North Vietnamese in the long years of the Vietnam War, as well as knowledge of the Nazi's holocaust depredations in World War II. Through those years, we held to our own values. We should continue to do so.

The Kennedy amendment does it. That is what this amendment is about. I reserve the remainder of my time.

I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> SEPTEMBER 12, 2006.
>
> Hon. JOHN MCCAIN,
> *U.S. Senate,*
> *Washington, DC.*
>
> DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota, but I call your attention to recent reports that the Congress is considering legislation which might relax the United States support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects. First, it would undermine the moral basis which has generally guided our conduct in war throughout our history. Second, it could give opponents a legal argument for the mistreatment of Americans being held prisoner in time of war.
>
> In 1950, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General George C. Marshall, issued a small book, titled The Armed Forces Officer. The book summarized the laws and traditions that governed our Armed Forces through the years. As the Senate deals with the issue it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer. The last chapter is titled "Americans in Combat" and it lists 29 general propositions which govern the conduct of Americans in war. Number XXV, which I long ago underlined in my copy, reads as follows:
>
> "The United States abides by the laws of war. Its Armed Forces, in their dealing with all other peoples, are expected to comply with the laws of war, in the spirit and the letter. In waging war, we do not terrorize helpless non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardship on enemy prisoners or populations is not justified in any circumstance. Likewise, respect for the reign of law, as that term is understood in the United States, is expected to follow the flag wherever it goes. . . ."
>
> For the long term interest of the United States as a nation and for the safety of our own forces in battle, we should continue to maintain those principles. I continue to read and hear that we are facing a "different enemy" in the war on terror; no matter how true that may be, inhumanity and cruelty are not new to warfare nor to enemies we have faced in the past. In my short 46 years in the Armed Forces, Americans confronted the horrors of the prison camps of the Japanese in World War II, the North Koreans in 1950–53, and the North Vietnamese in the long years of the Vietnam War; as well as knowledge of the Nazi's holocaust depredations in World War II. Through those years, we held to our own values. We should continue to do so.
>
> Thank you for your own personal courage in maintaining those values, both in war and on the floor of the Senate. I hope that my information about weakening American support for Common Article 3 of the Geneva Convention is in error, and if not that the Senate will reject any such proposal.
>
> Very respectfully,
> GENERAL JOHN W. VESSEY, USA (Ret.).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, my distinguished colleague used two phrases just now. He said: Burden. He used the word burden. He then said the word bother. Senator, you walk straight into the constitutional separation of powers in your language and you say: The Secretary of State shall—that is a direct order—notify other parties to the Geneva Conventions. You are putting a direct order to the executive branch. I say that is a transgression of the long constitutional history of this country and the doctrine of separation of powers.

Mr. KENNEDY. Would the Senator support it if we changed it to "shall," that you, the chairman of our committee, will make that request and the President will go ahead and notify and follow those instructions?

Mr. WARNER. Senator, I am not in the business of trying to amend your amendment.

Mr. KENNEDY. I am just trying to accommodate you. You are saying that this is a constitutional issue. I just offered to try to accommodate the Chairman so we can ensure we are protecting American servicemen from torture—from torture. And the response is: Well, it is going to violate the Constitution. I am interested in getting results.

But I hear the Senator say that it is unconstitutional that my amendment says Department of State shall notify other countries that if they are going to torture, they are going to be held accountable, and we are being defeated on the floor of the U.S. Senate because the opponents are saying that is unconstitutional and we cannot find a way to do it. I find this unwillingness to compromise is outrageous.

Mr. President, I am prepared to call the roll on this one.

Mr. WARNER. Mr. President, at this point I wish to have such time as remains under the control of the Senator from Virginia accorded to me under the control of the time on the bill.

The PRESIDING OFFICER. The time will be so allocated.

Mr. WARNER. Mr. President, I wish to inform the Chamber that we are at that juncture where we will consider the statements of others, very important statements to be made. I listed them in a recitation of those who have indicated their desire to speak. But I also bring to the attention of the body that I have just been told by the leadership they are anxious to proceed to the votes.

At this time I would ask—if I can get my colleague's attention—that there be yeas and nays on all of the pending amendments remaining.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on all pending amendments.

Mr. LEVIN. Will the Senator withhold that request for 2 minutes? Will the Senator withhold?

Mr. WARNER. Surely.

Mr. President, we will now put in a quorum call to accommodate the ranking member, such that the time is not charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the managers, together with the guidance from their respective leaders, are endeavoring to do the following. There are three amendments to be voted on and then final passage. We hope to have as much time used on the bill as we can, to be consumed prior to the initiation of the votes. But then subsequent to the three votes, there will be a block of time. A Senator on this side has reserved 12 minutes. I intend to reserve, on my side, time to Senator McCAIN. I am trying to work in that category of time following the votes. But until we are able to reconcile this, I ask that we now proceed.

Let me allow the Senator from Georgia to proceed. He has indicated a desire to speak for 5 or so minutes at this time. But I hope Senators are following what the two managers are saying. Those desiring to speak on the bill, with the exception of Senator McCAIN, would they kindly come down and utilize this time before the amendments start?

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today in support of the Military Commissions Act of 2006. This historic legislation is the result of much work, thought, and debate.

I commend the administration, I commend Senator WARNER, Senator McCAIN, Senator GRAHAM, and all those who were involved in the ultimate compromise we have come to on this very sensitive and very complex issue. I am pleased we were able to find common ground on this critical issue and ensure that the President can authorize the appropriate agencies to move forward with an appropriate interrogation program.

There is no question that this program provides essential intelligence that is vital to America's success in the war on terrorism. At the same time, it honors our agreement under the Geneva Conventions and underscores to other nations that America is a nation of laws. This has been a difficult issue and I am pleased that both sides worked so diligently to achieve this result. In this new era of threats, where the stark and sober reality is that America must confront international terrorists committed to the destruction of our way of life, this bill is absolutely necessary. Our prior concept of war has been completely altered, as we learned so tragically on September 11, 2001. We must address threats in a different way. If we are going to get at the root of terrorist activity, we need to be able to get critical information to do so.

There has been much discussion during the course of the drafting of this bill about the rule of law, and the rule of law relative to detainees is, indeed, reflected in this bill. It provides for tribunals, for judges, for counsel, for discovery, and for rules of evidence.

Most importantly, however, in my view, is that while this bill provides important rule of law procedures for illegal enemy combatants, it does not give them the same protections which we afford lawful enemy combatants or our own military personnel, and that is a critical distinction. And that is how it ought to be. We have made that distinction for no other reason than to provide incentive for every nation across the world to observe international agreements for the proper treatment of captives. It bears repeating—this bill applies to the trial of illegal enemy combatants—those who make no pretense whatsoever of conformity with even minimal standards or international norms of civilized behavior when it comes to the treatment of those they capture.

We hear repeatedly that we should be concerned about what we do, for fear that we encourage others to treat our captured service men and women in a similar manner. But let's be very clear here and state what every American knows to be true. The al-Qaida terrorists treat our captured service men and women by beheading them and by dragging their bodies through the streets. They need no encouragement or excuse for their actions by reference to our treatment of their captives.

As a result of the Supreme Court's ruling, we are creating military commissions that provide rule of law protections which are embodied in this bill—courts, judges, legal counsel, and rules of evidence. So this bill appropriately meets our international obligations and America's sense of what is right and it is in keeping with our highest values.

However, this bill will allow the President to move forward with a terrorist interrogation program that will ensure that we continue to get critical information about those who are plotting to carry out hateful acts against America and against Americans.

I commend the President for his determination to respond to the new reality confronting us. I commend Chairman WARNER and my colleagues on the Armed Services Committee who worked in good faith to craft a bill which is the right bill to respond to the challenges we face. And again, I am pleased we were able to find common ground on this critical issue and ensure that the President can move forward with an appropriate interrogation program.

I think it is important that we send a bill to the White House, to the desk of the President that is exactly the same as the bill that has already been passed by the House so we can put this program in place immediately. The way we do that is to continue to defeat all the amendments that have been put forward, and that we send the President the same bill that has already been passed by the House so that this program can be reinitiated immediately.

I yield the floor.

Mr. WARNER. Mr. President, I thank our distinguished colleague from Georgia, a very valued member of the Armed Services Committee who has from time to time participated in the extensive deliberations and consultations with regard to how the original bill which we worked on should be shaped and finally amended. I thank him.

Again, I call to the attention of colleagues that I shall put in a quorum for the purpose of trying to accommodate Members on my side who desire to speak.

I now see the distinguished Senator from South Carolina. We are prepared to allocate to him such time as he may desire. How much time does he need?

Mr. GRAHAM. Would 15 minutes be OK?

Mr. WARNER. Yes.

Mr. GRAHAM. I thank the chairman.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, in 15 minutes I will try to explain the processes as I know it to be in terms of how we arrived at this moment.

No. 1, I am glad we are here. I think the country is better off having the bill voted on in the current fashion.

I have gotten to know Senator WARNER very well over the last 30 days. I had a high opinion of the Senator before this process started, but I, quite frankly, am in awe of his ability to stand up for the institution as a U.S. Senator, who was a former Secretary of the Navy, who tried to have a balanced approach about what we are trying to do.

It is no secret that Senator McCAIN is one of my closest friends in this body, and I respect him in so many ways. But unlike myself and most of us, Senator McCAIN paid a heavy price while serving this country. He and his colleagues in Vietnam were treated very poorly as prisoners of war. When he speaks about the Geneva Conventions, he does so as someone who has been in an environment where the Conventions would not apply. But Senator McCAIN believes very strongly in the Geneva Conventions. When it comes to the Vietnam war, he has told me more than once that if it were not for the insistence of the United States and the international community that constantly pushed back against the North Vietnamese, he thought the torture would have continued and all of them would eventually be killed. But the North Vietnamese became concerned about international criticism after a point in time.

While the Geneva Conventions were not applied evenly by any means, it did have an effect on the North Vietnamese.

I have been a military lawyer for over 20 years. I have had the honor of wearing the Air Force uniform while serving my country and being around great men and women in uniform. It has been one of the highlights of my life. I have never been shot at. The only people who wanted to kill me were probably some of my clients. But I do appreciate why the Geneva Conventions exist and the fact that the law of armed conflict is a body of law unique to itself and has a rich tradition in our country and throughout the world and it will work to make us safe and live within our values if we properly apply it.

The reason we are here is because the Supreme Court ruled in the Hamdan case that the military commissions authorized by the President were in violation of Common Article 3 of the Geneva Conventions. They were not regularly constituted courts.

It surprised me greatly that the Supreme Court would find that the Geneva Conventions applied to the war on terror. It was President Bush's assumption and mine, quite frankly, that humane treatment would be the standard. But this enemy doesn't wear a uniform; it operates outside the Conventions, doesn't represent a nation, and, therefore, would not be covered. But the Supreme Court came to a different conclusion. Thus, we are here.

I say to my fellow Americans, it is not a weakness, it is strength that we have three branches of government. It is not healthy for one branch of government to dominate the other two at a time of stress.

I have pushed back against the administration when I believed they were pushing the executive power of the inherent authority of the President too far. Even though we are in a time of war, there is plenty of room for the Congress and the courts.

What I tried to do in helping draft this bill, working with the President and working with our friends on the other side, is come up with a product that would create a balance that I think would serve us well.

My basic proposition that I have applied to the problem is we are at war, that 9/11 was an act of war, and since that moment in time our Nation has been at war with enemy combatants who do not wear a uniform, who do not represent a nation but are warriors for their cause, just as dedicated as Hitler was to his cause, and they are just as vicious and barbaric as any enemy we have ever fought.

But we don't need to be like them to win. As a matter of fact, we need to show the world that we are different than them.

When the Geneva Conventions were applied to the war on terror, we had a problem. We had to renew the Military Commission Tribunal in line with Common Article 3. Common Article 3 is a mini-human-rights tree that is common to all four Convention articles. You have one about lawful combatants and unlawful combatants, civilians and wounded people. Common Article 3 is throughout all of the treaties regarding the Geneva Conventions. It says you would have to have a regularly constituted court to pass judgment or render sentences against those who are in your charge during time of war; that is, unlawful combatants.

The problem with the military commission order authorized by the President was that it deviated from the formal Code of Military Justice, the court-martial model, without showing a practical reason. Within our Uniform Code of Military Justice, it says military commissions are authorized, but they need to be like the court-martial system to the extent practicable.

What I am proud of is we have created a new military commission based on the UCMJ and deviations are there because of the practical need. A court martial is not the right forum to try enemy combatants—non-citizen terrorists—the military commission is the right forum, but we are basing what we are doing on UCMJ, and the practical differences, I think, will be sustained by the Court.

The confrontation rights that were originally posed by the administration gave me great concern. I do not believe that to win this war we need to create a trial procedure where the jury can receive evidence classified in nature, convict the accused, and the accused never knows what the jury had to render a verdict upon, could not answer that accusation, rebut or examine the evidence.

That was the proposal which I thought went too far and that would come back to haunt us. As a result of this compromise, it has been taken out.

We have a national security privilege available to the Government to protect that prosecutor's file from being given over to the defense or to the accused so our secrets can be protected. But we will now allow the prosecutor to give that to the jury and let them bring it out on the side of the accused and the accused never knowing what he was convicted upon. That could come back to haunt us if one of our soldiers falls into enemy hands.

We would not want a future conviction based on evidence that our soldiers and CIA operative never saw. I think we have a military commission model that affords due process under the law of war that our Nation can be proud of, that will work in a way to render justice, and if a condition is abstained, it will be something we can be proud of as a nation. I am hopeful that the world would see the condition based on evidence, not vengeance.

My goal is to render justice to the terrorists, even though they will not render justice to us. That is a big distinction.

People ask me, Why do you care about the Geneva Conventions? These people will cut our heads off and they will kill us all. You are absolutely right. Why do I care?

Because I am an American. And we have led the way for over 50-something years when it comes to the Geneva Conventions applications.

I am also a military lawyer, and I can tell every Member of this body—some of them have served in combat unlike myself; some know better than I. But we have had downed pilots in Somalia. A helicopter pilot was captured by militia in Somalia. We dropped leaflets all over the city of Mogadishu. We told the militia leaders, "If you harm a helicopter pilot, you will be a war criminal." We blared that throughout town on loudspeakers with helicopters. After a period of time, they got the message, and he was released.

We had two pilots shot down over Libya when Reagan bombed Qadhafi. I was on active duty in the Air Force. We told Qadhafi directly and indirectly, if they harm these two pilots, they will be in violation of the Geneva Conventions, and we will hunt you down to the ends of the Earth.

I want to be able to say in future wars that there is no reason to abandon our Geneva Conventions obligations to render justice to these terrorists.

So not only do we have a military commission model that is Geneva Conventions compliant; we have a model that I think we should be proud of as a nation.

The idea that the changes between the committee bill and the compromise represents some grave departure, quite frankly, I vehemently disagree with. I didn't get into this discussion and political fight to take all the heat that we have taken to turn around and do something that undercuts the purpose of being involved in it to begin with. The evidentiary standard that will be used in a military commission trial of an enemy combatant was adopted from the International Criminal Court.

I will place into the RECORD statements from every Judge Advocate General in all four branches of the services that have certified from their point of view that the evidentiary standard that the judge will apply to any statements coming into evidence against an enemy combatant are legally sufficient, will not harm our standing in the world, and, in fact, are the model of the International Criminal Court which try the war criminals on a routine basis.

The provision I added, along with Senator MCCAIN, dealing with the provisions of the Detainee Treatment Act, 5th, 8th, and 14th amendment concepts within the Detainee Treatment Act, will also be a standard in the future designed to reinforce the relevance of the Detainee Treatment Act in our national policy, in our legal system, not to undermine anything but to enforce the concept the Detainee Treatment

Act and the judicial standard that our military judges will apply to terrorists accused is the same that is applied in International Criminal Court.

I have been a member of the JAG court for over 20 years. I have had the honor of serving with many men and women who will be in that court-martial scene. The chief prosecutor, Moe Davis, I met as a captain. There is no finer officer in the military than Colonel Davis. He is committed to render justice. I am very proud of the fact that the men and women who will be doing these military commissions believe in America just as much as anybody I have ever met, and they want to render justice.

What else do we try to accomplish?

We reauthorize the military commissions in a way to be Geneva Conventions-compliant to afford the defendants accused due process in the way that will not come back to haunt us.

What else did we have to deal with? A CIA program that is classified in nature that needs to continue. There is a debate in this country: Should we have a CIA interrogation program classified in nature that would allow techniques not in the Army Field Manual to get good intelligence from high value targets? The answer, from my point of view, is yes, we should, but not because we want to torture anybody, because we want to be inhumane as a nation. The reason we need a CIA program classified in nature to get good information is because in this war information saves lives.

Mutual assured destruction was the concept of the Cold War, where if the Soviet Union attacked us, they knew with certainty they would be wiped out. That concept doesn't work when your enemy doesn't mind killing themselves when they kill you. The only way we will protect ourselves effectively is to know what they are up to before they act. The way you find that out is to have good intelligence. But you have to do it with your value system.

Abu Ghraib was an aberration, but it has hurt this country. Anytime the world believes America has adopted techniques and tactics that are not of who we are, we lose our standing. So what we did regarding the CIA, we redefined the War Crimes Act to meet our Geneva Conventions obligations. The test for the Congress was, how can you have a clandestine CIA program and then not run afoul of the Geneva Conventions? What are the Geneva Conventions requirements of every country that signs the treaty to outlaw domestically gray areas of the treaty?

In Article 129 and 130 of the Geneva Conventions, it puts the burden on each country to do it internally, to create laws to discipline their own personnel who may violate the treaty in a grave way. It lists six offenses that would be considered grave breaches of the treaty under the conventions. Those six offenses were taken out of the treaty and put in our domestic law, title 18, the War Crimes Act, and anybody in our Government who violates that War Crimes Act is subject to being punished as a felon.

We added three other crimes we came up with ourselves.

Torture has always been a crime, so anyone who comes to the Senate and says the United States engages in torture, condones torture, that this agreement somehow legitimizes torture, you don't know what you are talking about. Torture is a crime in America. If someone is engaged in it, they are subject to being a felon, subject to the penalty of death. Not only is torture a war crime, serious physical injury, cruel and inhumane treatment mentally and physically of a detainee is a crime under title 18 of the war crimes statute.

Every CIA agent, every military member now has the guidance they need to understand the law. Before we got involved, our title 18 War Crimes Act was hopelessly confusing. I couldn't understand it. We brought clarity. We have reined in the program. We have created boundaries around what we can do. We can aggressively interrogate, but we will not run afoul of the Geneva Conventions. We are not going to let our people commit felonies in the name of getting good information, but now they know what they can and cannot do.

Who complies with that treaty? Who is it within our Government who would implement our obligations under the treaty? The Congress has decided what a war crime would be to prohibit grave breaches of the treaty. The President, this President, like every other President, implements treaties. So what we said in this legislation, when it comes to nongrave breaches, all the other obligations of the Geneva Conventions, the President will have the responsibility constitutionally to comply with those obligations, not to rewrite title 18, not to sanction torture, not to violate the Detainee Treatment Act, but to fulfill the treaty the way every other President has in our constitutional history. That is all we have done. To say otherwise is just political rhetoric. Not only have we allowed the CIA program to go forward in a way not to violate the Geneva Conventions, we have delegated to the President what was already our constitutional responsibility to enforce the treaty—not to rewrite it but to enforce it and fulfill it.

My concern was that in the process of complying with Hamdan, we would be seen by the world as redefining the treaty for our own purposes. We have not redefined the Geneva Conventions. We have, for the first time in our domestic law, clearly defined what a crime would be against the Geneva Conventions, and we have told the President, as a Congress: It is your job to fulfill the other obligations outside of criminal law. That is the way it should be, and it is something of which I am extremely proud.

We have been at war for over 5 years. Here we are 5 years later trying to figure out the basic legal infrastructure. It has been confusing. It has been contentious. We have had two Supreme Court cases where the Government's work product was struck down.

My hope is that our homework will be graded by the Supreme Court, that this bill eventually will go to our Federal courts, as it should, and the courts will say the following: the military commissions are Geneva Conventions compliant and meet constitutional standards set out by our country when it comes to trying people.

I am confident the court will rule that way. I am confident the Supreme Court will understand that the power we gave the President to fulfill the treaty is consistent with his role as President and the war crimes we have written to protect the treaty from a grave breach from our own people is written in a way to sustain legal scrutiny.

I am also confident that Congress has finally cleared up what has been a huge problem. What role should a judge have in a time of war? Who should make the decision regarding enemy combatant status?

In every war we have been in up until now, the military has decided the battlefield issues. Under the Geneva Conventions, it is a military decision to consider who an enemy combatant is. The habeas cases that have existed in our courts from the last 3 or 4 years have led to tremendous chaos at Guantanamo Bay. Our own troops are being sued by the people we are fighting. They are bringing every kind of action you can think of into Federal courts. Over 200 cases have been filed. It is impeding the war effort.

A judge should not make a military decision during a time of war. The military is far more capable of determining who an enemy combatant is than a Federal judge. They are not trained to do that.

We have replaced a system where the judges of this country can take over military decisions and allow judges to review military decisions, once made, for legal sufficiency. That is the way every other country in the world does it. Habeas has no place in this war for enemy prisoners. The Germans and the Japanese—no prisoner in the history of the United States has ever been able to go to a Federal court and sue the people they are fighting who are protecting us against the enemy.

We are allowing the Federal courts to review every military decision made about an enemy combatant as to whether they made the right decision based on competent evidence and whether the procedures they used are constitutional. We have rejected the idea as a Congress of allowing the courts to run the war when it comes to defining who an enemy combatant is. That was a decision which needed to be made. It is not destroying the writ of habeas corpus. It is having a rational, balanced approach to where the judges can play a meaningful role in time of war and not play a role they are not equipped to play. This will mean nothing if it does not withstand court scrutiny.

I hope soon we will have an overwhelming vote for the final product after the amendments are disposed of. My goal for 2 years has been to try to find national unity, to have the Congress, the executive branch, and eventually the courts on the same sheet of music where we can tell the world at large that we have detention policies, interrogation policies, and confinement policies that not only are humane and just but will allow us to protect ourselves from a vicious enemy and live up to our obligations as a nation. We are very close to that day coming.

I thank every Member of this Senate who has worked to make this product better. When you cast a vote, please remember, we are at war, we are not fighting crime.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we now have an additional speaker, the Senator from Texas.

As the Senator from South Carolina has just completed his remarks, I have to say it has been an unusual experience for all of us these past weeks. Working together with Senator McCAIN and the Senator from South Carolina has enabled this Senate to proceed in a way that is consistent with Senate practices: namely, have a committee go through a bill, have a markup, and then proceed to work on a product. It brought together the consensus.

I say to my friend from South Carolina, although I have had some modest experience as Secretary of the Navy dealing with court-martials, and, indeed, when I was a young officer in the Marines, I was involved in court-martials, the Senator brought together in this bill, in this deliberation, a very special expertise of the years he has had.

Now he is a full colonel in the U.S. Air Force and a Judge Advocate General recognition. I thank the Senator for his invaluable contribution to putting the series of bills we have had—putting into those bills matters which he believed were in the best interests of the men and women of the Armed Forces and, indeed, his consultation throughout this process with the Judge Advocate Generals and other past and present Judge Advocates and some of the younger officers who will be future Judge Advocate Generals. I thank the Senator from South Carolina for his strong contribution to this deliberative process in the Senate.

Now I yield the floor to our last speaker before we proceed to the votes. As I understand, we will be voting at the conclusion of this statement?

Mr. LEVIN. I don't know if the unanimous consent agreement has been finished yet. That is our hope.

Mr. WARNER. We are finishing a unanimous consent request, but I alert the Senate that it is my strong hope and prediction we will soon be voting in sequence on three amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I first compliment the distinguished chairman of the Senate Committee on Armed Services, the Senator from Virginia, for being the calm and steady hand on the rudder during the course of the discussions and debates involving this important piece of legislation. His work and demeanor have always been constructive and civil, and any disagreements we have had are befitting of the great traditions of this institution. I thank him for that.

Mr. WARNER. If I may, I thank the Senator from Texas. Several times we came to the Senator's office in the course of the deliberations on this bill because the Senator, too, brings to the debate a vast experience, having risen through the ranks of the legal profession to become a judge in his State. The Senator is very well equipped and did provide a very valuable input into this debate.

Mr. CORNYN. My thanks to the Senator from Virginia.

Mr. President, not everyone who has been engaging in this debate has been as constructive. We have heard some outlandish statements that bear correction, some suggesting this bill would actually permit the use of torture. Nothing—nothing—could be further from the truth. In fact, what this bill does is make sure that the provisions of the Detainee Treatment Act, which were passed in December of 2005 in this same Senate, that ban torture, cruel, inhuman, and degrading treatment of detainees, that we comply with those laws which reflect upon our international treaty obligations as well as our domestic laws and which reflect our American values.

We are a nation at war. But there is no equivalency with the way this war is fought and prosecuted by the United States and our allies, no equivalency with the manner in which the war is prosecuted by our enemies. We have learned that our enemies have been at war against us for much longer than just September 11, 2001, and date back many years before we even realized America was under attack.

We know that this enemy, represented by Islamic extremism, justifies the use of murder against innocent civilians in order to accomplish its goals.

America complies with all of its international treaty obligations and domestic laws. What this bill is about is to try to provide our intelligence authorities the clear direction they need so they know how to comply with those laws and, at the same time, preserve an absolutely critical means of collecting intelligence through the interrogation of high-value detainees at Guantanamo Bay.

But no civilian employee of the U.S. Government working at the CIA or elsewhere is going to risk their career, their reputation, and their assets using some sort of cloudy law or gray law that does not make clear what is permitted and what is not permitted. This bill we are prepared to pass in a few minutes provides that kind of clear direction. What it says is that we in the U.S. Congress are stepping up to take the responsibility ourselves to provide that kind of clarity that will allow our intelligence authorities to gain this important intelligence while at the same time be secure in the knowledge that what they are doing fully complies with our law, including our international treaty obligations.

We know the aggressive interrogation techniques that are legal under the provisions of the McCain amendment in the Detainee Treatment Act have provided much valuable intelligence that has saved American lives. We know the CIA's high-value terrorist detainee program works. For example, detainees have provided the names of approximately 86 individuals whom al-Qaida deemed suitable for Western operations. Half of these individuals have now been removed from the battlefield and are no longer a threat to the United States of America or our allies.

This program is effective and has saved American lives and must be preserved. Yet there are people who would go so far as to intimate that we are torturing people. But we are not torturing people. But we are using legal, aggressive interrogations consistent with the U.S. Constitution, U.S. laws, and our treaty obligations. In doing so, we are keeping faith with the American people that the Federal Government will use every legal means available to us to keep the American people safe.

Now, we may disagree—and we do disagree on the Senate floor with the level of rights that an accused terrorist should have. I happen to believe these individuals, who are high-value detainees at Guantanamo Bay, do not deserve the same panoply of rights preserved for American citizens in our legal system. But I would hope that we would all agree that the CIA interrogation program must continue. We must not allow the brave patriots who conduct these interrogations to be at risk unnecessarily by providing a gray zone as opposed to absolute clarity insofar as it is within our power to give it so that we may interrogate these captured terrorists to the fullest extent of the law.

To suggest that we are somehow torturing individuals or violating our own laws that we passed just last year in the Detainee Treatment Act under the McCain amendment banning torture, cruel and inhuman treatment, is absolutely untrue and irresponsible. The American people have a right to believe we will use every legal tool available to us to help keep them safe against this new and different type of enemy.

Let me just say a word about who that enemy is. We have heard we are engaged in a global war on terror, and that is absolutely true. But it does not necessarily tell us who that enemy is. Unfortunately, it is an enemy that has hijacked one of the world's great religions, Islam, in pursuit of their extremist goals that justifies the murder of innocent civilians in order to accomplish those goals.

Some on the Senate floor have said this debate is all about Iraq. It is not just about Iraq. If it were just about Iraq, how would those critics explain the attempted terrorist plot that was broken up at Heathrow Airport just a few short weeks ago, or the attacks in Madrid or Beslan in Russia or Bali or elsewhere or, for that matter, New York and Washington, DC?

The fact is, we have prevented another terrorist attack on our own soil by using this interrogation program to allow us to detect and deter and disrupt terrorist activity, and the fact we have also taken the fight on the offensive where the terrorists plot, plan, train, and try to export their terrorist attacks to the United States and elsewhere.

If we would do what some would apparently want us to do and simply pull the covers over our head and wish the bad people would go away, America would be less safe and we would not be able to stand here and say that due to the vigilance of the American people, due to the vigilance of the U.S. Congress and the executive branch of Government, we have been successful, thank goodness, in preventing another terrorist attack on our own soil, after 5 years from September 11, 2001.

So, Mr. President, I hope our colleagues will vote against these ill-advised amendments to this bill and will send a clean bill to be reconciled with the House version and sent to the President right away so that before too long we can see that some of the war criminals who sit detained at Guantanamo Bay may be brought to justice, people like Khalid Shaikh Mohammed, who was the mastermind of the 9/11 plot that killed nearly 3,000 Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Texas. He has been a valuable addition to those who are trying to structure this piece of legislation.

Momentarily, I will seek a unanimous consent request ordering the votes and the allocation of such time as remains between Senators.

So at this point in time, I will suggest the absence of a quorum, unless the Senator from Massachusetts would like to take the additional 3 minutes that he has at this time on his amendment.

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just quickly, the proceedings we are going to have—if I can inquire—I use the 3 minutes, and then we are moving toward a series of votes; is that right?

Mr. WARNER. That is correct, I say to the Senator.

Mr. KENNEDY. Then, I would ask when I have 30 seconds left—Mr. President, I have 3½ minutes; am I correct?

The PRESIDING OFFICER. Three minutes.

Mr. KENNEDY. Three minutes.

Mr. WARNER. Mr. President, I may have misunderstood my colleague. That is the 3 minutes remaining on your amendment held in abeyance.

Mr. KENNEDY. That is correct.

Mr. President, I yield myself the 3 minutes.

AMENDMENT NO. 5088

Mr. President, just for the benefit of the membership, in my hand is the Army manual. In the Army manual are the prohibitions for instructions to all the interrogators of the United States, that they cannot use these kinds of harsh tactics which have been recognized by Members as torture.

This amendment says if any country is going to use those similar tactics against those who would be representing the United States in the war on terror—for example, the Central Intelligence Agency; for example, the SEALs; for example, contractors working for the intelligence agency—then they will have committed a war crime.

I reviewed earlier in the debate where we have prosecuted Japanese and other war crimes, giving them 10 or 15 years, and even execution when they went ahead with this. That is why this is so important.

Now, my good friend, the chairman of the committee, says we cannot do it because it violates the Constitution because it is instructing—instructing—the President of the United States through the State Department to notify the 194 countries.

Well, we thought it was not unconstitutional on the Port Security Act, when we said:

> When the Secretary . . . , after conducting an assessment . . . , decides that an airport does not maintain and carry out effective security measures, the Secretary . . . shall notify the appropriate authorities of the government of the foreign country. . . .

Here is port security.

Here is on the pollution issues:

> The Secretary of State shall notify without delay foreign states concerned. . . .

That is the second one.

And I have the third illustration in terms of foreign carriers.

In 15 minutes we got these cases. And here we are going to say we are going to refuse to protect Americans who are on the cutting edge of the war on terror because we will not let our State Department go on an e-mail and notify the 192 countries because that is unconstitutional? If the chairman of the Armed Services Committee feels that way, we could strike that provision and just say it is the policy of the United States. Then we would not be instructing anyone. Either way, this is about protecting Americans. It is about protecting Americans.

I believe those Americans who are out there in the hills and in the mountains of Afghanistan today and tonight, those people who are in the hills and mountains and deserts of Iraq, those people who are out in Southeast Asia or all over the world in order to try to deal with the problems of terrorism ought to know, if they are in danger of getting captured, if any of their host countries are going to perform this kind of procedure and torture on them, they will be war criminals.

That is what this amendment is about. I hope it will be accepted. It should be.

Mr. President, I yield what time I have to my ranking member.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Mr. President, at this time we are waiting for clearance by the leadership of the UC. But I will ask at this time we get the yeas and nays on all the votes, the amendments and final passage.

Mr. ROCKEFELLER. Mr. President, without objecting, does any unanimous consent request allow me to close on my amendment for 2 minutes?

Mr. WARNER. Mr. President, the UC, as presently drafted, gives 2 minutes to each side for the purpose of addressing amendments.

Mr. ROCKEFELLER. I thank the Senator.

Mr. WARNER. Mr. President, I once again restate the request for the yeas and nays on the amendments and final passage. I ask unanimous consent that it be in order to ask for the yeas and nays on the amendments and final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendments and final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that any remaining time be yielded back, other than as noted below, and that the Senate proceed to votes in relation to the amendments in the following order:

The Rockefeller amendment No. 5095, the Byrd amendment No. 5104, and the Kennedy amendment No. 5088.

I further ask unanimous consent that there be 4 minutes for debate, equally divided, prior to each of the above votes.

I further ask unanimous consent that prior to passage of the bill, Senator LEAHY be recognized for his remaining 12 minutes and, as set forth in the initial unanimous consent request, which was provided for under the original consent order, Senator LEVIN be in control of 4 minutes, Senator WARNER in control of 16 minutes, to be followed by closing remarks by the two leaders and, following that time, the Senate proceed to passage of the bill; further, that there then be 5 minutes equally divided prior to the vote on invoking cloture on the border fence legislation; provided further that with respect to the border fence bill, it be in order to file second degrees at the desk no later than 5 p.m. today under the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I did not understand the part about the fence.

Mr. WARNER. Can the Senator repeat that?

Mr. LEAHY. I did not understand the part about the timing of the fence bill.

Mr. WARNER. I will repeat it.

Mr. LEAHY. Just that part.

Mr. WARNER. It reads as follows: Following that time, the Senate proceed to passage of the bill; further, there then be 5 minutes equally divided prior to the vote on invoking cloture on the border fence legislation; provided further that with respect to the border fence bill, it be in order to file second degrees at the desk no later than 5 p.m. today under the provisions of rule XXII.

Mr. LEAHY. Mr. President, even though I believe we have made a terrible and tragic mistake in the Senate, including major changes in our constitutional rights willy-nilly to get out to campaign, I realize they have locked this in and there is not much one can do about it. I think it is a farce in the Senate.

Mr. WARNER. Mr. President, I renew the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 5095

There will now be 4 minutes of debate, equally divided, on the Rockefeller amendment.

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, my amendment would require, as I explained this morning, the CIA to provide the Congressional Intelligence Committees, which are required by law to be informed of what is going on in the intelligence world, fully the most basic and fundamental information it needs to oversee the CIA detention and interrogation program.

Frankly, for the past 4 years we have not had that information. The administration has withheld this information from us. I am not saying that in partisan fashion. It is a fact.

It has been very frustrating as a member of the Intelligence Committee, much less as a Member of the Senate. We have made repeated requests and the Intelligence Committee has been prevented from carefully reviewing the program. The program has operated, as a result, without any meaningful congressional oversight whatsoever, and that is our responsibility under the law.

All of my colleagues should be troubled by this fact. We cannot assure ourselves, we cannot assure the American people, and we cannot assure our agents overseas that the CIA program is both legally sound and effective, without the basic information required under my amendment.

My amendment is simply about oversight and accountability, nothing more, nothing less. Nothing in the amendment would require the public disclosure of any classified document or aspect of the CIA program.

Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I spoke in strong opposition to this amendment. Again, I think it tries to displace the oversight that is performed by the Intelligence Committee. I would like to add the following bit of information.

On September 28 of this year, GEN Michael V. Hayden, who is the current Director of the CIA, wrote a letter to Chairman PAT ROBERTS of the Intelligence Committee in the Senate. In it he said:

On September 6, 2006, I briefed the full SSCI membership on key aspects of the detainee program, providing a level of detail previously not made available to SSCI members. I made clear to the committee that upon passage of the new detainee legislation, I would brief the SSCI on how CIA would execute the future program, and I agreed to promptly notify the committee when any modifications to the program were proposed, or when the status of any individual detainee changed.

I think that is dispositive of a very clear indication by the executive branch to allow the Senate to perform its oversight through the properly designated committee, the Senate Committee on Intelligence.

Mr. ROCKEFELLER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WARNER. Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, September 28, 2006.

Hon. PAT ROBERTS,
Chairman, Select Committee on Intelligence,
United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write today regarding the Rockefeller amendment to the military commissions legislation now pending on the Senate floor. The CIA strongly opposes adoption of the Rockefeller amendment.

Since the inception of its detention program, the CIA has a strong and consistent record of keeping its oversight committees fully and currently informed of critical aspects of the program. Further, the bipartisan leadership of Congress has been briefed regularly by the CIA on this program since its inception, and I personally briefed the Majority and Minority Leaders of the Senate only weeks ago. The CIA remains committed to a frank and open dialogue with the Congress on detailed aspects of the detainee program, while ensuring the secrecy of this particularly sensitive activity. Senate adoption of the Rockefeller amendment would go far beyond traditional CIA reports to Congress by mandating detailed information about assets, methods, locations and individuals involved in sensitive operations. In addition, detailing in public law the amount of sensitive information that CIA must provide to Congress will chill some of our counterterrorism partners whose cooperation is fully conditioned on the absolute secrecy of their support.

Since becoming Director of the CIA, I have made every effort to keep your committee apprised of the status of the detainee program. In July, I updated you and SSCI Vice Chairman Rockefeller on the program, sharing sensitive aspects, including information about specific detainees, examples of actionable intelligence gained from the program and about ways in which the program could continue to be successful in the future. Following this briefing and despite its highly sensitive nature, at your request—and that of Sen. Rockefeller—I fully supported briefing the entire SSCI membership.

On September 6, 2006, I briefed the full SSCI membership on key aspects of the detainee program, providing a level of detail previously not made available to SSCI members. I made clear to the committee that upon passage of new detainee legislation, I would brief the SSCI on how CIA would execute the future program and I agreed to promptly notify the committee when any modifications to the program were proposed or when the status of any individual detainee changed.

Upon Senate passage of the military commissions legislation, I stand ready to again brief your committee and the bipartisan Senate leadership on the future of the detainee program.

Sincerely,

MICHAEL V. HAYDEN,
General, USAF Director.

Mr. WARNER. Mr. President, are we prepared to move to a vote?

The PRESIDING OFFICER. Yes. The question is on agreeing to the amendment of the Senator from West Virginia.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Snowe

The amendment (No. 5095) was rejected.

Mr. McCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5104

The PRESIDING OFFICER. There will now be 4 minutes equally divided on the Byrd amendment.

Who yields time?

The Senator from West Virginia is recognized.

Mr. BYRD. Friends, Senators, lend me your ears. Friends, Senators, lend me your ears. I voted to report a fair and balanced bill from the Armed Services Committee, but the legislation before the Senate today bears little resemblance to that legislation. It has been changed so many times, we don't know the real implications of this ever-changing bill. The Byrd-Obama-Clinton-Levin amendment sunsets the authority of the President to convene new military commissions after 5 years. There is nothing wrong with that.

This amendment ensures that Congress will not simply stand aside and ignore its oversight responsibilities after this bill is enacted. This amendment will not stop any trials of suspected terrorists that commence before the sunset date. It simply forces Congress to revisit—revisit—the weighty constitutional implications of this bill in 5 years' time and then be in a position, on the basis of new knowledge and experience, to make a decision again.

It is a very reasonable amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to our most distinguished senior colleague that this amendment was well debated on the floor, but I would bring to the attention of all Senators that we do not have any estimates of how long the war on terrorism against the jihadists is going to take place. We may be having those who commit crimes today not apprehended until after this sunset provision. Then they go free. They are not subject, unless the Senate at that time somehow restores the importance of the next President to continue—to continue, Mr. President—bringing to justice and trial under our rules these individuals who are committing war crimes. So I urge all Senators to oppose this amendment.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. BYRD. This amendment will not set any terrorists free. Let Senators who are here 5 years from now take a new look on the basis of experience and make a decision in the light of the then circumstances. That is all I am asking. This is nothing new.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the Byrd amendment No. 5104.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Snowe

The amendment (No. 5104) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5088

The PRESIDING OFFICER. There are 4 minutes equally divided on the Kennedy amendment.

Mr. KENNEDY. Mr. President, here is the Army Manual of 2006 printed after the Senate of the United States went on record in accepting the McCain amendment prohibiting torture. In the printed Army Manual is a list of the prohibited activities where any person who is a member of the Defense Department is prohibited to engage in these kinds of activities because they have made a finding that they are basically and effectively torture.

Today we have thousands of Americans in the Central Intelligence Agency, Special Forces, the SEALS, and American contractors working for the CIA around the world fighting terrorism. All this amendment does is give notice to each and every country that any country that is going to practice these kinds of techniques on any American will be guilty effectively of a war crime.

That is effectively what we have done with the Army Manual, and we ought to protect our intelligence agency personnel, our SEALS, and all of those who are all over the world protecting the United States.

Arguments against? It is a violation of the Constitution because it is an instruction to a member of the Cabinet about what they ought to do.

Here it is for airports. The Secretary of Transportation shall conduct an assessment with foreign countries.

Here it is on voting rights. The Attorney General is authorized and directed to institute suits that are going to be involved in poll taxes.

The Secretary of State shall notify without delay foreign states that are involved in pollution. The list goes on. If we can do it for pollution, we can do it for violation of basic and fundamental rights of Americans overseas.

This is effectively about what we adopted when we adopted the War Crimes Act, which was virtually unanimous, with not a single vote in opposition.

This is basically a restatement. I hope it will be accepted overwhelmingly.

Mr. WARNER. Mr. President, this is an amendment that requires close attention by all colleagues.

In the preparation of this bill, we defined in broad terms the conduct that is regarded as a grave breach of Common Article 3. These are war crimes. We the Congress should not try to provide a specific list of techniques. We don't know what the future holds. That is not the responsibility of the Congress. We are not going to direct. We try to make a list of techniques, that the United States describe every technique that violates Common Article 3. We cannot foresee into the future every technique that might violate Common Article 3. We should not step on that situation. It is not ours to do.

Under the separation of powers, it is reserved to the executive branch to work this out. But if at any time it is the judgment of any Member of this body, or collectively, that we are not abiding by this law, I am confident that this institution's oversight will correct and quickly remedy the situation.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Snowe

The amendment (No. 5088) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I ask the Presiding Officer to read the unanimous consent that is in place so all Members understand what is to take place.

The PRESIDING OFFICER. Senator LEAHY will be recognized for his remaining 12 minutes. Senator LEVIN is under the control of 4 minutes. Senator WARNER is under the control of 16 minutes, to be followed by closing remarks by the two leaders. Following that time, the Senate will proceed to passage of the bill. Further, that there then be 5 minutes equally divided prior to the vote on the motion to invoke cloture on border fence legislation.

Mr. WARNER. The Chair will now recognize Senator LEAHY?

Mr. LEVIN. Mr. President, my understanding is that was the allocation of time, not necessarily the order of speaking.

The PRESIDING OFFICER. The agreement does not appear to be in any particular order.

Mr. WARNER. Mr. President, at the appropriate time, I will allocate 14 minutes to the distinguished Senator from Arizona, Mr. McCAIN.

At this point in time, I recognize the extraordinary contributions of the staff persons who worked on this bill, and I shall include the entire list.

We worked under the direction of Charlie Abell, Scott Stucky, David Morriss, Rick DeBobes, Peter Levine, Chris Paul, Pablo Chavez, Richard Fontaine, Jen Olson, Adam Brake, James Galyean, and legislative counsel Charlie Armstrong.

I assure Members it was a challenge from beginning to end. I cannot recall seeing a more professional group of staffers serving their Members in the Senate.

Mr. LEVIN. I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side or to any party.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 2781

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 625, S. 2781, and I ask unanimous consent that the committee-reported amendment be, for the third time, passed and the motion to reconsider be laid upon the table.

Mr. JEFFORDS. I object. I agree that wastewater security is an important issue. In fact, it is made even more important because the Homeland Security appropriations conferees have exempted these facilities from security requirements—a decision that I understand was due in large part to the Senator's opposition to including these facilities within the protections of that bill.

Although I would like to have seen stronger chemical security provisions than those I understand are forthcoming from the Homeland Security appropriations conference, I anticipate supporting that measure. I would support including wastewater facilities in that measure. But I will not support a bill like S. 2781 that provides weaker protections.

By contrast, I long ago introduced S. 1995, The Wastewater Treatment Works Security Act of 2005. I feel certain that if I asked unanimous consent to pass this bill, the Senator would object to my request. I prefer a more constructive pathway to providing essential protection to our communities.

We should fill this gap in our Nation's security, and in order to do so, we need full and fair opportunity to offer amendments to cure the serious deficiencies in this bill.

Mr. President, I ask unanimous consent to insert a statement in the RECORD concerning my objection to consideration of the Wastewater Security bill.

The PRESIDING OFFICER. The objection is heard.

Mr. INHOFE. Mr. President, I wanted to call the Senate's attention to the fact we do have wastewater legislation that has passed both the House and the Senate, in the House by a vote of 413 to 2. It is something which is desperately needed. We need to attend to that as soon as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objction, it is so ordered.

COMMON ARTICLE 3 AND WAR CRIMES PROVISIONS OF THE MILITARY COMMISSIONS ACT

Mr. LEVIN. Senators WARNER and McCAIN, over the last year, you have played an instrumental role in bringing needed clarity to the rules for the treatment of detainees in U.S. custody. I understand that you also played a key role in negotiating the provisions of the military commissions bill regarding the War Crimes Act and Common Article 3 of the Geneva Conventions. As you said last year when the Detainee Treatment Act was adopted, this is not an area in which ambiguity is helpful. For this reason, I hope that you will help me in providing a clear record of our intent on these issues.

In particular, section 8(a)(3) of the bill provides that "the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions", that these interpretations shall be issued by Executive order, and that such an Executive order "shall be authoritative (as to non-grave breach provisions of Common Article 3) as a matter of United States law, in the same manner as other administrative regulations."

Would you agree that nothing in this provision gives the President or could give the President the authority to modify the Geneva Conventions or U.S. obligations under those treaties?

Mr. McCAIN. First, I say to my good friend from Michigan that this legislation clearly defines grave breaches of Common Article 3, which are criminalized and ultimately punishable by death. It is critical for the American public to understand that we are criminalizing breaches of Common Article 3 that rise to the level of a felony. Such acts—including cruel or inhuman treatment, torture, rape, and murder, among others—will clearly be considered war crimes.

Where the President may exercise his authority to interpret treaty obligations is in the area of "nongrave" breaches of the Geneva Conventions—those breaches that do not rise to the level of a war crime. In interpreting the conventions in this manner, the President is bounded by the conventions themselves. Nothing in this bill gives the President the authority to modify the conventions or our obligations under those treaties. That understanding is at the core of this legislation.

Mr. WARNER. I concur with the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this provision gives the President, or could give the President, the authority to modify the requirements of the Detainee Treatment Act?

Mr. WARNER. The purpose of this legislation is to strengthen, not to weaken or modify, the Detainee Treatment Act. For the first time, this legislation is required to "take action to ensure compliance" with the DTA's prohibition on cruel, inhuman, or degrading treatment, as defined in the U.S. reservation to the Convention Against Torture. He is directed to do so through, among other actions, the establishment of administrative rules and procedures. Nothing in this legislation authorizes the President to modify the requirements of the DTA, which were enshrined in a law passed last December. I would point out as well to the distinguished ranking member that the President himself never proposed to weaken the DTA. Rather, he proposed to make compliance with the DTA tantamount to compliance with Common Article 3 of the Geneva Conventions. That proposal is not included in this legislation.

Mr. McCAIN. I agree entirely with Senator WARNER's comments.

Mr. LEVIN. Would you agree that any interpretation issued by the President under this section would only be valid if it is consistent with U.S. obligations under the Geneva Conventions and the Detainee Treatment Act?

Mr. McCAIN. That is correct.

Mr. WARNER. I agree.

Mr. LEVIN. Section 8(b) of the bill would amend the War Crimes Act to provide that only "grave breaches" of Common Article 3 of the Geneva Conventions constitute war crimes under U.S. law. The provision goes on to define those grave breaches to include, among other things, torture, and "cruel or inhuman treatment". The term "cruel or inhuman treatment' is defined to include acts "intended to inflict severe or serious physical or mental pain or suffering."

Would you agree that the changes to the War Crimes Act in section 8(b) do not in any way alter U.S. obligations under the Geneva Conventions or under the Detainee Treatment Act?

Mr. McCAIN. The changes to the War Crimes Act are actually a responsible modification in order to better comply with America's obligations under the Geneva Conventions to provide effective penal sanction for grave breaches of Common Article 3. It is important to note, as has the Senator from Michigan, that in this section "cruel or inhuman treatment" is defined for purposes of the War Crimes Act only. It does not infringe, supplant, or in any way alter the definition of cruel, inhuman, or degrading treatment or punishment prohibited in the DTA and defined therein with reference to the 5th, 8th, and 14th amendments to the U.S. Constitution. Nor do the changes to the War Crimes Act alter U.S. obligations under the Geneva Conventions.

Mr. WARNER. I would associate myself with the comments from the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this section or in this bill requires or should be interpreted to authorize any modification to the new Army Field Manual on interrogation techniques, which was issued last month and provides important guidance to our solders on the field as to what is and is not permitted to the interrogation of detainees?

Mr. WARNER. The executive branch has the authority to modify the Army Field Manual on Intelligence Interrogation at any time. I welcomed the new version of the field manual issued last month and agree that it provides critical guidance to our solders in the field. That said, the content of the field manual is an issue separate from those at issue in this bill, and it was not my intent to effect any change in the field manual through this legislation.

Mr. McCAIN. I concur wholeheartedly with the Senator from Virginia. As the Senator form Virginia is aware, there is a provision in the bill before the Senate that defines "cruel and inhuman treatment" under the War Crimes Act. I would note first that this definition is limited to criminal offenses under the War Crimes Act and is distinct from the broader prohibition contained in the Detainee Treatment Act. That act defined the term "cruel, inhuman and degrading treatment" with reference to the reservation the United States took to the Convention Against Torture.

In the war crimes section of this bill, cruel and inhuman treatment is defined as an act intended to inflict severe or serious physical or mental pain or suffering. It further makes clear that such mental suffering need not be prolonged to be prohibited. The mental suffering need only be more than transitory. It is important to note that the "nontransitory" requirement applies to the harm, not to the act producing the harm. Thus if a U.S. soldier is, for example, subjected to some terrible technique that lasts for a brief time but that causes serious and nontransitory mental harm, a criminal act has occurred.

Mr. WARNER. That is my understanding and intent as well, and I agree with the Senator's other clarifying remarks.

In the same section, the term "serious physical pain or suffering" is defined as a bodily injury that involves one of four characteristics: "a substantial risk of death," "extreme physical pain," "a burn or physical disfigurement or a serious nature," or "significant loss or impairment of the function of a bodily member, organ or mental faculty." I do not believe that the term "bodily injury" adds a separate requirement which must be met for an act to constitute serious physical pain or suffering.

Mr. McCAIN. I am of the same view.

Mr. LEVIN. And would the Senator from Arizona agree with my view that section 8(a)(3) does not make lawful or give the President the authority to make lawful any technique that is not permitted by Common Article 3 or the Detainee Treatment Act?

Mr. McCAIN. I do agree.

Mr. WARNER. I agree with both of my colleagues.

Mr. KENNEDY. Mr. President, in times of war, our obligation is to protect our Nation and to protect those men and women who risk their lives to defend us. This bill fails that duty. By failing to renounce torture, it inflames an already dangerous world and makes new enemies for America in our war against terror. This puts cause or people and our troops at greater risk. That is why so many respected military leaders oppose this bill.

Throughout our history, America has led the world in promoting human rights and decency. We have fought wars against tyranny and oppression. Our enemies have employed tactics that were rightly and roundly condemned by the civilized world. We maintained American strength and honor by refusing to stoop to the level of our enemies. And we should not stoop to the level of the terrorists in the war on terror.

I rise to express my profound opposition to this bill both in terms of its substance and the procedure by which it reached the floor. The Armed Service Committee reported out a bill that I supported. That bill was not perfect, but it preserved our commitment to the Geneva Conventions, limited the possibility that detainees would be treated abusively and set up procedures for military tribunals that generally respected the fundamental requirements of fairness.

Republican members of the Armed Services Committee then began a process of secret negotiation with the White House that produced a bill that is far worse than the committee bill. Indeed, we have continued to see changes in that bill as it has been moved toward the floor in a rush to achieve passage before the Senate recesses for the election. This rush to passage to serve a political agenda is no way to produce careful and thoughtful legislation on profound issues of national security and civil liberties. At this point, most Members of this body hardly know what they are being asked to approve.

The bill as it now appears on the floor works profound and disastrous changes in our law.

This legislation sets out an overly broad definition of unlawful enemy combatant. This definition would allow the President to pick up anyone citizen and legal residents included anywhere around the world, and throw them into prison in Guantanamo without even charging or trying them. These people would never get a day in court to prove their innocence. There is no check whatsoever on the President's ability to detain people in an arbitrary manner.

We already know that our military has made mistakes in detaining people. We are currently holding dozens of people at Guanatanamo who we know based on the military's own records are not guilty of anything. Yet they have not been let go.

This legislation also makes a distinction between citizens and lawful permanent residents. Citizens cannot be subject to military commissions and their flawed procedures. Yet lawful permanent residents, those green card holders who are on the path to citizenship, could be sent to military commissions. Green Card holders must obey our laws, pay taxes, and register for the draft. They are serving our country in Iraq. They have an obligation to protect our laws, and they deserve the protection of those same laws.

The Geneva Conventions were adopted in the wake of the horrific atrocities during World War II. These conventions reflect the international consensus on how individuals should be treated in times of war. They set a minimum floor of humane treatment for all prisoners, military and civilian alike. This floor is known as Common Article 3 because it is common to all of the conventions. Yet this bill also gives the President authority to decide what conduct violates Common Article 3 of the Geneva Conventions. Again, the President's authority to define the meaning of Common Article 3 is virtually unreviewable. He is required to publish his interpretation in the Federal Register, but the administration has already made clear that it will not make public which interrogation tactics are being used. Moreover, the bill expressly states that the Geneva Conventions cannot be relied upon in any U.S. court as a source of rights. The President's interpretation may well likely escape judicial review, as well.

As the final method of concealing its activities, the administration has stripped the courts of their ability to review the confinement or treatment of detainees. The administration won a provision that eliminates the ability of any detainee anywhere in the world to file a habeas corpus petition challenging the justification for or conditions of his or her confinement. The provision applies to all existing petitions and would require their dismissal, including the Hamdan case itself. There is no justification for stripping courts of jurisdiction to issue the great writ of habeas corpus, which has been a foundation of our legal system with roots in the Magna Carta. The availability of the Great Writ is assured in the Constitution itself, which permits its suspension only in times of invasion or rebellion. This provision of the bill is most likely unconstitutional.

The administration has pursued a strategy to defeat accountability since it first began to take detainees into custody. It chose Guantanamo and secret prisons abroad because it thought U.S. law would not apply. It fought hard to prevent detainees from obtaining counsel and then argued that U.S. Courts lacked jurisdiction to hear detainees' complaints. It sought the prohibition on habeas corpus petitions adopted in the Detainee Treatment Act and then urged courts to misconstrue it to wipe out all pending habeas cases. This new effort to prohibit habeas petitions is a continuation of this effort to escape judicial scrutiny.

The bill also for the first time in our history would authorize the introduction of evidence obtained by torture in a judicial proceeding. Our courts have always rejected this type of evidence because it is inconsistent with fundamental notions of justice, and also because it is unreliable. We know that detainees were subjected to harsh interrogation techniques, and made statements as a result. Under this legislation, if those statements were made before the passage of the McCain Amendment last winter, then they are admissible. The Congress is saying for the first time in our nation's history that statements obtained by torture are admissible. This fact, alone, is a stunning statement about how far we have strayed from our bedrock values.

It defines conduct that can be prosecuted as a war crime in a very narrow way that appears designed to exclude many of the abusive interrogation practices that this administration has employed. While some have argued that cruel and inhumane practices such as waterboarding, induced hypothermia and sleep deprivation would surely be covered, the White House and the Republican leadership have refused to commit to this basic interpretation of the bill.

We tried to improve this bill. A number of amendments were offered and should have been adopted. I offered an amendment that responds to the lack of clarity about which practices are prohibited by the bill. Because the administration has refused to commit itself to stop using specific abusive interrogation procedures, our commitment to the standards of Common Article 3 of the Geneva Conventions is in doubt. That puts our own people at risk. As military leaders have repeatedly stated, our adherence to the Geneva Conventions is essential to protect our own people around the world. America has thousands of people across the globe who do not wear uniforms, but put their lives on the line to protect this country every day. CIA agents, Special Forces members, contractors, journalists and others will all be less safe if we turn our backs on the standards of Common Article 3.

The bill as it has reached the floor would diminish the security and safety of Americans everywhere and further erode our civil liberties. I strongly oppose this bill.

Mr. GRASSLEY. Mr. President, we hear on a daily basis about the war we are currently engaged in, the war on terror, but I don't think most of us stop to think about what that actually means.

As citizens of the greatest country in the world, we have become so accustomed to all the rights afforded us by our Constitution that we now take them for granted. We are incredibly fortunate to live in a nation where our freedom and safety is our Government's first priority.

We aren't living in the world I grew up in. Our Nation was rocked to its core 5 years ago when we were attacked on our own soil. Thousands of innocent Americans were murdered simply because they lived in the one country that, above all others, embodies freedom and democracy. The mastermind behind those attacks was Khalid Shaikh Mohammed, who is now in custody and soon will be brought to justice.

In the aftermath of these attacks, Congress authorized our President to "use all necessary force against those nations, organizations, or persons he determines planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons." President Bush used this authorization, combined with his constitutional powers to make these sorts of judgments during times of war, to try enemy combatants in military commissions.

Earlier this month, we observed the 5-year anniversary of the horrific attacks on America. I cannot imagine the reaction that would have come if, 5 years ago, Members of Congress had stood on this floor and suggested that we wouldn't do all we could to prevent another attack on our country. Five years ago, with the images of the collapsing Twin Towers and the burning Pentagon and the smoldering Pennsylvania field seared into our memories, we stood united in the proposition that we intended to protect Americans first.

In Hamdan v. Rumsfeld, which the Supreme Court decided earlier this year, the Court ruled that the administration's use of military commissions to try unlawful enemy combatants violated international law. This decision forced our interrogators, key in defending America from terrorist attack, to curtail their investigations. Without a clarification of the vague requirements, these interrogators might be subject to prosecution for war crimes. It also brought to an end the prosecution of unlawful enemy combatants through the military commissions.

It is key to point out that military commissions have been used throughout American history to bring enemy combatants to justice since before the United States was even officially formed. George Washington used them during the American Revolution, and since our Constitution was ratified, Presidents have used military commissions to try those who seek to harm Americans during every major conflict. Some of our most popular Presidents from history have taken this route, including Abraham Lincoln and Franklin Roosevelt. Whenever the leaders of this great Nation have seen threats posed by those who refuse to abide by the rules of war, they have taken the necessary steps to protect us.

Our President has come to us and asked for help in trying these terrorists whose sole goal is to kill those who love freedom. He has asked for our help in ensuring that those investigating potential terrorist plots against our Nation and our citizens are secure from arbitrary prosecution for undefined war crimes. These people are part of our first line of defense in securing the safety of our country—we owe it to them to protect them. Because of the Supreme Court's decision in Hamdan, the only way these terrorists will be brought to justice and our interrogators will be protected for doing their jobs is for Congress to write a new law codifying procedures for military commissions and clarifying our obligations under the Geneva Conventions.

I firmly believe that enemy combatants in our custody enjoyed ample due process in the military commissions established by the administration, which were brought to a halt by the Supreme Court. The compromise that we are considering here today gives more rights to terrorists who were caught trying to harm America and our allies than our own servicemembers would receive elsewhere, more than is required by the Geneva Conventions—yet some are still demanding more.

Mr. President, it is essential that we protect human dignity at every opportunity, but we have gone well beyond that with this legislation. The legislation before us responds to the Supreme Court's decision in Hamdan and seeks to protect national security while ensuring that the terrorists who seek to destroy America are properly dealt with. This bill affords these unlawful enemy combatants rights that they themselves would never consider granting American soldiers. It is beyond reasonable, beyond fair, and beyond time for Congress to act. We must pass this bill and reinstate the programs that, I believe, have been a crucial part of our Nation's security over the last 5 years.

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the Record a joint statement regarding alleged violations of the Geneva Conventions.

There being no objection, the material was ordered to be printed in the Record, as follows:

Joint Statement of Senators McCain, Warner, and Graham on Individual Rights Under the Geneva Conventions, September 28, 2006

Mr. President, we are submitting this statement into the record because it has been suggested by some that this legislation would prohibit litigants from raising alleged violations of the Geneva Conventions. This suggestion is misleading on three counts.

First, it presumes that individuals currently have a private right of action under Geneva. Secondly, it implies that the Congress is restricting individuals from raising claims that the Geneva Conventions have been violated as a collateral matter once they have an independent cause of action. Finally, this legislation would not stop in any way a court from exercising any power it has to consider the United States' obligations under the Geneva Conventions, regardless of what litigants say or do not say in the documents that they file with the court.

The Supreme Court's decision in Hamdan left untouched the widely-held view that the Geneva Conventions provide no private rights of action to individuals. And, in fact, the majority in Hamdan suggested that the Geneva Conventions do not afford individuals private rights of action, although it did not need to reach that question in its decision. This view has been underscored by judicial precedent—and even Salim Hamdan himself did not claim in his court filings that he had a private right of action under Geneva.

Still, this legislation would not bar individuals from raising to our Federal courts in their pleadings any allegation that a provision of the Geneva Conventions—or, for that matter, any other treaty obligation that has the force of law—has been violated. It is not the intent of Congress to dictate what can or cannot be said by litigants in any case.

By the same token, this legislation explicitly reserves untouched the constitutional functions and responsibilities of the judicial branch of the United States. Accordingly, when Congress says that the President can interpret the meaning of Geneva, it is merely reasserting a longstanding constitutional principle. Congress does not intend with this legislation to prohibit the Federal courts from considering whether the obligations of the United States under any treaty have been met. To paraphrase an opinion written by Chief Justice Roberts recently, if treaties are to be given effect as Federal law under our legal system, determining their meaning as a matter of Federal law is the province and duty of the judiciary headed by the Supreme Court. So, though the President certainly has the constitutional authority to interpret our Nation's treaty obligations, such interpretation is subject to judicial review. It is not the intent of Congress to infringe on any constitutional power of the

Federal bench, a co-equal branch of government.

Most importantly, the lack of judicial enforceability through a private right of action has absolutely no bearing on whether Geneva is binding on the executive branch. Even if the Geneva Conventions are not enforceable by individuals in our Nation's courts, the President and his subordinates are bound to comply with Geneva, a set of treaty obligations that forms part of our American jurisprudence. That is clear to us and to all who have negotiated this legislation in good faith.

Mrs. BOXER. Mr. President, I view this bill as a weak plan that will lead to delay after delay in convicting terrorists, endanger our troops on the field, and surrender one of the bedrock constitutional principles of our justice system—habeas corpus.

We had a chance to improve this bill with amendments, but this rubber stamp Senate defeated them one after another, leaving us with a flawed plan that will face a serious court challenge, and that makes us less safe.

The Republicans even voted against a bipartisan bill that came out of the Senate Armed Services Committee.

Mr. McCONNELL. Mr. President, I rise today in support of the Military Commissions Act of 2006. I support this legislation, first and foremost, because this bill recognizes that we are a Nation at war. We are a Nation at war, and we are at war with Islamic extremists. We are not conducting a law enforcement operation against a check-writing scam or trying to foil a bank heist. We are at war against extremists who want to kill our citizens, cripple our economy, and discredit the principles we hold dear—freedom and democracy.

Once you accept the premise that we are at war, the most important consideration should be, Does this bill protect the American people? I submit that this bill does just that. It does so by permitting the President's CIA interrogation program to continue. This is of profound importance.

If the attacks of September 11, 2001, taught us anything, it is that self-imposed limitations on our intelligence-gathering efforts can have devastating consequences. For instance, the wall of separation between the intelligence community and the law enforcement community that existed prior to 2001 proved to be an imposing hurdle to foiling the September 11 attacks. According to the report of the 9/11 Commission, in late summer 2001, the U.S. Government, in effect, conducted its search for 9/11 hijacker Khalid Mihdhar with one hand tied behind its back. As we all know, that search was unsuccessful. Comparable pre-9/11 efforts with respect to Zacarias Moussaoui were similarly frustrated in large part due to this wall.

Thankfully, with the PATRIOT Act, we removed this wall of separation, and now the intelligence and law enforcement arms of our Government can share information and more effectively protect us here at home.

Another lesson of September 11 was the premium that should be placed on human intelligence. Prior to September 11, we were woefully deficient in our human intelligence regarding al-Qaida. Al-Qaida is an extremely difficult organization to infiltrate. You can't just pay dues and become a member. But interrogation offers a rare and valuable opportunity to gather vital intelligence about al-Qaida's capabilities and plans before they attack us.

The CIA interrogation program provided crucial human intelligence that has saved American lives by helping to prevent new attacks. As the President has explained, 9/11 mastermind Khalid Shaikh Mohammed told the CIA about planned attacks on U.S. buildings in which al-Qaida members were under orders to set off explosives high enough in the building so the victims could not escape through the windows.

As the President also noted, the program has also yielded human intelligence regarding al-Qaida's efforts to obtain biological weapons such as anthrax. And it has helped lead to the capture of key al-Qaida figures, such as KSM and his accomplice, Ramzi bin al Shibh.

Another means of evaluating the importance of this program is by considering a grim hypothetical. What if al-Qaida or other terrorists organizations were able to get their hands on nuclear, chemical, or biological weapons and were trying to attack a major U.S. city? Thousands or even millions of lives could be at stake. Under such a chilling scenario, wouldn't we want our intelligence community to have all possible tools at its disposal? Would we want our intelligence community to respond with one hand tied behind its back as it did before September 11?

Unfortunately, that threat is all too real. The potential for al-Qaida to attack a U.S. city with a device that could kill millions of people reflects how vital it is to permit the intelligence community to make full use of the tools it needs to continue protecting American lives. The compromise preserves this crucial intelligence-gathering tool and allows the CIA and others on the front lines to continue protecting America.

In addition, this bill protects classified information from being released to al-Qaida terrorists. This also is a serious concern. The identities of U.S. intelligence officials and informants—men and women who put their lives at risk to defend this Nation—must be protected at all costs.

If we needed any reminding why terrorists should not be given sensitive information, we should just look at the prosecution of the 1993 World Trade Center bombers. According to the man who prosecuted these Islamic extremists, intelligence from U.S. Government files was supplied to the defendants through the discovery process.

This information was later delivered directly to Osama bin Laden while he was living in Sudan. Let me repeat that. Information given to the jihadist defendants, individuals who tried to destroy the World Trade Center in 1993, was later given directly to bin Laden himself.

Since we are at war, we should not be revealing classified information to the enemy. That is just common sense. This bill protects classified information.

Finally, while this bill preserves our ability to continue to protect America, it also provides detainees with fair procedural rights.

In fact, this legislation provides broader protections for defendants than did Nuremberg. Liberal law professor Cass Sunstein has written that the military commissions authorized by the President in 2001 "provide far greater procedural safeguards than any previous military commission, including Nuremberg." Let me say that again: liberal law professor Cass Sunstein noted that the President's 2001 military order provided far greater procedural safeguards than any previous military commission, including Nuremberg. And in this legislation, we provide defendants with even broader procedural safeguards than the President's 2001 military order.

This system is exceedingly fair since al-Qaida in no way follows the Geneva Conventions or any other international norm. Al-Qaida respects no law, no authority, no legitimacy but that of its own twisted strain of radical Islam.

Al-Qaida grants no procedural rights to Americans they capture. Look at journalist Daniel Pearl, who was beheaded by al-Qaida in Pakistan in 2002. Al-Qaida simply executes those they capture, even civilians like Pearl. Not only do they unapologetically kill innocent civilians, they broadcast these brutal executions on the Internet for all to see.

Mr. President, I would just conclude by stating that this legislation is vitally important. It is vitally important because it is wartime legislation. It is vitally important because this bill protects our national security, it protects classified information, and it protects the rights of defendants. Most important, it protects America. For these reasons, I urge its passage.

Mr. CORNYN. Mr. President, once the Military Commissions Act, MCA, is signed into law and section 7 is effective, Congress will finally accomplish what it sought to do through the Detainee Treatment Act—DTA last year. It will finally get the lawyers out of Guantanamo Bay. It will substitute the blizzard of litigation instigated by Rasul v. Bush with a narrow DC Circuit-only review of the Combatant Status Review Tribunal—CSRT—hearings.

Perhaps even more important than the narrow standards of review created by the DTA is the fact that that review is exclusive to the court of appeals. This is by design. Courts of appeals do not hold evidentiary hearings or otherwise take in evidence outside of the administrative record. The DC Circuit will operate no differently under the CSRT review provisions of the DTA. The circuit court will review the administrative record of the CSRTs to make sure that the right standards were applied, the standards that the military itself set for CSRTs. And it will determine whether the CSRT system as a whole is consistent with the Constitution and with Federal statutes.

There is no invitation in the DTA or MCA to reconsider the sufficiency of the evidence. Weighing of the evidence is a function for the military when the question is whether someone is an enemy combatant. Courts simply lack the competence—the knowledge of the battlefield and the nature of our foreign enemies—to judge whether particular facts show that someone is an enemy combatant. By making review exclusive to the DC Circuit, the DTA helps to ensure that the narrow review standards it sets do not somehow grow into something akin to Federal courts' habeas corpus review of State criminal convictions. The court's role under the DTA is to simply ensure that the military applied the right rules to the facts. It is not the court's role to interpret those facts and decide what they mean.

Because review under the DTA and MCA will be limited to the administrative record, there is no need for any lawyer to ever again go to Guantanamo to represent an enemy combatant challenging his detention. The military, I am certain, will make the paper record available inside the United States. This is one of the major benefits of enacting the MCA. As I and others have noted previously, the hundreds of lawyer visits to Guantanamo sparked by Rasul have seriously disrupted the operation of the Naval facility there. They have forced reconfiguration of the facility and consumed enormous resources, and have led to leaks of information that have made it harder for our troops there to do their job, to keep order at Guantanamo. Some of these detainee lawyers have even bragged about what a burden their activities have been on the military, and how they have disrupted interrogations at Guantanamo. Putting an end to that was the major purpose of the DTA. Today, with the MCA, we see to it that this goal is effectuated.

Another major improvement that the MCA makes to the DTA is that it tightens the bar on nonhabeas lawsuits contained in 28 U.S.C. §2241(e)(2). That paragraph, as enacted by the DTA, barred postrelease conditions-of-confinement lawsuits, but only if the detainee had been found to be properly detained as an enemy combatant by the U.S. Court of Appeals on review of a CSRT hearing. Although nothing in the DTA or MCA directly requires the military to conduct CSRTs, this limitation on the bar to non-habeas actions effectively did compel the military to hold CSRTs—and to somehow get the detainee to appeal to the DC Circuit. The alternative would have been to allow the detainee to sue U.S. troops at Guantanamo after his release.

The MCA revises section 2241(e)(2) by, among other things, adopting a much narrower exception to the bar on postrelease lawsuits. Under the MCA, 2242(e)(2) will bar nonhabeas lawsuits so long as the detainee "has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination." This new language does several things. First, it eliminates the requirement that the DC Circuit review a CSRT, or that a CSRT even be held, before nonhabeas actions are barred. This is important because many detainees were released before CSRTs were even instituted. We do not want those who were properly detained as enemy combatants to be able to sue the U.S. military. And we do not want to force the military to hold CSRT hearings forever, or in all future wars. Instead, under the new language, the determination that is the precondition to the litigation bar is purely an executive determination. It is only what the United States has decided that will matter.

In addition, the language of (e)(2) focuses on the propriety of the initial detention. There inevitably will be detainees who are captured by U.S. troops, or who are handed over to us by third parties, who initially appear to be enemy combatants but who, upon further inquiry, are found to be unconnected to the armed conflict. The U.S. military should not be punished with litigation for the fact that they initially detained such a person. As long as the individual was at least initially properly detained as an enemy combatant, the nonhabeas litigation is now barred, even if the U.S. later decides that the person was not an enemy combatant or no longer poses any threat. The inquiry created here is not unlike that for reviewing, in the civilian criminal justice context, the propriety of an arrest. An arrest might be entirely legal, might be based on sufficient probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, simply because the suspect was not later convicted of a crime. Similarly, under 2241 (e)(2), detainees will not be able to sue their captors and custodians if the United States determines that it was the right decision to take the individual into custody.

Mr. SESSIONS. Mr. President, I would like to make a few comments about section 7 of the bill that is before us today. This section makes a number of improvements to the Detainee Treatment Act, which was passed by the Congress and signed into law on December 30 of last year. First, section 7 will fulfill one of the original objectives of the DTA: to get the lawyers out of Guantanamo Bay. As my colleague Senator GRAHAM has noted, these lawyers have even bragged about the fact that their presence and activities at Guantanamo have made it harder for the military to do its job. Mr. Michael Ratner, the director of the Center for Constitutional Rights, which coordinated much of the detainee habeas litigation, had this to say about his activities to a magazine:

> The litigation is brutal for [the United States.] It's huge. We have over one hundred lawyers now from big and small firms working to represent the detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

This is what Congress thought that it was putting an end to when it enacted the DTA in 2005. That act provided that "no court, justice, or judge shall have jurisdiction to hear or consider" claims filed by Guantanamo detainees, except under the review standards created by that Act. The DTA was made effective immediately upon the date of its enactment. And as Justice Scalia noted in his Hamdan v. Rumsfeld dissenting opinion, the DTA's jurisdictional removal made no exception for lawsuits that were pending when the statute was enacted. Justice Scalia also pointed out that "[a]n ancient and unbroken line of authority attests that statutes ousting jurisdiction unambiguously apply to cases pending at their effective date." He also noted that up until the Hamdan decision, "one cannot cite a single case in the history of Anglo-American law . . . in which a jurisdiction-stripping provision was denied immediate effect in pending cases, absent an explicit statutory reservation."

The Hamdan majority, on the other hand, found that the Supreme Court's precedents governing jurisdictional statutes were trumped in that case by a legislative intent to preserve the pending lawsuits. This congressional intent, the majority concluded, was manifested in minor changes that had been made to the language of the bill and, most expressly, in statements made by Senators regarding the intended effect of the bill. As Senator GRAHAM has explained in detail in remarks in the CONGRESSIONAL RECORD on August 3, at 152 Cong. Rec. 16944, it appears that the Supreme Court was misled about the legislative history of the DTA by the lawyers for Hamdan. Those lawyers misrepresented the nature of the statements made in the Senate and caused the court to believe that Congress had an intent other than that reflected in the text of the statute. It certainly was not my intent, when I voted for the DTA, to exempt all of the pending Guantanamo lawsuits from the provisions of that act.

Section 7 of the Military Commissions Act fixes this feature of the DTA and ensures that there is no possibility of confusion in the future. Subsection (b) provides that the bill's revised litigation bar "shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001." I don't see how there could be any confusion as to the effect of this act on the pending Guantanamo litigation. The MCA's jurisdictional bar applies to that litigation "without exception."

The new bill also bars all litigation by anyone found to have been properly detained as an enemy combatant, regardless of whether the detainee has been through the DC Circuit under the DTA or has been through a Combatant Status Review Tribunal hearing. The previous version of this bar, in the DTA, allowed detainees to bring conditions-of-confinement lawsuits after their release if their detention was not reviewed by the DC Circuit. Obviously, the Government could not force the detainee to appeal, and there are some who were released before CSRT hearings were instituted. The new bill states that as long as the military decides that it was appropriate to take the individual into custody as an enemy combatant, as a security risk in relation to a war, that person cannot turn around and sue our military after he is released. It should not be held against our soldiers that they take someone into custody, believing in good faith that he appears to be connected to hostilities against the United States, and then determine that the individual is not an enemy combatant and release the person. The fact of release should not be an invitation to litigation, so long as the military finds that it was appropriate to take the individual into custody in the first place.

The biggest change that the MCA makes to section 2241(e) is that the new law applies globally, rather than just to Guantanamo detainees. We are legislating through this law for future generations, creating a system that will operate not only throughout this war, but for future wars in which our Nation fights. In the future, we may again find ourselves involved in an armed conflict in which we capture large numbers of enemy soldiers. It is not unlikely that the safest and most secure place to hold those soldiers will be inside the United States. The fact that we hold those enemy soldiers in this country should not be an invitation for each of them to sue our Government. We held very large numbers of enemy soldiers in this country during World War II. They did not sue our Government seeking release. The Rasul decision would seem to have required that enemy combatants held in this country during wartime can sue. If that court allowed enemy combatants held in Cuba to sue, it is inevitable that those held inside this country would have been allowed to sue as well. That is simply not acceptable. It would make it very difficult to fight a major war in the future if every enemy war prisoner detained inside this country could sue our military. Through section 7 of the MCA, we not only solve our current problems with Guantanamo, but we plan for future conflicts as well. We ensure that, if need be, we can again hold enemy soldiers in prison camps inside our country if we need to, without becoming embroiled in a tempest of litigation.

I imagine that, now that Congress has clearly shut off access to habeas lawsuits, the lawyers suing on behalf of the detainees will shift their efforts toward arguing for an expansive interpretation of the judicial review allowed under the DTA. Paragraphs 2 and 3 of section 1005(e) of the DTA allow the DC Circuit to review a CSRT enemy combatant determination. The Government has provided a CSRT hearing to every detainee held at Guantanamo, with the likely exception of those transferred there this month, so all of those detainees will now be allowed to seek DTA review in the DC Circuit. Paragraphs 2 and 3 allow the DC Circuit to ask whether the military applied its own standards and procedures for CSRTs to the detainee, and they allow the court to ask whether those standards are constitutional and are consistent with nontreaty Federal law. I think that those standards speak for themselves, that they clearly allow only a very limited review. In particular, they do not allow the courts to second-guess the military's evidentiary findings. The courts simply are not in a position, they do not have the expertise, to judge whether particular evidence suggests that an individual is an enemy combatant.

I would like to note here that this is the consensus view of the DTA at this time, at least for now. I have no doubt that in the future, lawyers will argue that these standards invite the court to reweigh the evidence, to take in evidence outside of the CSRT record, and to decide if the military was right about its factual judgment. At this time, however, both proponents and opponents of section 7 of the MCA seem to agree on what kind of review it will allow. Earlier today, for example, I heard Senator SPECTER, who opposes section 7, criticize the paragraph 2 and 3 review standards on the Senate floor. He said, "the statute provides that the Combatant Status Review Tribunal may be reviewed by the Court of Appeals for the District of Columbia only to the extent that it was—the ruling was consistent with the standards and procedures specified by the Secretary of Defense. Now, to comply with the standards and procedures determined by the Secretary of Defense does not mean—excludes on its face—a factual determination as to what happens to the detainees."

I have also come into possession of a so-called fact sheet on the DTA review standards that is being distributed on Capitol Hill by Human Rights First, a group that is lobbying Senators to oppose the MCA and to support the Specter amendment that was defeated earlier today. This fact sheet is titled, "The Limited Review Allowed Under the DTA is No Substitute for Habeas." Here is what the Human Rights First fact sheet says:

> The DTA restricts the court to determining whether the prior CSRTs followed their own procedures.
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> * * * * *
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> It has been suggested that the court of appeals, in reviewing the CSRT decisions, can fix the problem simply by choosing to review the evidence itself. But that is simply not the way the statute reads. The government has taken the firm position in Bismullah that no review even of "significant exculpatory evidence" is permitted under the DTA. If Congress believes that the courts should be allowed to review the evidence—and they clearly should be—then it should change the statute to say so. It is no solution to hope that the courts will ignore the actual statutory language and rewrite the statute to correct the deficiency.

There you have it. Senators have been told in floor debate by the chairman of the Judiciary Committee that the DTA "excludes on its face" any factual determination with regard to the Guantanamo detainees. The groups lobbying Senators with regard to the MCA have pointed out that having courts make their own factual determinations, to judge the sufficiency of the evidence behind the military's findings, "is simply not the way the statute reads." We are informed that the Justice Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that "the courts should be allowed to review the evidence," then we "should change the statute to say so." The Senate is clearly on notice as to how the DTA review will work, what the statute says on its face, how the Justice Department has construed that statute. By rejecting the Specter amendment earlier today, and by passing the MCA later today, the Senate makes clear that it does not disagree with the Justice Department and does not want to change this system.

I will close my remarks by quoting at length from the testimony of U.S. Attorney General William Barr, who spoke on the matters addressed by this legislation before the Judiciary Committee on June 15, 2005. Mr. Barr's testimony informs our understanding of the history, law, and practical reality underlying the DTA and the MCA. I would commend his statement to anyone seeking to understand these statutes and the complex relationship between the President's war-making power and the judiciary. This relationship is superficially similar to, but is fundamentally different from, the judiciary's oversight of the civilian criminal justice system. I particularly found to be true Mr. Barr's emphasis that the proper role of the courts in this area is not accurately described as "deference" to military decisions because deference implies that the ultimate decisions still lie with the courts. As Mr. Barr notes, "the point here is that the ultimate substantive decision rests with the President and that the courts have no authority to substitute their judgments for that of the President."

Here is an extended excerpt from Attorney General Barr's testimony regarding the detention of alien enemy combatants:

> The determination that a particular foreign person seized on the battlefield is an enemy combatant has always been recognized as a matter committed to the sound judgment of the Commander in Chief and his military forces. There has never been a requirement that our military engage in evidentiary proceedings to establish that each individual captured is, in fact, an enemy combatant. Nevertheless, in the case of the detainees at Guantanamo, the Deputy Secretary of Defense and the Secretary of the Navy have established Combatant Status Review Tribunals ("CSRTs") to permit each detainee a fact-based review of whether they are properly classified as enemy combatants and an opportunity to contest such designation.
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> As to the detention of enemy combatants, World War II provides a dramatic example. During that war, we held hundreds of thousands of German and Italian prisoners in detention camps within the United States. These foreign prisoners were not charged with anything; they were not entitled to lawyers; they were not given access to U.S. courts; and the American military was not required to engage in evidentiary proceedings to establish that each was a combatant. They were held until victory was achieved, at which time they were repatriated. The detainees at Guantanamo are being held under the same principles, except, unlike the Germans and Italians, they are actually being afforded an opportunity to contest their designation as enemy combatants.
>
> Second, once hostile forces are captured, the subsidiary question arises whether they belonged to an armed force covered by the protections of the Geneva Convention and hence entitled to POW status? If the answer is yes, then the captives are held as prisoners of war entitled to be treated in accord with the various requirements of the Convention. If the answer is no, then the captives are held under humane conditions according to the common law of war, though not covered by the various requirements of the Convention. The threshold determination in deciding whether the Convention applies is a "group" decision, not an individualized decision. The question is whether the military formation to which the detainee belonged was covered by the Convention. This requires that the military force be that of a signatory power and that it also comply with the basic requirements of Article 4 of the Treaty, e.g., the militia must wear distinguishing uniforms, retain a military command structure, and so forth. Here, the President determined that neither al-Qaeda nor Taliban forces qualified under the Treaty.
>
> The third kind of action we are taking goes beyond simply holding an individual as an enemy combatant. It applies so far only to a subset of the detainees and is punitive in nature. In some cases, we are taking the further step of charging an individual with violations of the laws of war. This involves individualized findings of guilt. Throughout our history we have used military tribunals to try enemy forces accused of engaging in war crimes. Shortly after the attacks of 9/11, the President established military commissions to address war crimes committed by members of al-Qaeda and their Taliban supporters.
>
> Again, our experience in World War II provides a useful analog. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war, and in its immediate aftermath, to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions.
>
> Let me turn to address some of the challenges being made to the way we are proceeding with these al-Qaeda and Taliban detainees.
>
> I. THE DETERMINATION THAT FOREIGN PERSONS ARE ENEMY COMBATANTS
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> The Guantanamo detainees' status as enemy combatants has been reviewed and rereviewed within the Executive Branch and the military command structure. Nevertheless, the argument is being advanced that foreign persons captured by American forces on the battlefield have a Due Process right under the Fifth Amendment to an evidentiary hearing to fully litigate whether they are, in fact, enemy combatants. In over 225 years of American military history, there is simply no precedent for this claim.
>
> The easy and short answer to this claim is that it has been, as a practical matter, mooted by the military's voluntary use of the CSRT process, which gives each detainee the opportunity to contest his status as an enemy combatant. As discussed below, those procedures are clearly not required by the Constitution. Rather they were adopted by the military as a prudential matter.
>
> Nonetheless, those procedures would plainly satisfy any conceivable due process standard that could be found to apply. In its recent Hamdi decision, the Supreme Court set forth the due process standards that would apply to the detention of an American citizen as an enemy combatant. The CSRT process was modeled after the Hamdi provisions and thus provides at least the same level of protection to foreign detainees as the Supreme Court said would be sufficient to detain an American citizen as an enemy combatant. Obviously, if these procedures are sufficient for American citizens, they are more than enough for foreign detainees who have no colorable claim to due process rights.
>
> Moreover, most of the guarantees embodied in the CSRT parallel and even surpass the rights guaranteed to American citizens who wish to challenge their classification as enemy combatants. The Supreme Court has indicated that hearings conducted to determine a detainee's prisoner-of-war status, pursuant to the Geneva Convention, could satisfy the core procedural guarantees owed to an American citizen. In certain respects, the protocols established in the CSRTs closely resemble a status hearing, as both allow all detainees to attend open proceedings, to use an interpreter, to call and question witnesses, and to testify or not testify before the panel. Furthermore, the United States has voluntarily given all detainees rights that are not found in any prisoner-of-war status hearing, including procedures to ensure the independence of panel members and the right to a personal representative to help the detainee prepare his case. Nevertheless, there appear to be courts and critics who continue to claim that the Due Process Clause applies and that the CSRT process does not go far enough. I believe these assertions are frivolous.
>
> I am aware of no legal precedent that supports the proposition that foreign persons confronted by U.S. troops in the zone of battle have Fifth Amendment rights that they can assert against the American troops. On the contrary, there are at least three reasons why the Fifth Amendment has no applicability to such a situation. First, as the Supreme Court has consistently held, the Fifth Amendment does not have extra-territorial application to foreign persons outside the United States. As Justice Kennedy has observed, "[T]he Constitution does not create, nor do general principles of law create, any juridical relation between our country and some undefined, limitless class of non-citizens who are beyond our territory." Moreover, as far as I am aware, prior to their capture, none of the detainees had taken any voluntary act to place themselves under the protection of our laws; their only connection with the United States is that they confronted U.S. troops on the battlefield. And finally, the nature of the power being used against these individuals is not the domestic law enforcement power—we are not seeking to subject these individuals to the obligations and sanctions of our domestic laws—rather, we are waging war against them as foreign enemies, a context in which the concept of Due Process is inapposite.
>
> In society today, we see a tendency to impose the judicial model on virtually every field of decision-making. The notion is that the propriety of any decision can be judged by determining whether it satisfies some objective standard of proof and that such a judgment must be made by a "neutral" arbiter based on an adversarial evidentiary hearing. What we are seeing today is an extreme manifestation of this—an effort to take the judicial rules and standard applicable in the domestic law enforcement context and extend them to the fighting of wars. In my view, nothing could be more farcical, or more dangerous.
>
> These efforts flow from a fundamental error—confusion between two very distinct

constitutional realms. In the domestic realm of law enforcement, the government's role is disciplinary—sanctioning an errant member of society for transgressing the internal rules of the body politic. The Framers recognized that in the name of maintaining domestic tranquility an overzealous government could oppress the very body politic it is meant to protect. The government itself could become an oppressor of "the people."

Thus our Constitution makes the fundamental decision to sacrifice efficiency in the realm of law enforcement by guaranteeing that no punishment can be meted out in the absence of virtual certainty of individual guilt. Both the original Constitution and the Bill of Rights contain a number of specific constraints on the Executive's law enforcement powers, many of which expressly provide for a judicial role as a neutral arbiter or "check" on executive power. In this realm, the Executive's subjective judgments are irrelevant; it must gather and present objective evidence of guilt satisfying specific constitutional standards at each stage of a criminal proceeding. The underlying premise in this realm is that it is better for society to suffer the cost of the guilty going free than mistakenly to deprive an innocent person of life or liberty. The situation is entirely different in armed conflict where the entire nation faces an external threat. In armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its national defense powers to neutralize the external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicapping the government to preserve other values. Rather it is designed to maximize the government's efficiency to achieve victory—even at the cost of "collateral damage" that would be unacceptable in the domestic realm.

It seems to me that the kinds of military decisions at issue here—namely, what and who poses a threat to our military operations—are quintessentially Executive in nature. They are not amenable to the type of process we employ in the domestic law enforcement arena. They cannot be reduced to neat legal formulas, purely objective tests and evidentiary standards. They necessarily require the exercise of prudential judgment and the weighing of risks. This is one of the reasons why the Constitution vests ultimate military decision-making in the President as Commander-in-Chief. If the concept of Commander-in-Chief means anything, it must mean that the office holds the final authority to direct how, and against whom, military power is to be applied to achieve the military and political objectives of the campaign.

I am not speaking here of "deference" to Presidential decisions. In some contexts, courts are fond of saying that they "owe deference" to some Executive decisions. But this suggests that the court has the ultimate decision-making authority and is only giving weight to the judgment of the Executive. This is not a question of deference—the point here is that the ultimate substantive decision rests with the President and that courts have no authority to substitute their judgments for that of the President.

The Constitution's grant of "Commander-in-Chief" power must, at its core, mean the plenary authority to direct military force against persons the Commander judges as a threat to the safety of our forces, the safety of our homeland, or the ultimate military and political objectives of the conflict. At the heart of these kinds of military decisions is the judgment of what constitutes a threat or potential threat and what level of coercive force should be employed to deal with these dangers. These decisions cannot be reduced to tidy evidentiary standards, some predicate threshold, that must be satisfied as a condition of the President ordering the use of military force against a particular individual. What would that standard be? Reasonable suspicion, probable cause, substantial evidence, preponderance of the evidence, or beyond a reasonable doubt? Does anyone really believe that the Constitution prohibits the President from using coercive military force against a foreign person—detaining him—unless he can satisfy a particular objective standard of evidentiary proof?

Let me posit a battlefield scenario. American troops are pinned down by sniper fire from a village. As the troops advance, they see two men running from a building from which the troops believe they had received sniper fire. The troops believe they are probably a sniper team. Is it really being suggested that the Constitution vests these men with due process rights as against the American soldiers? When do these rights arise? If the troops shoot and kill them—i.e., deprive them of life—could it be a violation of due process? Suppose they are wounded and it turns out they were not enemy forces. Does this give rise to Bivens' Constitutional tort actions for violation of due process? Alternatively, suppose the fleeing men are captured and held as enemy combatants. Does the due process clause really mean that they have to be released unless the military can prove they were enemy combatants? Does the Due Process Clause mean that the American military must divert its energies and resources from fighting the war and dedicate them to investigating the claims of innocence of these two men?

This illustrates why military decisions are not susceptible to judicial administration and supervision. There are simply no judicially-manageable standards to either govern or evaluate military operational judgments. Such decisions inevitably involve the weighing of risks. One can easily imagine situations in which there is an appreciable risk that someone is an enemy combatant, but significant uncertainty and not a preponderance of evidence. Nevertheless, the circumstances may be such that the President makes a judgment that prudence dictates treating such a person as hostile in order to avoid an unacceptable risk to our military operations. By their nature, these military judgments must rest upon a broad range of information, opinion, prediction, and even surmise. The President's assessment may include reports from his military and diplomatic advisors, field commanders, intelligence sources, or sometimes just the opinion of frontline troops. He must decide what weight to give each of these sources. He must evaluate risks in light of the present state of the conflict and the overall military and political objectives of the campaign.

Furthermore, extension of due process concepts from the domestic prosecutive arena as a basis for judicial supervision of our military operations in time of war would not only be wholly unprecedented, but it would be fundamentally incompatible with the power to wage war itself, so altering and degrading that capacity as to negate the Constitution's grant of that power to the President.

First, the imposition of such procedures would fundamentally alter the character and mission of our combat troops. To the extent that the decisions to detain persons as enemy combatants are based in part on the circumstances of the initial encounter on the battlefield, our frontline troops will have to concern themselves with developing and preserving evidence as to each individual they capture, at the same time as they confront enemy forces in the field. They would be diverted from their primary mission—the rapid destruction of the enemy by all means at their disposal—to taking notes on the conduct of particular individuals in the field of battle. Like policeman, they would also face the prospect of removal from the battlefield to give evidence at post-hoc proceedings.

Nor would the harm stop there. Under this due process theory, the military would have to take on the further burden of detailed investigation of detainees' factual claims once they are taken to the rear. Again, this would radically change the nature of the military enterprise. To establish the capacity to conduct individualized investigations and adversarial hearings as to every detained combatant would make the conduct of war—especially irregular warfare—vastly more cumbersome and expensive. For every platoon of combat troops, the United States would have to field three platoons of lawyers, investigators, and paralegals. Such a result would inject legal uncertainty into our military operations, divert resources from winning the war into demonstrating the individual "fault" of persons confronted in the field of battle, and thereby uniquely disadvantage our military vis-à-vis every other fighting force in the world.

Second, the introduction of an ultimate decision maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unitary chain of command and undermine the confidence of frontline troops in their superior officers. The impartial tribunals could literally overrule command decisions regarding battlefield tactics and set free prisoners of war whom American soldiers have risked or given their lives to capture. The effect of such a prospect on military discipline and morale is impossible to predict.

The Supreme Court's decision in Rasul v. Bush does not undercut these long-standing principles. In Rasul, the Supreme Court addressed a far narrower question—whether the habeas statute applies extraterritorially—and expressly refrained from addressing these settled constitutional questions. The Court, in concluding that the habeas statute reached aliens held at Guantanamo Bay, relied on the peculiar language of the statute and the "'extraordinary territorial ambit' of the writ at common law." Of course, the idiosyncrasies of the habeas statute do not have any impact on judicial interpretation of the reach of the Fifth Amendment or other substantive constitutional provisions. Moreover, the Court's recognition in Rasul that the United States exercises control, but "not ultimate sovereignty" over the leased Guantanamo Bay territory confirms the inapplicability of the Fifth Amendment to aliens held there.

Nevertheless, even if Guantanamo Bay is somehow deemed sovereign United States territory, the Fifth Amendment is still inapplicable. The Supreme Court, in addition to the requisite detention on sovereign United States territory, demands that the aliens only "receive constitutional protections" when they have also "developed substantial connections with this country." Thus, under the Court's formulation, "lawful but involuntary" presence in the United States "is

> not of the sort to indicate any substantial connection with our country" sufficient to trigger constitutional protections. The "voluntary connection" necessary to trigger the Fifth Amendment's due process guarantee is sorely lacking with respect to enemy combatants.
>
> Whatever else may be said, there can be no dispute that these individuals did not arrive at Guantanamo Bay by free choice. Captured enemy combatants that have been transported to Guantanamo Bay for detention thus are not entitled to Fifth Amendment due process rights. It should also be noted that the Supreme Court's decision in Rasul was a statutory ruling, not a constitutional one. In other words, the Court concluded only that the federal habeas statute confers jurisdiction on federal district courts to hear claims brought by aliens detained at Guantanamo Bay. The Court nowhere suggested that the Constitution grants such aliens a right of access to American courts.
>
> An important consequence follows: Congress remains free to restrict or even to eliminate entirely the ability of enemy aliens at Guantanamo Bay to file habeas petitions. Congress could consider enacting legislation that does so—either by creating special procedural rules for enemy alien detainees, by requiring any such habeas petitions to be filed in a particular court, or by prohibiting enemy aliens from haling military officials into court altogether."

Mr. President, with the Military Commissions Act, the Senate today enacts Mr. Barr's third suggestion. We create a system that is consistent with our treaty obligations but that also is consistent with military tradition and the needs of our fighting forces in a time of war. It is a system that will serve this Nation well. I look forward to the act's passage and enactment.

Mr. HARKIN. Mr. President, since my years as a pilot with the U.S. Navy, nothing has been more important to me than protecting the American people and ensuring the security of our country.

Today, we are at war with extremists who want to do grievous harm to America. We all want to fight these extremists and defeat them. We all want to ensure that those who committed or supported acts of terror are brought to justice. The only disagreement is about how best to do that. What is the smartest, most effective way to fight and defeat our enemies?

Unfortunately, as the newly declassified National Intelligence Estimate testifies very clearly, our current course is, in many ways, playing into the hands of the terrorists. It is stirring up virulent anti-Americanism around the world, it is drawing new recruits to the jihadists' cause, and it is making America less safe.

We have to do a better job, and we can do a better job. It is not good enough to be strong and wrong. We need to be strong and smart. This is especially true when it comes to our policies on interrogating and trying suspected terrorists. Again, we all want to extract information from these suspects. We all want to try them and, if guilty, punish them. The only disagreement is about how best to do that. What is the smartest, most effective way to interrogate and to try these suspected terrorists?

There is plenty of evidence that our current course, which clearly includes torturing suspects and imprisoning them without trial, is not working. To take just one case in point, consider the Canadian citizen, whom we now know to be completely innocent, who was arrested by the CIA—I use the word "arrested" loosely. He was picked up by the CIA, bound, gagged, blindfolded, and sent to Syria for interrogation under torture. Not surprisingly, he told his torturers exactly what they wanted to hear—that he had received terrorist training in Afghanistan. The truth, of course, is that he was never in Afghanistan, had no terrorist ties, and is completely innocent.

The cost to the United States for this miscarriage of justice, in terms of our forfeited reputation and moral standing, has been disastrous—just as the revelations of torture and abuse at Abu Ghraib. What is more, it has endangered our troops in the field—now and in the future—should they fall into the hands of captors who say they have the right to subject American prisoners to the same torture and abuse.

Again, it is not enough to be strong and wrong. We need to be strong and smart. We need to be true to 230 years of American jurisprudence, our Constitution, and the humane values that define us as Americans.

Back during the dark days of McCarthyism in the 1950s, former Senator Joseph McCarthy went on a rampage. What he was basically saying to the American people is that we have to become like the Communists in order to defeat them. Cooler heads prevailed but not until Senator McCarthy had done a lot of damage in this country, not until a lot of innocent people were blacklisted, denied employment, many of whom committed suicide because they had no place to turn. The dark days of Joseph McCarthy come back to us in the guise of this military tribunal bill.

We do not have to become like the jihadists. We don't have to become like the terrorists in order to defeat them. The best way to defeat them is the same way we defeated Joseph McCarthy and the Communists. We stayed true to our American ideals, our American jurisprudence, and the humane values we cherish as a free society. Regrettably, the bill before us fails this test. I cannot, in good conscience, support it.

The bill includes no barrier on the President's reinterpreting our obligations under the Geneva Conventions as he pleases, allowing practices such as simulated drowning, induced hypothermia, and extreme sleep deprivation. The President can allow all of those to continue, in contravention of the Geneva Conventions.

The bill before us rewrites the War Crimes Act in a way that fails to give clarity as to interrogation techniques that are allowed or forbidden, effectively allowing the administration—any administration—to continue the abusive techniques I just mentioned.

The bill creates a very bizarre double standard, immunizing, on the one hand, policymakers and the CIA and its contractors for committing acts of torture—immunizing them—while leaving our military troops subject to prosecution under the Uniform Code of Military Justice for the exact same practices. Let me repeat that. The bill creates this double standard: it immunizes the CIA, for example, and any contractors with the CIA, for committing acts of torture, while at the same time those same acts, if committed by a military person, would subject that military person to prosecution under the Uniform Code of Military Justice.

What kind of a signal does this send? What kind of signal is this? The bill completely eliminates the ability of noncitizens to bring a habeas corpus petition, effectively removing the only remaining check on the administration's decision regarding torture and other abuses.

Indeed, the habeas provisions in this bill would permit—get this—the bill would permit a legal permanent resident of the United States—a legal permanent resident of the United States—to be snatched off the street in the dark of night, bound, blindfolded, subject to indefinite detention, even torture, with absolutely no way for that person to challenge it in court.

Is that what we want to become as a nation? A legal permanent resident in the United States, of which there are millions in this country, taken out of his or her home at night, and we don't know what happens to them? They go into the dark dungeons of who knows where. Maybe Guantanamo Bay.

Habeas corpus is the only independent remedy available to people being held in indefinite detention who, in fact, have no connection to terrorism.

I heard one of my colleagues on the other side of the aisle going on yesterday about this habeas provision. He went on about how habeas corpus is to protect U.S. citizens. It is in no way, he went on, aimed at protecting enemy combatants who are picked up.

Therein lies the problem. How do we know they are enemy combatants? Is it because the CIA says they are an enemy combatant? Who says they are an enemy combatant? This is not World War II, folks, where the Germans are on one side and they have uniforms, and the Japanese are on the other side and they have uniforms. This is an amorphous terrorist war where the terrorists don't wear uniforms. They can be dressed like you or me. They can look just like you or me. So we don't know.

We have instances where people have been thrown into Guantanamo, for example, and they were fingered by a neighbor who didn't like them and wanted their property or house or didn't like them because of something they had done to them in the past. They fingered them and said: Guess what. They are big terrorists. People were picked up and thrown in jail.

Habeas is the one provision that allows someone snatched off the streets here or anywhere else suspected of being a terrorist to at least come forward and say: What are the charges against me?

We have seen this happen in Guantanamo, people kept for months, for years, without ever having a charge filed against them, and many of them we found out were totally innocent. What does this say to the rest of the world?

Senator OBAMA from Illinois told the story the other day about when he was in Chad in August and heard about an American citizen who was picked up in Sudan and held by the Sudanese. He made some calls to try to get this person released. It was an American journalist. After a while, he was released.

The American journalist came back and said: I was picked up by the Sudanese officials. I asked for permission to contact the U.S. Embassy with a phone call so I could talk to our Embassy.

The Sudanese captor said: Why should we let you do that? You don't let the people in Guantanamo Bay do that.

The use of habeas is not just to protect the people who are suspected so that we know whether they really are an enemy combatant. It is also as a protection for our troops, our soldiers, our civilians, our business people traveling around the world, people traveling on vacation, journalists, just like this one, who may be snatched, picked up by a foreign government. We want to be able to say to that government: Produce the person. What are the charges? If we don't allow it, we are giving the green light to every other would-be dictator anywhere in the world to do the same thing—any government anywhere.

If the moral argument against torture does not hold any weight with this administration, they should just examine the abundant evidence that torture simply doesn't work. This is not just my opinion, this is what the experts are saying.

Let me quote from a letter signed by 20 former U.S. Army interrogators and interrogation technicians:

> Prisoner/detainee abuse and torture are to be avoided at all costs, in part because they can degrade the intelligence collection effort by interfering with a skilled interrogator's efforts to establish rapport with the subject.

Simply put, torture does not help gather useful, reliable, actionable intelligence. In fact, it inhibits the collection of such intelligence.

Earlier this month, the U.S. Army released its new field manual 222.3: "Human Intelligence Collector Operations," which covers interrogations by the U.S. military in detail. This manual replaces the previous manual and is to be used by our military personnel around the world in performing interrogations.

The Army Field Manual explicitly bans, among other things, beating prisoners, sexually humiliating them, threatening them with dogs, depriving them of food and water, performing mock executions, shocking them with electricity, burning them, causing other pain, or subjecting them to the technique called waterboarding, which simulates drowning.

So if these techniques are explicitly banned in the Army Field Manual, why shouldn't they be explicitly banned for CIA personnel or CIA contract personnel? Why do we have a high standard for our military and effectively no standard for the CIA and its contractors?

For me, this debate about illegal imprisonment and officially sanctioned torture is not an abstraction. It strikes very close to home for me.

Thirty-six years ago this summer at the height of the Vietnam war, I brought back photographs of the so-called tiger cages at Con Son Island where the Vietcong and North Vietnamese prisoners, as well as civilians who had committed no crime whatsoever, were being tortured and killed with the full knowledge and sanction of the U.S. Government. That was July of 1970 when I was a staff person in the House of Representatives working with a congressional delegation on a fact-finding trip to Vietnam.

We had all heard reports about the possible existence of these so-called tiger cages in which people were brutally tortured and killed. Our State Department and our military officials denied their existence. They said it was only Communist propaganda.

Through various sources, I thought that the reports about the tiger cages were at least credible and should be investigated further.

Thanks to the courage of Congressman William Anderson of Tennessee and Congressman Augustus Hawkins of California and to Don Luce, an American working for a nongovernmental organization, and because of the bravery of a young Vietnamese man who gave us the maps on how to find the prison, we were able to expose the tiger cages on Con Son Island.

This young Vietnamese man about whom I speak was let out of the tiger cages, but they kept his brother, and they said: If you breathe one word about this, we are going to kill your brother.

Why did they let him out of the tiger cages? Because he was president of the student body at Saigon University. What had been his crime? He had demonstrated against the war. So they picked up he and his brother and threw them in the tiger cages and tortured them.

The students refused to go back to class—this was a big deal—until they returned this young man to his university, which they did, but they kept his brother and said: If you breathe a word of this, we will kill him.

This young man decided he needed to take a chance, and he took a chance on me. He drew the maps and gave us the story on how to find these tiger cages which were well hidden, and without the maps we never would have found them. Fortunately, I had a camera and a hidden tape recorder which proved useful when I returned to the United States.

Supporters of the war claim that the tiger cages were not all that bad. But then Life magazine published my pictures, and the world saw the horrific conditions where, in clear violation of the Geneva code, North Vietnamese, Vietcong, as well as civilian opponents of the war—just civilians—who committed no crimes whatsoever—were all crowded together in these cages, as I said, in clear violation of the Geneva Conventions and the most fundamental principles of human rights.

At the same time, the U.S. Government had been insisting that the North Vietnamese abided by the Geneva Conventions in their treatment of prisoners in North Vietnam. Yet here we were condoning and even supervising the torture of civilian Vietnamese, along with Vietnamese soldiers and others in clear violation of the Geneva Conventions.

We may not have known about it—our public did not know about that—but the Vietnamese sure knew about it.

I thought we had learned our lesson from that, and then I saw Abu Ghraib and thought: Wait a minute. Haven't we learned our lesson? And, Mr. President, just as 37 years ago when the tiger cages were first talked about, they were denied—and they thought they could deny them because it was hard to get to the island. You couldn't really get out there. As far as they knew, no one had ever taken pictures of it and no one had really ever escaped from there, like a Devil's Island kind of place. So the military denied it. Our Government denied it year after year until I was able to take the pictures and bring back the evidence.

Mr. President, I submit to you and everyone here and the American people that had not that courageous soldier taken the pictures of Abu Ghraib and kept those pictures, they would have denied that ever happened. They would have denied to high Heaven that such things took place at Abu Ghraib. Thankfully, one courageous young soldier decided this was wrong, it was inhumane, it was not upholding the highest human standards of America, and it was in violation of the Geneva Conventions. Had he not taken those pictures, it would be denied forever that ever happened at Abu Ghraib.

So now, as if we learned nothing from that previous tragedy of the tiger cages 36 years ago or Abu Ghraib just a couple of years ago, here we go again denying obvious instances of torture and abuse, effectively giving the green light to torture by U.S. Government agents and contractors and watering down the War Crimes Act.

This is a betrayal of our laws. It is a betrayal of our values. It is a betrayal of everything that makes us unique. and proud to be Americans.

The administration apparently thinks that we will just go along with this betrayal because there is an election in 6 weeks. Apparently they think we are afraid of being branded weak on terrorism. Indeed, some are no doubt hoping that we will vote against this bill so they can use it as a bludgeon against us in the election. All I can say is: Shame on them. What is more, it is not going to work. Because opposing this bill, which would give the green light to torture, is far, far bigger than the outcome of the November election.

This is about preserving our core values as Americans. It is about standing up for our troops and ensuring that they do not become subject to the same acts of torture and retaliation. It is about standing up for American citizens, civilians, and others who may be caught up in some foreign land with false charges filed against them, and yet not even being able to contact our embassy. It is about protecting Americans. And it is about changing course and beginning to wage an effective war against the terrorists who attacked us on September 11, 2001.

It is time to quit being strong and wrong, and it is time to start being strong and smart. Being strong and wrong has been a disaster. It has bogged us down in a civil war in Iraq. It has turbocharged the terrorists. It has made America less safe. So it is time to be strong and smart. It is time to be true to who we are as Americans. It is time to say no to indefinite—indefinite—incarceration. It is time to say no to taking away the right of someone put away to at least have the charges pressed against them. It is time to say no to torture in all its forms now and at any time in the future.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, I want to start by complimenting Senators WARNER, MCCAIN and GRAHAM and the work that they did to improve this bill, particularly in two areas.

First, our colleagues did the right thing by rejecting the attempt by the administration to reinterpret, by statute, Common Article III of the Geneva Conventions. That would have been an enormous mistake—and an invitation for other countries to define for themselves what the Geneva Conventions require.

Second, our colleagues were right to reject the use of secret evidence in military commissions. Such a proposal is not consistent with American jurisprudence, and would not have satisfied the requirements of the Supreme Court decision in Hamdan.

Overall, the bill provides a much better framework for trying unlawful enemy combatants than under the flawed order issued by the President. All this is positive, and our three colleagues deserve credit for their good work.

But the bill contains a significant flaw. It limits the right of habeas corpus in a manner that is probably unconstitutional. Don't take my word for it. Listen to the words of a conservative Republican, Kenneth Starr, who used to sit on this nation's second highest court, and is now one of the country's leading appellate advocates, in a letter written to Senator SPECTER earlier this week:

> Article 1, section 9, clause 2 of the United States Constitution provides that "[t]he privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." The United States is neither in a state of rebellion nor invasion. Consequently, it would be problematic for Congress to modify the constitutionally protected writ of habeas corpus under current events.

Accordingly, I believe this bill is likely unconstitutional. I hope that I am wrong. But I fear that I am right, and that we will be back here in a few years debating this issue again.

We had one chance to get this right—to ensure that we don't end up back here again after a new round of litigation. There was no reason to rush. No one challenges our right to detain the high-value prisoners the President just transferred to Guantanamo. We are not about to release them—nor should we.

But rush we did. In the last week, there have been two different versions of the legislation that emerged from closed-door negotiations with the administration. My colleagues may be willing to trust the legal judgment and competence of this administration. But I am not.

Since 9/11, several major cases have gone to the Supreme Court that relate to the laws governing the war on al-Qaida and the President's powers. And the administration has been wrong too many times—wrong about whether habeas corpus rights applied to detainees in Guantanamo Bay, wrong about whether U.S. citizens detained as enemy combatants had a right to meaningful due process, and wrong about whether the military commissions the President established by order were legal. Simply put, I am not willing to trust the administration's legal judgment again. And it is clear that the administration has put its imprint on this legislation in several troubling respects, including in the stripping of habeas rights.

In the struggle in which we are engaged against radical fundamentalists, we must be both tough and smart. This bill is not smart because it risks continued litigation about how we detain and try unlawful enemy combatants.

It is also not smart because it risks continued harm to the image of the United States. The 9/11 Commission concluded that "[a]llegations that the United States abused prisoners in its custody make it harder to build the diplomatic, political, and military alliances the government will need." The recently released National Intelligence Estimate made plain that there are several factors fueling the spread of the jihadist movement, including "entrenched grievances, such as corruption, injustice, and fear of Western domination, leading to anger, humiliation, and a sense of powerlessness." The mistreatment of detainees at Abu Ghraib, and concerns about our policies governing detainees at Guantanamo Bay, undoubtedly fuel these grievances and anger against the United States. Our detainee policies have also made it harder for our allies to support our anti-terrorism policies. We have to get this right.

Therefore, even though our colleagues achieved significant improvements, I cannot support this legislation.

Mr. WARNER. Mr. President, at this point in time I yield to the distinguished Senator from Arizona 14 minutes.

I would say that I have been privileged to be a Member of this institution for now 28 years, and I first met JOHN MCCAIN through his father when I was Secretary of the Navy. So that goes back 28 plus another 5 years that I have known of JOHN MCCAIN.

This Chamber, and indeed all of America, knows full well about the extraordinary record that this man has in the service of his Nation, showing unselfishness, showing courage, showing foresight.

I am proud to have worked with him as a partner in these past weeks, indeed, months now, on this piece of legislation.

I just want to express my gratitude, and I think the gratitude of many people across this country, for the service he is rendering the Senate and hopefully will continue to render the Senate in the coming years.

When I step down under the caucus, it is my hope that JOHN MCCAIN is elected to succeed me as chairman of the Senate Armed Services Committee.

But at this point in time, I am proud to yield, as manager, my time to the Senator from Arizona.

Mr. LEVIN. Mr. President, will the Senator from Arizona yield?

Mr. MCCAIN. I would be glad to.

Mr. LEVIN. Mr. President, I heartily join my good friend from Virginia in his assessment of Senator MCCAIN. I know there has been some disagreement as to who would go first, but that should not in any way, I hope, cloud the real affection which I think everybody in this body holds for Senator MCCAIN and the effort he has made for so long to try to bring some kind of decency to the approaches we use to people whom we detain.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 14 minutes.

Mr. MCCAIN. Mr. President, I thank both my friends of many years, Senator LEVIN and Senator WARNER, for the collegiality, the bipartisanship, and the effort that we all make under their leadership on the Armed Services Committee for the betterment of the men and women who serve our country and our Nation's defense. I am honored to serve under both.

For the record, I believe I just calculated, I say to my dear friend from Virginia, it has been 33 years since I came home from Vietnam and found that our distinguished Secretary of the Navy was very concerned about the welfare of those who had the lack of talent that we were able to get shot down. So I thank my friend from Virginia especially, and I thank my friend from Michigan. I believe our committee conducts itself in a fashion which has been handed down to us from other great Members of the Senate, such as Richard Russell and others.

Mr. President, before I move on to other issues, I have heard some criticism on the Senate floor today about the way in which the bill treats admissibility of coerced testimony.

A New York Times editorial today said that in this legislation "coercion is defined in a way that exempts anything done before the passage of the 2005 Detainee Treatment Act, and anything else Mr. Bush chooses" in their own inimitable style.

This is thoroughly incorrect, and I would like to correct not only the impression but the facts.

This bill excludes any evidence obtained through illegal interrogation techniques, including those prohibited by the 2005 Detainee Treatment Act. The goal is to bolster the Detainee Treatment Act by ensuring that the fruits of any illegal treatment will be per se inadmissible in the military commissions.

For evidence obtained before passage of the Detainee Treatment Act, we adopted the approach recommended by the military JAGs. In order to admit such evidence, the judge—we leave it to the judge—must find that: it passes the legal reliability test—and, as applied in practice, the greater the degree of coercion, the more likely the statement will not be admitted; the evidence possesses sufficient probative value; and that the interests of justice would best be served by admission of the statement into evidence.

Mr. President, I ask unanimous consent that three different letters from three different JAGs—Air Force, Navy, and Marine Corps—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
HEADQUARTER U.S. AIR FORCE,
Washington DC, August 28, 2006.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington DC.

DEAR SENATOR MCCAIN: Thank you for your letter of 23 August 2006, in which you requested my written recommendations on the military commissions legislation Congress is expected to consider next month. You specifically ask for my personal views on the most pressing issues involving the legislation.

As of the date of this letter, several bills have been introduced and I believe the administration is also considering legislation for congressional consideration. I appreciate the opportunity to provide my personal perspective and comments on the general nature of the potential legislation.

I begin with the premise that legislation is appropriate. As the Supreme Court noted again in *Hamdan* v. *Rumsfeld*, 548 U.S. , 126 S.Ct. 2749 (2006), the President's powers in wartime are at their greatest when specifically authorized by Congress. While different approaches are feasible, I believe the Nation will be best served by a fresh start to the military commission process. Existing criminal justice systems, including the process established by Military Commission Order 1, should be reviewed to develop a system that will best serve the interests of justice and the United States. The Uniform Code of Military Justice (10 U.S.C. §801 et. seq.) (UCMJ) and the Manual for Courts-Martial (MCM) provide superb starting points. The processes and procedures in the UCMJ and MCM have served us well and can be readily adapted to meet the needs of military commnssions.

As I have testified, Congress could enact a UCMJ Article 135a to establish the basic substantive requirements for military commissions, and an executive order could provide detailed guidance, just as the MCM provides detailed guidance for the trial of courts-martial. Alternatively, Congress could create a separate Code of Military Commissions as a new chapter in Title 10, modeled to an appropriate degree after the UCMJ, and similarly leave the details to an executive order. Either approach must address the requirements of the Geneva Conventions and the concerns articulated in Hamdan.

There will necessarily be differences between current court-martial procedures and the rules and procedures for military commissions. However, the processes and procedures in the UCMJ and MCM can be readily adapted to meet the needs of military commissions and still meet the requirements of criminal justice systems established by common Article 3 of the Geneva Conventions.

The legislation must appropriately address access to evidence and the accused's presence during the trial. Specifically, it is my strongly held view that all evidence admitted against an accused and provided to members of a military commission must also be provided to the accused and accused's counsel. Any statute that allows evidence to be admitted outside the presence of the accused would mean the military commission could convict (and possibly impose a sentence of death) without the accused ever fully knowing the evidence considered against him: Such a procedure is extremely problematic, both constitutionally and from a Common Article 3 perspective.

The accused's presence is a critical facet of this legislation. The United States is more than a nation of laws; it is a country founded upon strong moral principles of fairness to all. Moreover, our country—to the delight of our adversaries—has been heavily criticized because of the perception that the pre-Hamdan military commission process was unfair and did not afford "all the judicial guarantees which are recognized as indispensable by civilized peoples."

Now is the time to correct that perception and clearly establish procedures and rules that meet that standard. These procedures and rules will do more than merely correct legal deficiencies; they will help reestablish the United States as the leading advocate of the rule of law. I firmly believe doing so is an important facet of winning the global war on terrorism.

Inextricably tied to that concept is an awareness of reciprocity. We cannot hold out as acceptable a military commission process that we would consider to be unfair and illegal if used by a foreign authority to try captured United States servicemen and women for alleged offenses.

Additionally, concerns have been raised about other evidentiary and procedural issues, including the ability of the accused to represent himself, and the admissibility of hearsay, classified evidence, and an accused's own statements.

The right of an accused to represent himself pro se is well recognized in our jurisprudence. In the context of military commissions, it presents difficult issues. Current procedures allow an accused to expressly waive the right to be represented and conduct his defense personally. That option should be available if the accused competently demonstrates to the military judge he understands the potential disadvantages and consequences of self-representation and he voluntarily and knowingly waives the right to representation. The military judge should have the authority to require that a defense counsel remain present even if the waiver is granted and to revoke the waiver if the accused is disruptive or fails to follow basic rules of decorum and procedure. This right is obviously contingent on the accused's presence throughout the proceeding as well as access to the evidence.

Again, I recommend that Congress detail the basic evidentiary requirements in the legislation and then permit an executive order to flesh out the details, just as the MCM provides evidentiary details for the UCMJ. Evidence should be admissible if, in the judgment of an experienced military judge, there are guarantees of its trustworthiness, the evidence has probative value, and the interests of justice are best served by its admission.

There has been some comment that the admission of hearsay is improper. In my view, such criticisms reflect a misunderstanding of the rules of evidence used in Federal, military and state trials today. Under the Military Rules of Evidence (MRE), hearsay is not admissible except as provided in the MREs or by statute. The MREs further define statements that are not hearsay and provide for exceptions conditioned on the availability of the declarant. Additionally, there is a residual hearsay rule that permits the introduction of other statements, having equivalent circumstantial guarantees of trustworthiness, if the court determines that the statement is material evidence; has more probative value than other available evidence; and serves the interests of justice. The Supreme Court recently narrowed the application of residual hearsay as it applies to out-of-court statements that are testimonial in nature. Such statements are now barred unless there is a showing that the witness is unavailable and the accused had a prior opportunity to cross-examine the witness. The overall application of the residual hearsay rule is functionally very much like that used in international tribunals and requires a military judge to find the evidence is probative and reliable. These existing procedures provide a meaningful starting point for addressing the hearsay issues arising in military commissions.

As to the use of classified evidence, I believe the procedures of MRE 505 adequately protect national security. MRE 505 is based on the Classified Information Procedures Act (CIP A) (Title 18, U.S.C. App III). CIP A is designed to prevent unnecessary or inadvertent disclosures of classified information and advise the government of the national security implications of going forward with certain evidence. MRE 505 achieves a reasonable accommodation of the United States' interest in protecting information and the accused's need to be able to mount a defense. The rule permits in camera, ex parte consideration of the Government's concerns by a judge, the substitution of unclassified summaries or other alternative forms of evidence, and ensures fairness to the accused. Under MRE 505, both the prosecution and the accused rely on and know about the evidence going to the court. The accused knows all that is to be considered by the trier-of-fact, has an opportunity to respond, and is able to assist the defense counsel to respond appropriately.

Concerns about the admissibility of statements made by an accused primarily involve the current requirement to provide Miranda warnings (codified more broadly in the UCMJ at Article 31) and whether the statement is the product of torture or coercion. The military commission process must recognize the battlefield is not an orderly place. The requirement to warn an individual before questioning is one area where deviation from the established UCMJ framework may well be warranted.

Generally, if a military judge concludes the confession or admission of an accused is involuntary, the statement is not admissible in a court-martial over the accused's objection. Commonly, a statement is involuntary if it is obtained in violation of the self-incrimination privilege or due process clause of the Fifth Amendment to the Constitution of the United States; Article 31; or through the use of coercion, unlawful influence, or unlawful inducement. Each situation is obviously fact determinative and the military judge decides whether the statement is voluntary considering the totality of the circumstances. I trust the judgment of experienced military judges. Military commissions should not be permitted to consider evidence that is found to be unlawfully coerced and thus involuntary.

Finally, appellate jurisdiction over military commission decisions should be clearly established. That jurisdiction would be most appropriately vested in the United States Court of Appeals for the District of Columbia Circuit (consistent with the Detainee Treatment Act of 2005).

I hope this information is helpful. Please let me know if additional information or comments from me on this matter are desired.

Sincerely,

JACK L. RIVES,
Major General, USAF,
The Judge Advocate General.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE
GENERAL, WASHINGTON NAVY YARD,
Washington, DC, Aug. 31, 2006.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN. Thank you for your letter of August 23, 2006 requesting my personal views on military commission legislation.

Before proceeding with discussion of specific issues, I would like to note that I have had the opportunity to provide comment to the DoD General Counsel and the Department of Justice regarding draft commission legislation. As of this writing, I have not seen the final version of the Administration's draft.

Although existing courts-martial rules are not practical for the prosecution of unlawful enemy combatants, they provide a good starting point for the drafting of Commission legislation. I recommend that legislation establish the jurisdiction of military commissions, set baseline standards of structure, procedure, and evidence consistent with U.S. law and the law of war, and prescribe all substantive offenses. It also should authorize the President to promulgate supplemental rules of practice. In this regard, I believe we should follow the military justice model, whereby Congress establishes the legal framework (the Uniform Code of Military Justice, or in this case a Code for Military Commissions) and the President promulgates supplemental rules of practice (a Manual for Courts-Martial, or in this case a Manual for Military Commissions).

Within that context, I recommend that the jurisdiction of military commissions be expanded to permit prosecution of all unlawful enemy combatants who engage in or attempt to engage in hostilities against the United States. In particular, we need the ability to prosecute before military commissions irregular belligerents who violate the laws of war while acting on behalf of foreign governments as well as terrorists not associated with al Qaida and/or the Taliban.

With regard to baseline standards of structure, procedure, and evidence, it is critically important that independent military judges preside at military commissions and have authority to make final rulings on all matters of law. Similarly, defense counsel must have an independent reporting chain of command, free from both actual and perceived influence of prosecution and convening authorities.

The introduction of evidence outside the presence of an accused is, in my view, inconsistent with U.S. law and the law of war. The Supreme Court held in *Hamdan* v. *Rumsfeld*, 126 S.Ct. 2749 (2006), that absent a sufficient practical need to deviate from existing U.S. laws and criminal trial procedures, an accused must be present at trial and have access to all evidence presented against him. A four-justice plurality also opined that Common Article 3 of the 1949 Geneva Conventions requires, at a minimum, that an accused be present at trial and have access to the evidence presented against him. Justice Kennedy, who was not part of the plurality, further signaled in a separate concurring opinion that introduction of evidence outside the presence of the accused would be "troubling" and, if done to the prejudice of the accused would be grounds for reversal. Furthermore, as a matter of policy, adopting such practice for military commissions may encourage others to reciprocate in kind against U.S. service members held in captivity.

I recommend that the legislation adopt Military Rule of Evidence 505 (M.R.E. 505), which is partly based on the Classified Information Procedures Act (CIPA). M.R.E. 505 permits a military judge to conduct an in camera, ex parte review of the Government's interest in protecting classified information and encourages the substitution of unclassified summaries or alternative forms of evidence in lieu of the classified information. This type of procedure ensures that classified information is not disclosed under circumstances that could injure national security.

While it is true that application of a M.R.E. 55-style process might conceivably result in the Government being unable to introduce evidence against an accused under certain circumstances, it is my view that we are better served by fully honoring the law of war, which requires that we afford even terrorists the judicial guarantees which are recognized as indispensable amongst civilized peoples when we choose to prosecute. For it is that very same law that allows us to hold terrorists for the duration of hostilities, however long those hostilities might last.

With regard to hearsay evidence, I have no objection to the introduction of hearsay evidence so long as the evidentiary standard is clarified to exclude information that is unreliable, not probative, unfairly prejudicial, confusing, or misleading, or when such exclusion is necessary to protect the integrity of the proceedings. Such an approach would be consistent with the practice of international war crimes tribunals supported by the United States in Rwanda and the former Yugoslavia. Those tribunals satisfy the requirements of the law of war including Common Article 3 of the Geneva Conventions of 1949.

With regard to statements alleged to have been derived from coercion, the presiding military judge should have the discretion and authority to inquire into the underlying factual circumstances and exclude any statement derived from coercion, in order to protect the integrity of the proceeding.

As I noted earlier, the legislation should enumerate all offenses triable by military commission. Conspiracy should be included, but only conspiracies to commit one of the substantive offenses specifically enumerated and there must be a requirement to prove the defendant committed an overt act in furtherance of the conspiracy. This would mean, for example, that conspiracy to commit murder in violation of the laws of war would be a cognizable offense, but affiliation with a terrorist organization, standing alone, would not be cognizable.

I would also like to address Common Article 3 of the Geneva Conventions. Common Article 3 is a baseline standard that U.S. Armed Forces have trained to for decades. Its application to the War on Terror imposes no new requirements on us. However, if Congress desires to clarify the Common Article 3 phrase "outrages upon personal dignity, in particular humiliating and degrading treatment," this would be beneficial. The legislation might consider requiring an objective standard be used in interpreting this phrase, and define the language to encompass willful acts of violence, brutality, or physical injury, and so severely humiliating or degrading as to constitute an attack on human dignity. Examples of such conduct include forcing detainees to perform sexual acts, threatening a detainee with sexual mutilation, systematically beating detainees, and forcing them into slavery: Such an approach would accurately reflect established war crimes jurisprudence and adoption would prevent the perception that we are attempting to abrogate our obligations under the 1949 Geneva Conventions.

Thank you again for this opportunity to provide personal comment on military commission legislation. I hope that this information is helpful.

Sincerely,

BRUCE MACDONALD,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, DC, Aug. 31, 2006.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN. Thank you for your letter of 23 August 2006, in which you requested written recommendations from the service Judge Advocates General on the military commissions legislation Congress is expected to consider in September. You specifically asked for our personal views on the most pressing issues involving the legislation. I appreciate the opportunity to provide my personal perspective and comments.

Although I assumed the position of Staff Judge Advocate to the Commandant of the Marine Corps on 25 August, I am certainly familiar with the process to date, including the previous testimony of my predecessor, Brigadier General Kevin M. Sandkuhler, and the Judge Advocates General. Like them, I believe that military commissions, in some form, are both appropriate and necessary in prosecuting alleged terrorists while continuing to wage the Global War on Terror. I also believe that there is middle ground to be found between the Uniform Code of Military Justice (UCMJ) and the original military commissions process, which would comport with the requirements of Common Article 3 of the Geneva Conventions.

Any legislation must be approached with an eye toward both precedent and reciprocity. We must account for the values for which our nation has always stood, and also be cognizant of the fact that the solution we create may influence how our service members are judged internationally in the future.

I share in the strong position previously expressed by the Judge Advocates General regarding the fundamental importance of an accused's access to evidence and presence at trial. Simply put, an accused (and his counsel) must be provided the evidence admitted against him. This may require the government to balance the need for prosecution on particular charges against the need to protect certain classified information. This balancing concept is not new. Domestically, the government must often weigh the sanctity of sensitive information against having to disclose it for use in a successful prosecution believe that the indispensable "judicial guarantees" referenced in Common Article 3 require the same sort of deliberative decisionmaking in the context of these commissions. Where the government intends to prosecute an accused using classified information, Military Rule of Evidence (MRE) 505 should serve as the evidentiary benchmark.

The commissions should be presided over by a certified and qualified (pursuant to Article 26 of the UCMJ) military judge, who is trained to make measured evidentiary rulings. While I recommend that Congress allow for an executive order to promulgate specific applicable evidentiary rules (same as with the Manual for Courts-Martial, or MCM), I do offer comment here on what I believe are two more notable evidentiary issues: hearsay and statements by an accused.

Regarding hearsay evidence, the residual hearsay exception found in the Military Rules of Evidence (MRE) provides a solid foundation upon which to build for the commissions. This exception requires that a military judge find the evidence to be probative and reliable—a standard with international acceptance. In practice, this standard could allow for alternatives to live testimony, such as by video teleconference, which take into account the global nature of the conflict.

I share previously expressed concerns about the admissibility of statements made by an accused as a product of torture or coercion. Without exception, statements obtained by torture, as defined in Title 18 of the U.S. Code, must be inadmissible. Coercion is a more nebulous concept. As a result, military judges should retain discretion to determine whether statements so alleged are admissible. After an examination of all the facts and circumstances surrounding the statement, the military judge could determine if it is inadmissible because it is either unreliable or lacking in probative value.

In closing, I submit that the jurisdiction of the military commissions should be broad enough to facilitate the prosecution of all unlawful enemy combatants, and not merely members of al Qaida, the Taliban, and associated organizations. Jurisdiction must extend to other terrorist groups, regardless of their level of organization, and the individual "freelancers" so common on the current battlefield.

Thank you again for the opportunity to provide comment. I look forward to continuing to work toward resolution of this matter.

Very respectfully,

JAMES C. WALKER,
Brigadier General, USMC,
Staff Judge Advocate to the Commandant.

Mr. MCCAIN. Mr. President, the JAG of the Air Force says:

> . . . through the use of coercion, unlawful influence, or unlawful inducement. Each situation is obviously fact determinative and the military judge decides whether the statement is voluntary considering the totality of the circumstances. I trust the judgment of experienced military judges. Military commissions should not be permitted to consider evidence that is found to be unlawfully coerced and thus involuntary.

And the other two Judge Advocate Generals say the same thing, that the provisions of this bill are exactly in line with their opinions. Frankly, that had a great deal of weight in our adopting them.

Almost exactly 3 months ago, the Supreme Court decided the groundbreaking case of Hamdan v. Rumsfeld. In that case, a majority of the Court ruled that the military procedures used to try detainees held at Guantanamo Bay fell short of the standards of the Uniform Code of Military Justice and the Geneva Conventions.

The Court also determined that Common Article 3 of the Geneva Conventions applies to al-Qaida because our conflict with that terrorist organization is "not of an international character." Some of my colleagues may disagree with the Court's decision, but once issued it became the law of the land.

Unfortunately, the Hamdan decision left in its wake a void and uncertainty that Congress needed to address and address quickly—in order to continue fighting the war on terrorism. I believe this act allows us to do that in a way that protects our soldiers and other personnel fighting on the front lines and respects core American principles of justice. I would like to thank Senators GRAHAM and WARNER and many others for their unceasing work on this bill.

I would like to take a few moments to describe some of the key elements of the legislation.

As is by now well known, Senators WARNER, GRAHAM, and I, and others, have resisted any redefinition or modification of our Nation's obligations under Common Article 3 of the Geneva Conventions. We did so because we care deeply about legal protections for American fighting men and women and about America's moral standing in the world. More than 50 retired military generals and flag officers expressed grave concern about redefining our Geneva obligations, including five former Chairmen of the Joint Chiefs of Staff.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from GEN Colin Powell, GEN Jack Vessey, and GEN Hugh Shelton, and a letter from the former Commandant of the Marine Corps, General Krulak.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 13, 2006.

DEAR SENATOR MCCAIN: I just returned to town and learned about the debate taking place in Congress to redefine Common Article 3 of the Geneva Convention. I do not support such a step and believe it would be inconsistent with the McCain amendment on torture which I supported last year.

I have read the powerful and eloquent letter sent to you by one of my distinguished predecessors as Chairman of the Joint Chiefs of Staff, General Jack Vessey. I fully endorse in tone and tint his powerful argument. The world is beginning to doubt the moral basis of our fight against terrorism. To redefine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk.

I am as familiar with The Armed Forces Officer as is Jack Vessey. It was written after all the horrors of World War II and General George C. Marshall, then Secretary of Defense, used it to tell the world and to remind our soldiers of our moral obligations with respect to those in our custody.

Sincerely,

GENERAL COLIN L. POWELL, USA (RET.).

SEPTEMBER 12, 2006.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota, but I call your attention to recent reports that the Congress is considering legislation which might relax the United States' support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects. First, it would undermine the moral basis which has generally guided our conduct in war throughout our history. Second, it could give opponents a legal argument for the mistreatment of Americans being held prisoner in time of war.

In 1950, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General George C. Marshall, issued a small book, titled The Armed Forces Officer. The book summarized the laws and traditions that governed our Armed Forces through the years. As the Senate deals with the issue, it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer. The last chapter is titled "Americans in Combat" and it lists 29 general propositions which govern the conduct of Americans in war. Number XXV, which I long ago underlined in my copy, reads as follows:

"The United States abides by the laws of war. Its Armed Forces, in their dealing with all other peoples, are expected to comply with the laws of war, in the spirit and the letter. In waging war, we do not terrorize helpless non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardship on enemy prisoners or populations is not justified in any circumstance. Likewise, respect for the reign of law, as that term is understood in the United States, is expected to follow the flag wherever it goes. . . ."

For the long term interest of the United States as a nation and for the safety of our own forces in battle, we should continue to maintain those principles. I continue to read and hear that we are facing a "different enemy" in the war on terror; no matter how true that may be, inhumanity and cruelty are not new to warfare nor to enemies we have faced in the past. In my short 46 years in the Armed Forces, Americans confronted the horrors of the prison camps of the Japanese in World War II, the North Koreans in 1950–53, and the North Vietnamese in the long years of the Vietnam War, as well as knowledge of the Nazi's holocaust depredations in World War II. Through those years, we held to our own values. We should continue to do so.

Thank you for your own personal courage in maintaining those values, both in war and on the floor of the Senate. I hope that my information about weakening American support for Common Article 3 of the Geneva Convention is in error, and if not that the Senate will reject any such proposal.

Very respectfully,
GENERAL JOHN. W. VESSEY, USA (Ret.).

SEPTEMBER 20, 2006.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I have followed with great interest the debate over whether to redefine in law Common Article 3 of the Geneva Conventions. I join my distinguished predecessors as Chairman of the Joint Chiefs of Staff, Generals Vessey and Powell, in expressing concern regarding the contemplated change. Such a move would, I believe, hinder our efforts to win America's wars and protect American soldiers.

Common Article 3 and associated Geneva provisions have offered legal protections to our troops since 1949. American soldiers are trained to Geneva standards and, in some cases, these standards constitute the only protections remaining after capture. Given our military's extraordinary presence around the world, Geneva protections are critical.

Should the Congress redefine Common Article 3 in domestic statute, the United States would be inviting similar reciprocal action by other parties to the treaty. Such an action would send a terrible signal to other nations that the United States is attempting to water down its obligations under Geneva. At a time when we are deeply engaged in a war of ideas, as well as a war on the battlefield, this would be an egregious mistake. I firmly believe that not only is such a move unnecessary, it potentially subjects our men and women in uniform to unnecessary danger.

The legislation sponsored by Senator Warner, which would enumerate war crime offenses while remaining silent on America's obligations under Common Article 3, is a better course of action. By doing so, our men and women in field will have the clarity they require, we can still interrogate terrorists, and our service personnel will have the undiluted protections offered by the Geneva Convention.

Respectfully,
GENERAL H. HUGH SHELTON.

SENATOR MCCAIN: This is the first time I have publically spoken about the administration policy regarding the war against terror but my professionalism and my conscience leads me to comment on the proposed "interpretation/change" to the Geneva Convention.

My concerns are as follows:

1. A redefinition or reinterpretation of the Geneva Convention, a document that has been taught to every recruit and officer candidate since its inception, would immediately attack the moral dimension with which every Soldier, Sailor, Marine and Airman is inculcated during their time as a member of the US Armed Forces. By weakening the moral link that these young men and women depend on . . . by allowing a redefinition of a lawful Convention . . . we run the risk of undermining the foundation upon which they willingly fight and die for our Country.

2. The mothers and fathers who give their sons and daughters to our care brought their children up to do "right" . . . to obey the law . . . . to take the moral high ground. We do these parents a grave disservice by "legalizing" a different standard for their children.

3. This issue is NOT about what our enemy does to our servicemen and women when captured! This issue is all about how we, as Americans, act. Do we walk our talk. Do we change the rules of the game because our enemy acts in a horrific manner. Do we give up our honor because our enemy is without honor? If we do, we begin to mimic the very behavior we abhor.

4. Many countries already look at the United States as arrogant. This redefinition/reinterpretation would only serve to strengthen that conviction. The idea that the United States would "pick and choose" what portion of the Geneva Convention to follow . . . and what portion to "redefine/reinterpret" . . . goes against who we are as a people and as a Nation. The unintended consequence of this type of action is that it opens the door for other nations to make interpretations of their own . . . across a gamut of issues. The world is a dangerous place and our actions might well serve as precedents during the first battle of the NEXT war.

5. Finally, Duty-Honor-Country and Semper Fidelis are NOT just "bumper stickers". These words, and others like them, form the ethos of our Armed Forces. When you start to tamper with the laws governing warfare . . . laws recognized by countries around the world . . . you run the risk of bringing into question the very ethos that these men and women hold dear.

Semper Fidelis,
C.C. KRULAK,
General, USMC (Ret),
31st Commandant of the Marine Corps.

Mr. MCCAIN. These men express one common view: that modifying the Geneva Conventions would be a terrible mistake and would put our personnel at greater risk in this war and the next. If America is seen to be doing anything other than upholding the letter and spirit of the conventions, it will be harder, not easier, to defeat our enemies. I am pleased that this legislation before the Senate does not amend, redefine, or modify the Geneva Conventions in any way. The conventions are preserved intact.

The bill does provide needed clarity for our personnel about what activities constitute war crimes. For the first time, there will be a list of nine specific activities that constitute criminal violations of Common Article 3, punishable by imprisonment or even death. There has been much public discussion about specific interrogation methods that may be prohibited. But it is unreasonable to suggest that any legislation could provide an explicit and all-inclusive list of what specific activities are illegal and which are permitted. Still, I am confident that the categories included in this section will criminalize certain interrogation techniques, like waterboarding and other techniques that cause serious pain or suffering that need not be prolonged—I emphasize "that need not be prolonged."

Some critics of this legislation have asserted that it gives amnesty to U.S. personnel who may have committed war crimes since the enactment of the War Crimes Act. Nothing—nothing—could be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes an "outrage upon personal dignity." Observers have commented that, though such outrages are difficult to define precisely, we all know them when we see them. However, neither I nor any other responsible Member of this body should want to prosecute and potentially sentence to death any individual for violating such a vague standard.

The specificity that the bill provides to the War Crimes Act—and its retroactive effect—will actually make prosecuting war criminals a realistic goal. None of my colleagues should object to that goal.

It is also important to note that the acts that we propose to enumerate in the War Crimes Act are not the only activities prohibited under this legislation. The categories enumerated in the War Crimes Act list only those violations of Common Article 3 that are so grave as to constitute felonies potentially punishable by death. The legislation states explicitly that there are other, nongrave breaches of Common Article 3.

This legislation also requires the President to publish his interpretations of the Geneva Conventions, including what violations constitute nongrave breaches, in the Federal Register—in the Federal Register—for every American to see. These interpretations will have the same force as any other administrative regulation promulgated by the executive branch and, thus, may be trumped—may be trumped—by law passed by Congress.

Simply put, this legislation ensures that we respect our obligations under Geneva, recognizes the President's constitutional authority to interpret treaties, and brings accountability and transparency to the process of interpretation by ensuring that the Executive's interpretation is made public—the Executive's interpretation is made public. The legislation would also guarantee that Congress and the judicial branch will retain their traditional roles of oversight and review with respect to the President's interpretation of nongrave breaches of Common Article 3.

In short, whereas last year only one law—the torture statute—was deemed to apply to the treatment of all enemy detainees, now there is a set of overlapping and comprehensive legal standards that are in force: the Detainee Treatment Act, with its prohibition on cruel, inhuman, and degrading treatment as defined by the fifth, eighth, and fourteenth amendments to the Constitution, Common Article 3 of the Geneva Conventions, and the War Crimes Act. This legislation will allow—my colleagues, have no doubt—this legislation will allow the CIA to continue interrogating prisoners within the boundaries established in the bill.

Let me state this flatly: It was never our purpose to prevent the CIA from detaining and interrogating terrorists. On the contrary, it is important to the war on terror that the CIA have the ability to do so. At the same time, the CIA's interrogation program has to abide by the rules, including the standards of the Detainee Treatment Act.

I, like many of my colleagues, find troubling the reports that our intelligence personnel feel compelled to purchase liability insurance because of the lack of legal clarity that exists in the wake of the Hamdan decision. This legislation provides an affirmative defense for any Government personnel prosecuted under the War Crimes Act for actions they reasonably believed to be legal at the time. That is a longstanding precedent. In addition, it would eliminate any private right of action against our personnel based on a violation of the Geneva Conventions. The intent of this provision is to protect officers, employees, members of the Armed Forces, and other agents of the United States from suits for money damages or any other lawsuits that could harm the financial well-being of our personnel who were engaged in lawful—I emphasize "lawful"—activities.

It is important to note, however, that the fact that the Geneva Conventions lack a private right of action—and the fact that this legislation does not create such a right—has absolutely no bearing on whether the Conventions are binding on the executive branch. Even if the Geneva Conventions do not enable detainees to sue our personnel for money damages, the President and his subordinates are nevertheless bound to comply with Geneva. That is clear to me and to all who have negotiated this legislation in good faith.

This point is critical, because our personnel deserve not only the legal protections written into this legislation, but also the undiluted protections offered since 1949 by the Geneva Conventions. Should the United States be seen as amending, modifying, or redefining the Geneva Conventions, it would open the door for our adversaries to do the same, now and in the future. The United States should champion the Geneva Conventions, not look for ways to get around them, lest we invite others to do the same. America has more personnel deployed, in more places, than any other country in the world, and this unparalleled exposure only serves to further demonstrate the critical importance of our fulfilling the letter and the spirit of our international obligations. To do any differently would put our fighting men and women directly at risk. We owe it to our fighting men and women to uphold the Geneva Conventions, just as we have done for 57 years.

For these reasons, this bill makes clear that the United States will fulfill all of its obligations under those Conventions. We expect the CIA to conduct interrogations in a manner that is fully consistent not only with the Detainee Treatment Act and the War Crimes Act, but with all of our obligations under Common Article 3 of the Geneva Conventions.

Finally, I note that there has been opposition to this legislation from some quarters, including the New York Times editorial page. Without getting into a point-by-point rebuttal here on the floor, I simply say that I have been reading the CONGRESSIONAL RECORD trying to find the bill that page so vociferously denounced. The hyperbolic attack is aimed not at any bill this body is today debating, nor even at the administration's original position. I can only presume that some would prefer that Congress simply ignore the Hamdan decision and pass no legislation at all. That, I suggest to my colleagues, would be a travesty.

This is a very long, difficult task. This is critical for the future security of this Nation, and we have done the very best we can. I believe we have come up with a good product. I believe good-faith negotiations have taken place. I hope we will pass this legislation very soon. I think you will find that people will be brought to justice and we can move forward with trials with treating people under the Geneva Conventions and restoring America's prestige in the world.

I thank my colleagues.

Mr. WARNER. Mr. President, I wish to commend our distinguished colleague on an excellent summary of the bill and his heartfelt expressions and interpretations of this bill, which I share.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, it is from strength that America should defend our values and our Constitution. It takes a commitment to those values to demand accountability from the Government. In standing up for American values and security, I will vote against this bill.

I can give you many reasons, but let me take one. We will turn back the protections of the Great Writ of habeas corpus. Since 13th century Anglo jurisprudence, we have had the Great Writ. We have had habeas corpus since the birth of our Nation. We fought a revolution to make sure we could retain it. We fought a civil war, and we fought through two world wars. Now, in a matter of hours, in a debate that has so often skirted the issues, we are ready to strip back habeas corpus. I cannot vote for that.

Senator SMITH spoke stirringly earlier today of the dangers of the bill's habeas provision, which would eliminate the independent judicial check on Government overreaching and lawlessness. He quoted from great defenders of liberty. It was Justice Robert H. Jackson who said in his role as Chief Counsel for the Allied Powers responsible for trying German war criminals after World War II: "That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that

Power ever has paid to Reason." He closed the Nuremberg trials about which Senator DODD spoke earlier by saying: "Of one thing we may be sure. The future will never have to ask, with misgiving, 'What could the Nazis have said in their favor?' History will know that whatever could be said, they were allowed to say. They have been given the kind of a trial which they, in the days of their pomp and power, never gave to any man. But fairness is not weakness. The extraordinary fairness of these hearings is an attribute of our strength."

He was right and his wisdom was echoed this week at our Judiciary Committee hearing when Admiral Hutson and Lieutenant Commander Swift testified that fairness and lawfulness are our greatest strengths. This legislation doesn't live up to that ideal. It strips away fairness.

The actions by the U.S. Government, this administration, for all its talk of strength, have made us less safe, and its current proposal is one that smacks of weakness and shivering fear. Its legislative demands reflect a cowering country that is succumbing to the threat of terrorism. I believe we Americans are better than that. I believe we are stronger than that. I believe we are fairer than that. And I believe America should be a leader in the fight for human rights and the rule of law, and that will strengthen us in our fight against terrorists.

We have taken our eye off the ball in this fight against terrorists. That is essentially what all of our intelligence agencies concluded in the National Intelligence Estimate that the administration had for six months while this was rolling along, but that they only shared a part of this past weekend. Our retooled and reorganized intelligence agencies, with leadership handpicked by the administration, have concluded, contrary to the campaign rhetoric of the President and Vice President, that the Iraq war has become a "cause celebre" that has inspired a new generation of terrorists. It hasn't stopped terrorists, it has inspired new terrorists. Surely, the shameful mistreatment of detainees at Guantanamo, at Abu Ghraib, at secret CIA prisons, and that by torturers in other countries to whom we have turned over people, have become other "causes celebre" and recruiting tools for our enemies.

Surely, the continued occupation of Iraq, when close to three-quarters of Iraqis want U.S. forces to depart their country, is another circumstance being exploited by enemies to demonize our great country.

Passing laws that remove the remaining checks against mistreatment of prisoners will not help us win the battle for the hearts and minds of the generation of young people around the world being recruited by Osama bin Laden and al-Qaida. Authorizing indefinite detention of anybody the Government designates, without any proceeding or without any recourse, putting them into the secret prisons we condemned during the Cold War, is what our worse critics claim the United States would do. That is not what American values, our traditions, and our rule of law would have us do. This is not just a bad bill, this is truly a dangerous bill.

I have been asking Secretary Rumsfeld's question for the last several weeks: whether our actions are eliminating more of our enemies than are being created. But now we understand that we are creating more enemies than we are eliminating. Our intelligence agencies agree that the global jihadist movement is spreading and adapting; it is "increasing in both number and geographic dispersion." We are putting ourselves more at risk.

"If this trend continues," our intelligence agencies say, that is, if we do not wise up and change course and adopt a winning new strategy, "threats to U.S. interests at home and abroad will become more diverse, leading to increasing attacks worldwide." Attacks have been increasing worldwide over the last 5 years of these failing policies and are, according to the judgment of our own, newly reconstituted intelligence agencies, likely to increase further in the days and months and years ahead. The intelligence agencies go on to note ominously that "new jihadist networks and cells, with anti-American agendas, are increasingly likely to emerge" and further that the "operational threat will grow," particularly abroad "but also in the homeland."

This is truly chilling. The Bush-Cheney administration not only failed to stop 9/11 from happening, but for 5 years they have failed to bring Osama bin Laden to justice, even though they had him cornered at Tora Bora. They yanked the special forces out of there to send them into Iraq. We have witnessed the growth of additional enemies.

And what do our intelligence agencies suggest is the way out of this dangerous quagmire? The National Intelligence Estimate suggests we have to "go well beyond operations to capture or kill terrorist leaders," and we must foster democratic reforms. When America can be seen abandoning its basic American democratic values, its checks and balances, its great and wonderful legal traditions, and can be seen as becoming more autocratic and less accountable, how will that foster democratic reforms elsewhere? "Do as I say and not as I do" is a model that has never successfully inspired peoples around the world, and it doesn't inspire me.

The administration has yet to come clean to the Congress or the American people in connection with the secret legal justifications it has generated and secret practices it has employed in detaining and interrogating hundreds, if not thousands, of people. Even they cannot dismiss the practices at Guantanamo as the actions of a few "bad apples."

With Senate adoption of the antitorture amendment last year and the recent adoption of the Army Field Manual, I had hoped that 5 years of administration resistance to the rule of law and to the U.S. military abiding by its Geneva obligations might be drawing to a close. Despite the resistance of the Vice President and the administration, the new Army Field Manual appears to outlaw several of what the Administration euphemistically calls "aggressive" tactics and that much of the world regards as torture and cruel and degrading treatment. In rejecting the Kennedy amendment today, the Senate has turned away from the wise counsel and judgment of military professionals. Of course, the President in his signing statement already undermined enactment of the antitorture law.

The administration is now obtaining license—before, they just did it quietly and against the law and on their own say-so, but now they are obtaining license—to engage in additional harsh techniques that the rest of the world will see as abusive, as cruel, as degrading, and even as torture. Fortunately, a growing number of our own people see it that way, too.

What is being lost in this debate is any notion of accountability and the guiding principles of American values and law. Where are the facts of what has been done in the name of the United States? Where are the legal justifications and technicalities the administration's lawyers have been seeking to exploit for 5 years? The Republican leadership's legislation strips away all accountability and erodes our most basic national values without so much as an accounting of these facts and legal arguments. Senator ROCKEFELLER's amendment to incorporate some accountability in the process through oversight of the CIA interrogation program was unfortunately rejected by the Republican leadership in the Senate.

Secrecy for all time is to be the Republican rule of the day. Congressional oversight is no more. Checks and balances are no more. The fundamental check that was last provided by the Supreme Court is now to be taken away. This is wrong. This should be unconstitutional. It is certainly unconscionable. This is certainly not the action of any Senate in which I have served. It is not worthy of the United States of America. What we are saying is one person will make all of the rules; there will be no checks and balances. There will be no dissent, and there will be nobody else's view, and we will remove, piece by piece, every single law that might have allowed checks and balances.

We are rushing through legislation that would have a devastating effect on our security and our values. I implore Senators to step back from the brink and think about what we are doing.

The President recently said that "time is of the essence" to pass legislation authorizing military commissions. Time was of the essence when this administration took control in January 2001 and did not act on the dire warnings of terrorist action. Time was of the essence in August and early September 2001 when the 9/11 attacks could still have been prevented. This administration ignored warnings of a coming attack and even proposed cutting the antiterror budget on September 10, the day before the worst foreign terrorist attack on U.S. soil in our history. This administration was focused on Star Wars, not terrorism. Time was of the essence when Osama bin Laden was trapped in Tora Bora. But this administration was more interested in going after Sadaam Hussein, who the President recently admitted had "nothing" to do with 9/11.

After 5 years of this administration's unilateral actions that have left us less safe, time is now of the essence to take real steps to keep us safe from terrorism. Real steps like those included in the Real Security Act, S. 3875. We should be focusing on getting the terrorists and securing the nuclear material that this administration has allowed for the last 5 years to be unaccounted for around the world. We should be doing the things Senator KERRY and others are talking about, such as strengthening our special forces and winning the peace in Afghanistan, where the Taliban has regrouped and is growing in strength.

Instead, the President and the Republican Senate leadership call for rubberstamping more flawed White House proposals just in time for the runup to another election and for the fundraising appeals to go out.

I had hoped that this time, for the first time, even though the Senate is controlled by the President's party, we could act as an independent branch of the Government and serve as a check on this administration. After this debate and the rejection of all amendments intended to improve this measure, I see that day has long passed. I will continue to speak out. That is my privilege as a Senator. But I weep for our country and for the American values, the principles on which I was raised and which I took a solemn oath to uphold. I applaud those Senators who stood up several times on the floor today and voted to uphold the best of American values.

Going forward, the bill departs even more radically from our most fundamental values. And provisions that were profoundly troubling a week ago when the Armed Services Committee marked up the bill have gotten much worse in the course of closed-door revisions over the past week. For example, the bill has been amended to eliminate habeas corpus review even for persons inside the United States, and even for persons who have not been determined to be enemy combatants. It has moved from detention of those who are captured having taken up arms against the United States on a battlefield to millions of law-abiding Americans that the Government might suspect of sympathies for Muslim causes and who knows what else—without any avenue for effective review.

Remember, we are giving a blank check to a Government whose incompetence was demonstrated in historic dimensions by the lack of preparation in response to Hurricane Katrina. This is the same Government which, in its fight against terrorism, has had Senator KENNEDY and Congressman LEWIS on terrorist watch lists, and could not get them off. This is a Government which repeatedly releases confidential family information about our Armed Forces and veterans. It is a Government which just refuses to admit any mistakes or to make any corrections but regards all of its representatives, from Donald Rumsfeld to Michael Brown, as doing a "heckuva job."

The proponents of this bill talk about sending messages. What message does it send to the millions of legal immigrants living in America, participating in American families, working for American businesses, and paying American taxes? Its message is that our Government may at any minute pick them up and detain them indefinitely without charge, and without any access to the courts or even to military tribunals, unless and until the Government determines that they are not enemy combatants—a term that the bill now defines in a tortured and unprecedentedly broad manner. And that power and any errors cannot be reviewed or corrected by a court. What message does that send about abuse of power? What message does that send to the world about America's freedoms?

Numerous press accounts have quoted administration officials who believe that a significant percentage of those detained at Guantanamo have no connection to terrorism. In other words, the Bush-Cheney administration has been holding for several years, and intends to hold indefinitely without trial or any recourse to justice, a substantial number of innocent people who were turned in by anonymous bounty hunters or picked up by mistake in the fog of war or as a result of a tribal or personal vendetta. The most important purpose of habeas corpus is to correct errors like that—to protect the innocent. It is precisely to prevent such abuses that the Constitution prohibits the suspension of the writ of habeas corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it." But court review has now embarrassed the Bush administration, as the U.S. Supreme Court has three times rejected its lawyers' schemes. And, so how does the administration respond? It insists that there be no more judicial check on its actions and errors.

When the Senate accedes to that demand, it abandons American principles and all checks on an imperial Presidency. The Senator from Vermont will not be a party to retreat from America's constitutional values. Vermonters don't retreat.

Senator SMITH, speaking this morning about the habeas provisions of this bill, quoted Thomas Jefferson, who said:

> The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.

Jefferson said on another occasion:

> I would rather be exposed to the inconveniences attending too much liberty than to those attending too small a degree of it.

With this bill, the Senate reverses that profound judgment of history, chooses against liberty, and succumbs to fear.

When former Secretary of State Colin Powell wrote last week of his concerns with the administration's bill, he wrote about doubts concerning our "moral authority in the war against terrorism." This General, former head of the Joint Chiefs of Staff and former Secretary of State, was right. Now we have heard from a number of current and former diplomats, military lawyers, Federal judges, law professors and law school deans, the American Bar Association, and even the first President Bush's Solicitor General, Kenneth Starr, that they have grave concerns with the habeas corpus stripping provisions of this bill.

I agree with Mr. Starr that we should not suspend—and we should certainly not eliminate—the Great Writ. I also agree with more than 300 law professors, who described an earlier, less extreme version of the habeas provisions of this bill as "unwise and contrary to the most fundamental precepts of American constitutional traditions." And I agree with more than 30 former U.S. Ambassadors and other senior diplomats, who say that eliminating habeas corpus for aliens detained by the United States will harm our interests abroad, and put our own military, diplomatic, and other personnel stationed abroad at risk. We cannot spread a message of freedom abroad if our message to those who come to America is that they may be detained indefinitely without any recourse to justice.

In the wake of the 9/11 attacks, and in the face of the continuing terrorist threat, now is not the time for the United States to abandon its principles. Admiral Hutson was right to point out that when we do, there would be little to distinguish America from a "banana republic" or the repressive regimes against which we are trying to rally the world and the human spirit. Now is not the time to abandon American values, to shiver and quake, to rely on secrecy and torture. Those are ways of repression and oppression, not the American way.

We need to pursue the war on terror with strength and intelligence, but we need to uphold American ideals. The President says he wants clarity as to the meaning of the Geneva Conventions and the War Crimes Act. Of course, he did not want clarity when his administration was using its twisted interpretation of the law to authorize torture and cruel and inhumane treatment of detainees. He did not want clarity when spying on Americans without warrants. And he certainly did not want clarity while keeping those rationales and programs secret from Congress. The administration does not seem to want clarity when it refuses even to tell Congress what its understanding of the law is following the withdrawal of a memo that said the President could authorize and immunize torture. That memo was withdrawn because it could not withstand the light of day.

It seems the only clarity this administration wants is a clear green light from Congress to do whatever it wants. That is not clarity. That is immunity from crime. I cannot vote for that. That is what the current legislation would give to the President on interrogation techniques and on military commissions. Justice O'Connor reminded the nation before her retirement that even war is not a "blank check" when it comes to the rights of Americans. The Senate should not be a rubberstamp for policies that undercut America's values.

In reality, we already have clarity. Senior military officers tell us they know what the Geneva Conventions require, and the military trains its personnel according to these standards. We have never had trouble urging other countries around the world to accept and enforce the provisions of the Geneva Conventions. There was enough clarity for that. What the administration appears to want, instead, is to use new legislative language to create loopholes and to narrow our obligations not to engage in cruel, degrading, and inhuman treatment.

In fact, the new legislation muddies the waters. It saddles the War Crimes Act with a definition of cruel or inhuman treatment so oblique that it appears to permit all manner of cruel and extreme interrogation techniques. Senator MCCAIN said this weekend that some techniques like waterboarding and induced hypothermia would be banned by the proposed law. But Senator FRIST and the White House disavowed his statements, saying that they preferred not to say what techniques would or would not be allowed. That is hardly clarity; it is deliberate confusion.

Into that breach, this legislation throws the administration's solution to all problems: more Presidential power. It allows the administration to promulgate regulations about what conduct would and would not comport with the Geneva Conventions, though it does not require the President to specify which particular techniques can and cannot be used. This is a formula for still fewer checks and balances and for more abuse, secrecy, and power-grabbing. It is a formula for immunity for past and future abuses by the Executive.

I worked hard, along with many others of both parties, to pass the current version of the War Crimes Act. I think the current law is a good law, and the concerns that have been raised about it could best be addressed with minor adjustments, rather than with sweeping changes.

In 1996, working with the Department of Defense, Congress passed the War Crimes Act to provide criminal penalties for certain war crimes committed by and against Americans. The next year, again with the Pentagon's support, Congress extended the War Crimes Act to violations of the baseline humanitarian protections afforded by Common Article 3 of the Geneva Conventions. Both measures were supported by a broad bipartisan consensus, and I was proud to sponsor the 1997 amendments.

The legislation was uncontroversial for a good reason. As I explained at the time, the purpose and effect of the War Crimes Act as amended was to provide for the implementation of America's commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals whoever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define "us" and "them." As Justice Jackson said at the Nuremberg tribunals, "We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."

In that regard, I am disturbed that the legislation before us narrows the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and, perhaps more disturbingly, to retroactively immunize past violations. Neither the Congress nor the Department of Defense had any problem with the War Crimes Act when we were focused on using it to prosecute foreign perpetrators of war crimes. I am concerned that this is yet another example of this administration overreaching, disregarding the law and our international obligations, and seeking to immunize others to break the law. It also could well prevent us from prosecuting rogues who we all agree were out of line, like the soldiers who mistreated prisoners at Abu Ghraib.

The President said on May 5, 2004 about prisoner mistreatment at Abu Ghraib:

> I view those practices as abhorrent.

He continued:

> But in a democracy, as well, those mistakes will be investigated, and people will be brought to justice.

The Republican leader of the Senate said on the same day:

> I rise to express my shock and condemnation of these despicable acts. The persons who carried them must face justice.

Many of the despicable tactics used in Abu Ghraib—the use of dogs, forced nudity, humiliation of various kinds—do not appear to be covered by the narrow definitions this legislation would graft into the War Crimes Act. Despite the President's calls for clarity, the new provisions are so purposefully ambiguous that we cannot know for sure whether they are covered. If the Abu Ghraib abuses had come to light after the perpetrators left the military, they might not have been able to be brought to justice under the administration's formulation.

The President and the Congress should not be in the business of immunizing people who have broken the law and made us less safe. If we lower our standards of domestic law to allow outrageous conduct, we can do nothing to stop other countries from doing the same. This change in our law does not prevent other countries from prosecuting our troops and personnel for violations of the Geneva Convention if they choose; it only changes our domestic law. But it could give other countries the green light to change their laws to allow them to treat our personnel in cruel and inhuman ways.

Let me be clear. There is no problem facing us about overzealous use of the War Crimes Act by prosecutors. In fact, as far as I can tell, the Ashcroft Justice Department and the Gonzales Justice Department have yet to file a single charge against anyone for a violation of the War Crimes Act. Not only have they never charged American personnel under the act, they have never used it to charge terrorists either.

This bill does not clarify the War Crimes Act. It authorizes and immunizes abhorrent conduct that violates our basic ideals. Perhaps that is why more than 40 religious organizations and human rights groups wrote to urge the Senate to take more time to consider the effects of this legislation on our safety, security, and commitment to the rule of law, and to vote against it if the serious problems in the bill are not corrected.

The proposed legislation would also allow the admission of evidence obtained through cruel and inhuman treatment into military commission proceedings. This provision would once again allow this administration to avoid all accountability for its misguided policies which have contributed to the rise of a new generation of terrorists who threaten us. Not only would the military commissions legislation before us immunize those who violated international law and stomped on basic American values, but it would allow them then to use the evidence obtained in violation of basic principles of fairness and justice.

Allowing in this evidence would violate our basic standards of fairness without increasing our security. Maher Arar, the Canadian citizen arrested by our government on bad intelligence and sent to Syria to be tortured, confessed to attending terrorist training camps. A Canadian commission investigating the case found that his confessions had no basis in fact. They merely reflected that he was being tortured, and he told his torturers what they wanted to hear. It is only one of many such documented cases of bad information resulting from torture. We gain nothing from allowing such information.

The military commissions legislation departs in other unfortunate ways from the Warner-Levin bill. Early this week, apparently at the White House's request, Republican drafters added a breathtakingly broad definition of "unlawful enemy combatant" which includes people—citizens and noncitizens alike—who have "purposefully and materially supported hostilities" against the United States or its allies. It also includes people determined to be unlawful enemy combatants by any "competent tribunal" established by the President or the Secretary of Defense. So the Government can select any person, including a United States citizen, whom it suspects of supporting hostilities—whatever that means—and begin denying that person the rights and processes guaranteed in our country. The implications are chilling.

I am sorry the Republican leadership passed up the chance to consider and pass bipartisan legislation that would have made us safer and help our fight on terrorism both by giving us the tools we need and by showing the world the values we cherish and defend. I will not participate in a legislative retreat out of weakness that undercuts everything this Nation stands for and that makes us more vulnerable and less secure.

The Senator from Vermont, consistent with my oath of office and my conscience and my commitment to the people of Vermont and the Nation, cannot—I will not—support this bill.

The PRESIDING OFFICER (Mr. CHAFEE). Who yields time? The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe I have 4 minutes allocated.

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. LEVIN. Mr. President, less than 2 weeks ago, the Armed Services Committee voted on a military commissions bill. The committee endorsed that bill on a bipartisan basis with a 15-to-9 vote. Yesterday, 43 of us voted for the same bill on the Senate floor.

The bill would have provided the administration with the tools that it needed to detain enemy combatants, conduct interrogations, and prosecute detainees for any war crimes they may have committed.

Unfortunately, that bill went off the tracks after it was approved by the Armed Services Committee. Instead of bringing to the Senate floor the bill that had been adopted by the Armed Services Committee on a bipartisan basis, we are voting now on a dramatically different bill based on changes made at the insistence of an administration that has been relentless in its determination to legitimize the abuse of detainees, to protect those who authorize the abuses, and to distort military commission procedures in order to ensure criminal convictions.

For example, the bill before us inexplicably fails to prohibit the use of statements or testimony obtained through cruel and inhuman treatment as long as those statements or testimony was obtained before December 30, 2005.

The argument has been made that the bill before us prohibits the use of statements that are obtained through torture. That was never in contention. The problem is that it permits the use of statements obtained through cruel and inhuman treatment that doesn't meet the strict definition of torture as long as those statements were obtained before December 30, 2005.

This is a compromise on the issue of cruelty—an issue on which there should be no compromise by our Nation or by the Senate. If we compromise on that, we compromise at our peril. The men and women who represent us in uniform will be in much greater danger if we compromise on the issue of statements obtained through cruelty and inhuman treatment.

A compromise on this issue endangers our troops because if other nations apply the same standard and allow statements or confessions obtained through cruelty to be used at so-called trials of our citizens, we will have little ground to stand on in our objecting to them.

This bill also does many other things which are dramatic changes from the bill that came out of the Armed Services Committee. For instance, the bill would authorize the use of evidence seized without a search warrant or other authorization, even if that evidence was seized from U.S. citizens inside the United States in clear violation of the U.S. Constitution.

Both the committee bill and the bill before us provide the executive branch with the tools it needs to hold enemy combatants accountable for any war crimes they may have committed. On this issue we are in agreement. We all agree that people who are responsible for the terrible events of September 11 and other terrorist attacks around the world should be brought to justice.

However, the bill before us differs dramatically from the Senate Armed Services Committee bipartisan-approved bill, particularly when it comes to the accountability of the administration for policies and actions leading to the abuses of detainees.

The bill before us contains provision after provision designed to ensure that the administration will not be held accountable for the abuse of prisoners in U.S. custody, for violations of U.S. law, or for the use of such tactics that have turned much of the world against us.

Over the last 2 days, we have debated the habeas corpus provision in the bill. Most of that debate has focused on the writ of habeas corpus as an individual right to challenge the lawfulness of detention. The writ of habeas corpus does serve that purpose.

But the writ of habeas corpus has always served a second purpose as well: for its 900-year history, the writ of habeas corpus has always served as a means of making the sovereign account for its actions. By depriving detainees of the opportunity to demonstrate that they were detained in error, this bill not only deprives individuals of a critical right deeply embedded in American law, it also helps ensure that the administration will not be held to account for the illegal or abusive treatment of detainees.

Indeed, the court-stripping provision in the bill does far more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering "any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial" of an alien detainee. By depriving detainees of access to our courts, even if they have been subject to torture or to cruel and inhuman treatment, this provision seeks to ensure that the details of administration policies that appear to have violated our obligations under U.S. and international law will never be aired in court.

A number of other provisions in the bill before us appear to be directed at the same objective. For example, section 5 of the bill provides that no person—whether that person is an enemy combatant or anybody else—may invoke the Geneva Conventions as a source of rights in a habeas corpus or other proceeding in any court of the United States. Section 948b(g) of the military commissions part of the bill would similarly provide that no person subject to trial by military commission may invoke the Geneva Conventions as a source of rights. These provisions, like the habeas corpus provision, appear to be designed to ensure that administration policies that may have violated our obligations under U.S. and international law will never be aired in court.

Other provisions in the bill narrow the range of abuses that are covered by the War Crimes Act. As a result of these amendments, some actions that were war crimes at the time they took place will not be prosecutable. Indeed, because of a complex definition in the bill, some actions that violated the War Crimes Act at the time they took place and will violate that act if they take place in the future will not be prosecutable. In other words, this bill carves out a window to immunize actions of this administration from prosecution under the War Crimes Act.

The administration and its allies have argued that these provisions are necessary to protect CIA interrogators from prosecution for actions that they believed to be lawful and authorized at the time they were undertaken. However, we addressed that problem with the enactment of the Detainee Treatment Act last year. That law provides a defense to any U.S. agent who engaged in specific operational practices that were officially authorized or reasonably believed to be lawful at the time they were undertaken.

This bill, however, goes far beyond protecting the front line interrogators and agents who believed that their actions were lawful; it changes the law to ensure that the administration officials who provided the authorization and knew or should have known that there was no legal basis for that authorization, will not be held accountable for their actions.

Last year, this Congress took an important stand for the rule of law by enacting the McCain amendment, which prohibits the cruel, inhuman, or degrading treatment of detainees in the custody of any U.S. agency anywhere in the world. That landmark provision is at risk of being rendered meaningless, if we establish rules ensuring that it can never be enforced.

We need to provide the administration with the tools that are needed to prosecute unlawful enemy combatants for any war crimes that they may have committed. However, we should not do so in a way that is inconsistent with our own values as a Nation. We need to practice what we preach to the rest of the world.

The bill before us will put our own troops who might be captured in future conflicts at risk if other countries decide to apply similar standards to us, is likely to result in the reversal of convictions on appeal, and is inconsistent with American values. For these reasons, I will vote no on final passage.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, it is my understanding I am to speak and the majority leader will speak and then we will vote; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, on a bright and sunny September morning 5 years ago, history changed in an instant. Our Nation was attacked. Nearly 3,000 of our citizens were murdered, and our lives as we knew them were forever changed.

The family members of those who died that day and we, their fellow Americans, have been waiting 5 years for those who masterminded that outrageous terrorist attack to be brought to justice. Osama bin Laden, a man whom we have seen on videotape bragging and laughing about his role in conceiving this deed, remains at large 5 years later. The American people are justifiably frustrated that he has not been caught. They have a right to ask whether our military and intelligence resources were unwisely diverted from that solemn task.

But some of Osama bin Laden's lieutenants were captured overseas years ago. There is no disagreement whatsoever between Republicans and Democrats on the need to bring these people to justice. We all want to make sure the President has the tools he needs to make this happen.

For 5 years, Democrats stood ready to work with the President and the Republican Congress to establish sound procedures for military tribunals. Mr. President, why do you think the Democratic ranking member of the Judiciary Committee has been so outraged at what has been going on? He is outraged because as the top Democrat on the Judiciary Committee, he introduced a bill in 2002 to solve the problems that are now before the Senate—4 years ago. No wonder he is incensed.

Unfortunately, President Bush chose to ignore Senator LEAHY and the Congress and ignore the advice of uniformed military professionals. He set up a flawed and imbalanced military tribunal system that failed to prosecute a single terrorist. Not surprisingly, it was ruled unconstitutional by the U.S. Supreme Court.

Forced by the Court decision to ask Congress for help, the Bush administration initially asked us, the Congress, to rubberstamp basically the same system that the Supreme Court struck down. Their proposal for one-sided trials and murky interrogation rules was opposed by such well-respected leaders as GEN Colin Powell and former Secretary of State George Shultz, both Republicans, and many others, Democrats and Republicans.

I must say, a handful of principled Republican Senators, led by the chairman of the Armed Services Committee, Senator WARNER, Senator GRAHAM from South Carolina, and Senator MCCAIN from Arizona stepped forward and forced the White House to back down from the worst elements of its extreme proposal. I appreciate the position of those Republican Senators, the names I have given you.

I repeat, Mr. President, I admire their courage. I appreciate the improvements they managed to make in this bill. But for them what is before us would be a lot worse.

However, since those Senators announced their agreement with the administration last Friday, the compromise has become much worse. The bill before us now looks more and more like the administration bill these Senators fought so hard against.

I believe the bill approved by the Senate Armed Services Committee would have given the President all necessary authority. It was supported by the chairman and a bipartisan majority of that committee, as well as our Nation's uniformed military lawyers.

The bill before us diverges from the committee bill in many ways, but let me talk about two.

First, it makes less clear that the United States will abide by our obligations under the Geneva Conventions. The President says the United States does not engage in torture and there should be no ambiguity on that point, but this bill gives the President authority to reinterpret our obligations and limits judicial oversight of that process, putting our own troops at risk on the battlefield.

A four-star general, former Secretary of State, former Chairman of the Joint Chiefs of Staff, GEN Colin Powell, wrote:

> The world is beginning to doubt the moral basis of our fight against terrorism. To redefine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk.

Second, this bill authorizes a vast expansion of the President's power to detain people, even U.S. citizens, indefinitely and without charge. There are no procedures for doing so. There is no due process provided, and no time limit on the detention is set.

At the same time, the bill would deprive Federal judges of the power to review the legality of many such detentions. Judges—all judges—would have no power to review the legality of many such detentions. This is true even in the case of a lawful permanent resident arrested and held in the United States, and even if that person happens to be completely innocent.

The Framers of our Constitution understood the need for checks and balances. This bill has thrown that principle right out the window.

Many of the worst provisions were not in the committee-reported bill and were not in the compromise announced last Friday. They were added over the weekend. Remember, there was a bill that was put before the Senate last Thursday, and from Thursday to Monday, it changed after, I say, back-room meetings with White House lawyers.

We have tried to improve this legislation. My friend, the ranking member of the Armed Services Committee, Senator CARL LEVIN, proposed to substitute the bipartisan bill reported by the Armed Services Committee. That amendment was rejected basically on a party-line vote.

Senators SPECTER and LEAHY, the two Members who are responsible for the Judiciary Committee, the chairman and ranking member, offered an amendment to restore the right of judicial review. This amendment was rejected on a party-line vote.

And Senator ROCKEFELLER, the ranking Democrat on the Intelligence Committee, offered an amendment to improve congressional oversight of the CIA programs. This amendment was rejected on a party-line vote.

Senator KENNEDY offered an amendment to clarify that inhumane interrogation tactics prohibited by the Army Field Manual could not be used on Americans or on others. That amendment was rejected on a party-line vote. Senator BYRD, who has seen things come and go in this body and who has been a Member of Congress for more than 50 years, offered an amendment to sunset military commissions so Congress would be required to reconsider this far-reaching authority after 5 years of having it in effect. That commonsense, realistic amendment was rejected on a party-line vote.

I personally believe, having been in a few courtrooms, that this legislation is unconstitutional. It will certainly be struck down by the Supreme Court in the years ahead, and when that happens, we will be back here debating how to bring terrorists to justice.

The families of the 9/11 victims and the Nation have been waiting 5 years for the perpetrators of these attacks to be brought to justice. They should not have to wait longer. We should get this right now; we should do it right. We are not doing so by passing this bill.

The national security policies of this administration and this Republican Congress may have been tough, but they certainly haven't been smart. The American people are paying a tremendous price for their mistakes. History will judge our actions here today. I am convinced that future generations will view passage of this bill as a grave error. I will be recorded as voting against this piece of legislation.

Mr. President, I dislike, I find repulsive, and I do not condone these evil and horrible people, these terrorists. They should be brought before the bar of justice and given what they deserve. For 5 years, that has not been the case. We Democrats want terrorists brought to justice quickly and in a way in keeping with our Constitution and, in this manner, give honor to the sacrifices made by American patriots in days past.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, for the past month we have debated how best to keep America safe. On one point I know all of our colleagues agree is that Khalid Sheikh Mohammed should be brought to justice. He should be prosecuted for masterminding the mass murders of almost 3,000 Americans on September 11. I know the American people and the families of those victims share that goal.

Every terrorist should be held accountable for their crimes against the innocent, against our enduring freedoms, against the values that we all share. Unfortunately, due to the Supreme Court's decision in Hamdan v. Rumsfeld, prosecutions of suspected terrorists like Khalid Sheikh Mohammed are at a stand-still, and these prosecutions will remain at a standstill until we act to authorize military commissions to try these suspected terrorists.

In addition to halting prosecutions of suspected terrorists, the Hamdan decision has undermined effective interrogation methods employed by our intelligence community. These methods yield critical information that allows us to prevent terrorist attacks and to save innocent lives. The information provided by these enemy combatants is our primary source—our best source—of reliable intelligence.

Past interrogations have guided us to the precise location of terrorists in hiding, explained how al-Qaida leaders communicate with operatives in Iraq, and identified voices in intercepted calls. Without this information, we fight a blind war.

The bill we will vote on in a few minutes addresses the concerns raised by the Hamdan decision. It provides the legislative framework authorizing military tribunals to prosecute suspected terrorists. It ensures certain protections and rights for the accused such as the right to counsel and the right to exclude evidence obtained through torture.

At the same time, the bill recognizes that because we are at war with a different type of enemy, we should not try terrorist detainees in the same way as our uniformed military or civilian criminals.

The bill also protects classified information from terrorists who could exploit it to plan another terrorist attack.

Finally, the bill allows key intelligence programs to continue while ensuring that our detention and interrogation methods comply with both domestic and international laws, including Geneva Conventions Common Article 3.

The bottom line is the bill before us allows us to bring terrorists to justice through full and fair military trials while preserving intelligence programs—intelligence programs that have disrupted terrorist plots and saved countless American lives.

Our national security demands that we pass this bill tonight. We need this tool in the war on terror. In the 5 years since 9/11 we have not suffered another terrorist attack on U.S. soil. One reason we have remained safe is by staying on the offense against emerging threats. This bill is another offensive strike against terrorism.

For the safety and security of the American people, Mr. President, I urge my colleagues to join us in supporting the Military Commission Act of 2006.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

Further, if present and voting, the Senator from Maine (Ms. SNOWE) would have voted "yea."

The PRESIDING OFFICER (Mr. ALLEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—65

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Landrieu
Lautenberg
Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Menendez
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—34

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Leahy
Levin
Lincoln
Mikulski
Murray
Obama
Reed
Reid
Sarbanes
Schumer
Wyden

NOT VOTING—1

Snowe

The bill (S. 3930), as amended, was passed, as follows:

S. 3930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Military Commissions Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Construction of Presidential authority to establish military commissions.
Sec. 3. Military commissions.
Sec. 4. Amendments to Uniform Code of Military Justice.
Sec. 5. Treaty obligations not establishing grounds for certain claims.
Sec. 6. Implementation of treaty obligations.
Sec. 7. Habeas corpus matters.
Sec. 8. Revisions to Detainee Treatment Act of 2005 relating to protection of certain United States Government personnel.
Sec. 9. Review of judgments of military commissions.
Sec. 10. Detention covered by review of decisions of Combatant Status Review Tribunals of propriety of detention.

SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

SEC. 3. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

"CHAPTER 47A—MILITARY COMMISSIONS

"Subchapter
"I. General Provisions 948a
"II. Composition of Military Commissions 948h
"III. Pre-Trial Procedure 948q
"IV. Trial Procedure 949a
"V. Sentences 949s
"VI. Post-Trial Procedure and Review of Military Commissions 950a
"VII. Punitive Matters 950p

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"948a. Definitions.
"948b. Military commissions generally.
"948c. Persons subject to military commissions.
"948d. Jurisdiction of military commissions.
"948e. Annual report to congressional committees.

"§ 948a. Definitions

"In this chapter:

"(1) UNLAWFUL ENEMY COMBATANT.—(A) The term 'unlawful enemy combatant' means—

"(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

"(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

"(B) CO-BELLIGERENT.—In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

"(2) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means a person who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(3) ALIEN.—The term 'alien' means a person who is not a citizen of the United States.

"(4) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(5) GENEVA CONVENTIONS.—The term 'Geneva Conventions' means the international conventions signed at Geneva on August 12, 1949.

"§ 948b. Military commissions generally

"(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

"(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

"(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

"(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

"(e) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"(f) STATUS OF COMMISSIONS UNDER COMMON ARTICLE 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary 'judicial guarantees which are recognized as indispensable by civilized peoples' for purposes of common Article 3 of the Geneva Conventions.

"(g) GENEVA CONVENTIONS NOT ESTABLISHING SOURCE OF RIGHTS.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

"§ 948c. Persons subject to military commissions

"Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

"§ 948d. Jurisdiction of military commissions

"(a) JURISDICTION.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

"(b) LAWFUL ENEMY COMBATANTS.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable under this chapter.

"(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

"(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

"§948e. Annual report to congressional committees

"(a) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

"(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

"SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

"Sec.
"948h. Who may convene military commissions.
"948i. Who may serve on military commissions.
"948j. Military judge of a military commission.
"948k. Detail of trial counsel and defense counsel.
"948l. Detail or employment of reporters and interpreters.
"948m. Number of members; excuse of members; absent and additional members.

"§948h. Who may convene military commissions

"Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

"§948i. Who may serve on military commissions

"(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter.

"(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members of the commission such members of the armed forces eligible under subsection (a), as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

"(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

"§948j. Military judge of a military commission

"(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

"(b) QUALIFICATIONS.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such military judge is a member.

"(c) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

"(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members of the commission except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members of the commission.

"(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

"(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

"§948k. Detail of trial counsel and defense counsel

"(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

"(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

"(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the swearing of charges against the accused.

"(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such commissions.

"(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

"(1) a judge advocate (as that term is defined in section 801 of this title (article 1 of the Uniform Code of Military Justice) who—

"(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(B) is certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member; or

"(2) a civilian who—

"(A) is a member of the bar of a Federal court or of the highest court of a State; and

"(B) is otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

"(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under this chapter must be a judge advocate (as so defined) who is—

"(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

"(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of which he is a member.

"(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

"(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

"(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

"§948l. Detail or employment of reporters and interpreters

"(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter shall detail to or employ for the commission qualified court reporters, who shall make a verbatim recording of the proceedings of and testimony taken before the commission.

"(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the commission and, as necessary, for trial counsel and defense counsel and for the accused.

"(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the commission, who shall also be responsible for preparing the record of the proceedings.

"§948m. Number of members; excuse of members; absent and additional members

"(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

"(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

"(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

"(1) as a result of challenge;

"(2) by the military judge for physical disability or other good cause; or

"(3) by order of the convening authority for good cause.

"(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

"SUBCHAPTER III—PRE-TRIAL PROCEDURE

"Sec.
"948q. Charges and specifications.
"948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements.
"948s. Service of charges.

"§ 948q. Charges and specifications

"(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

"(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

"(2) that they are true in fact to the best of the signer's knowledge and belief.

"(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges against him as soon as practicable.

"§ 948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements

"(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

"(b) EXCLUSION OF STATEMENTS OBTAINED BY TORTURE.—A statement obtained by use of torture shall not be admissible in a military commission under this chapter, except against a person accused of torture as evidence that the statement was made.

"(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence.

"(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

"(2) the interests of justice would best be served by admission of the statement into evidence; and

"(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

"§ 948s. Service of charges

"The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused understands. Such service shall be made sufficiently in advance of trial to prepare a defense.

"SUBCHAPTER IV—TRIAL PROCEDURE

"Sec.
"949a. Rules.
"949b. Unlawfully influencing action of military commission.
"949c. Duties of trial counsel and defense counsel.
"949d. Sessions.
"949e. Continuances.
"949f. Challenges.
"949g. Oaths.
"949h. Former jeopardy.
"949i. Pleas of the accused.
"949j. Opportunity to obtain witnesses and other evidence.
"949k. Defense of lack of mental responsibility.
"949l. Voting and rulings.
"949m. Number of votes required.
"949n. Military commission to announce action.
"949o. Record of trial.

"§ 949a. Rules

"(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense, in consultation with the Attorney General. Such procedures shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence in trial by general courts-martial. Such procedures and rules of evidence may not be contrary to or inconsistent with this chapter.

"(b) RULES FOR MILITARY COMMISSION.—(1) Notwithstanding any departures from the law and the rules of evidence in trial by general courts-martial authorized by subsection (a), the procedures and rules of evidence in trials by military commission under this chapter shall include the following:

"(A) The accused shall be permitted to present evidence in his defense, to cross-examine the witnesses who testify against him, and to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

"(B) The accused shall be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

"(C) The accused shall receive the assistance of counsel as provided for by section 948k.

"(D) The accused shall be permitted to represent himself, as provided for by paragraph (3).

"(2) In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe the following provisions:

"(A) Evidence shall be admissible if the military judge determines that the evidence would have probative value to a reasonable person.

"(B) Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

"(C) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

"(D) Evidence shall be admitted as authentic so long as—

"(i) the military judge of the military commission determines that there is sufficient basis to find that the evidence is what it is claimed to be; and

"(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given to the evidence.

"(E)(i) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to provide the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949j(c) of this title.

"(ii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the evidence demonstrates that the evidence is unreliable or lacking in probative value.

"(F) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

"(i) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

"(ii) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

"(3)(A) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of the defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

"(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (1)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

"(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

"(d) NOTIFICATION TO CONGRESSIONAL COMMITTEES OF CHANGES TO PROCEDURES.—Not later than 60 days before the date on which any proposed modification of the procedures in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the modification.

“§ 949b. Unlawfully influencing action of military commission

“(a) In General.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or his functions in the conduct of the proceedings.

“(2) No person may attempt to coerce or, by any unauthorized means, influence—

“(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

“(B) the action of any convening, approving, or reviewing authority with respect to his judicial acts; or

“(C) the exercise of professional judgment by trial counsel or defense counsel.

“(3) Paragraphs (1) and (2) do not apply with respect to—

“(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

“(B) statements and instructions given in open proceedings by a military judge or counsel.

“(b) Prohibition on Consideration of Actions on Commission in Evaluation of Fitness.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

“(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

“(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

“§ 949c. Duties of trial counsel and defense counsel

“(a) Trial Counsel.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

“(b) Defense Counsel.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

“(2) The accused shall be represented by military counsel detailed under section 948k of this title.

“(3) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

“(A) is a United States citizen;

“(B) is admitted to the practice of law in a State, district, or possession of the United States or before a Federal court;

“(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

“(D) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

“(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

“(4) Civilian defense counsel shall protect any classified information received during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may not divulge such information to any person not authorized to receive it.

“(5) If the accused is represented by civilian counsel, detailed military counsel shall act as associate counsel.

“(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in that person's sole discretion, may detail additional military counsel to represent the accused.

“(7) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

“§ 949d. Sessions

“(a) Sessions Without Presence of Members.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

“(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

“(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

“(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

“(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

“(2) Except as provided in subsections (c) and (e), any proceedings under paragraph (1) shall—

“(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

“(B) be made part of the record.

“(b) Proceedings in Presence of Accused.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

“(1) be in the presence of the accused, defense counsel, and trial counsel; and

“(2) be made a part of the record.

“(c) Deliberation or Vote of Members.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

“(d) Closure of Proceedings.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

“(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

“(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

“(B) ensure the physical safety of individuals.

“(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

“(e) Exclusion of Accused From Certain Proceedings.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

“(1) to ensure the physical safety of individuals; or

“(2) to prevent disruption of the proceedings by the accused.

“(f) Protection of Classified Information.—

“(1) National Security Privilege.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.

“(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

“(i) the information is properly classified; and

“(ii) disclosure of the information would be detrimental to the national security.

“(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

“(2) Introduction of Classified Information.—

“(A) Alternatives to Disclosure.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

“(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission;

“(ii) the substitution of a portion or summary of the information for such classified documents; or

“(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

“(B) Protection of Sources, Methods, or Activities.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that (i) the sources, methods, or activities by which the United States acquired the evidence are classified, and (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

“(C) Assertion of National Security Privilege at Trial.—During the examination of any witness, trial counsel may object to any question, line of inquiry, or motion to admit evidence that would require the disclosure of classified information. Following such an objection, the military judge shall take suitable action to safeguard such classified information. Such action may include the review of trial counsel's claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

"(3) CONSIDERATION OF PRIVILEGE AND RELATED MATERIALS.—A claim of privilege under this subsection, and any materials submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

"(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the use and protection of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

"§ 949e. Continuances

"The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

"§ 949f. Challenges

"(a) CHALLENGES AUTHORIZED.—The military judge and members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.

"§ 949g. Oaths

"(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that—

"(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

"(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

"§ 949h. Former jeopardy

"(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

"§ 949i. Pleas of the accused

"(a) ENTRY OF PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

"(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

"§ 949j. Opportunity to obtain witnesses and other evidence

"(a) RIGHT OF DEFENSE COUNSEL.—Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(b) PROCESS FOR COMPULSION.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

"(1) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

"(2) shall run to any place where the United States shall have jurisdiction thereof.

"(c) PROTECTION OF CLASSIFIED INFORMATION.—(1) With respect to the discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

"(A) the deletion of specified items of classified information from documents to be made available to the accused;

"(B) the substitution of a portion or summary of the information for such classified documents; or

"(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired evidence if the military judge finds that the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require trial counsel to provide, to the extent practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence.

"(d) EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel shall disclose to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

"(2) In this subsection, the term 'evidence known to trial counsel', in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

"§ 949k. Defense of lack of mental responsibility

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

"(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

"§ 949l. Voting and rulings

"(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

"(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

"(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

"(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

“(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

“(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

“(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

“(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

“§ 949m. Number of votes required

“(a) Conviction.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

“(b) Sentences.—(1) No person may be sentenced by a military commission to suffer death, except insofar as—

“(A) the penalty of death is expressly authorized under this chapter or the law of war for an offense of which the accused has been found guilty;

“(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

“(C) the accused is convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

“(D) all the members present at the time the vote is taken concur in the sentence of death.

“(2) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

“(3) All other sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

“(c) Number of Members Required for Penalty of Death.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12.

“(2) In any case described in paragraph (1) in which 12 members are not reasonably available because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 9 members), and the military commission may be assembled, and the trial held, with not fewer than the number of members so specified. In such a case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

“§ 949n. Military commission to announce action

“A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

“§ 949o. Record of trial

“(a) Record; Authentication.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

“(b) Complete Record Required.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

“(c) Provision of Copy to Accused.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 949d of this title. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

“SUBCHAPTER V—SENTENCES

“Sec.
“949s. Cruel or unusual punishments prohibited.
“949t. Maximum limits.
“949u. Execution of confinement.

“§ 949s. Cruel or unusual punishments prohibited

“Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

“§ 949t. Maximum limits

“The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

“§ 949u. Execution of confinement

“(a) In General.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

“(1) in any place of confinement under the control of any of the armed forces; or

“(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

“(b) Treatment During Confinement by Other Than the Armed Forces.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

“SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

“Sec.
“950a. Error of law; lesser included offense.
“950b. Review by the convening authority.
“950c. Appellate referral; waiver or withdrawal of appeal.
“950d. Appeal by the United States.
“950e. Rehearings.
“950f. Review by Court of Military Commission Review.
“950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court.
“950h. Appellate counsel.
“950i. Execution of sentence; procedures for execution of sentence of death.
“950j. Finality or proceedings, findings, and sentences.

“§ 950a. Error of law; lesser included offense

“(a) Error of Law.—A finding or sentence of a military commission under this chapter may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

“(b) Lesser Included Offense.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

“§ 950b. Review by the convening authority

“(a) Notice to Convening Authority of Findings and Sentence.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

“(b) Submittal of Matters by Accused to Convening Authority.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

“(2)(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section 949o(c) of this title.

“(B) If the accused shows that additional time is required for the accused to make a submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

“(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

“(c) Action by Convening Authority.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

“(2)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

“(B) Subject to regulations prescribed by the Secretary of Defense, action on the sentence under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

“(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

“(3) The convening authority is not required to take action on the findings of a military commission under this chapter. If the convening authority takes action on the findings, the convening authority may, in his sole discretion, may—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

"(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

"(d) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion, order a proceeding in revision or a rehearing.

"(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

"(i) there is an apparent error or omission in the record; or

"(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

"(B) In no case may a proceeding in revision—

"(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

"(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

"(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

"§ 950c. Appellate referral; waiver or withdrawal of appeal

"(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided under subsection (b), in each case in which the final decision of a military commission (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

"(b) WAIVER OF RIGHT OF REVIEW.—(1) In each case subject to appellate review under section 950f of this title, except a case in which the sentence as approved under section 950b of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

"(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

"(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

"(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

"(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

"§ 950d. Appeal by the United States

"(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the Court of Military Commission Review of any order or ruling of the military judge that—

"(A) terminates proceedings of the military commission with respect to a charge or specification;

"(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

"(C) relates to a matter under subsection (d), (e), or (f) of section 949d of this title or section 949j(c) of this title.

"(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

"(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of such order or ruling.

"(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the Court of Military Commission Review. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

"(d) APPEAL FROM ADVERSE RULING.—The United States may appeal an adverse ruling on an appeal under subsection (c) to the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals.

"§ 950e. Rehearings

"(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

"(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

"(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

"(B) no sentence in excess of or more than the original sentence may be imposed unless—

"(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

"(ii) the sentence prescribed for the offense is mandatory.

"(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

"§ 950f. Review by Court of Military Commission Review

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing military commission decisions under this chapter, the court may sit in panels or as a whole in accordance with rules prescribed by the Secretary.

"(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948j(b) of this title or shall be a civilian with comparable qualifications. No person may be serve as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

"(c) CASES TO BE REVIEWED.—The Court of Military Commission Review, in accordance with procedures prescribed under regulations of the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter of law raised by the accused.

"(d) SCOPE OF REVIEW.—In a case reviewed by the Court of Military Commission Review under this section, the Court may act only with respect to matters of law.

"§ 950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

"(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in subparagraph (B), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

"(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

"(2) A petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—

"(A) written notice of the final decision of the Court of Military Commission Review is served on the accused or on defense counsel; or

"(B) the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review under section 950f of this title.

"(b) STANDARD FOR REVIEW.—In a case reviewed by it under this section, the Court of Appeals may act only with respect to matters of law.

"(c) SCOPE OF REVIEW.—The jurisdiction of the Court of Appeals on an appeal under subsection (a) shall be limited to the consideration of—

"(1) whether the final decision was consistent with the standards and procedures specified in this chapter; and

"(2) to the extent applicable, the Constitution and the laws of the United States.

"(d) SUPREME COURT.—The Supreme Court may review by writ of certiorari the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

“§950h. Appellate counsel

“(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

“(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

“(1) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review; and

“(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

“(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 949c(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

“§950i. Execution of sentence; procedures for execution of sentence of death

“(a) IN GENERAL.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

“(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

“(c) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

“(2) A judgment as to legality of proceedings is final for purposes of paragraph (1) when—

“(A) the time for the accused to file a petition for review by the Court of Appeals for the District of Columbia Circuit has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court; or

“(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

“(i) a petition for a writ of certiorari is not timely filed;

“(ii) such a petition is denied by the Supreme Court; or

“(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

“(d) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

“§950j. Finality or proceedings, findings, and sentences

“(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

“(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

“SUBCHAPTER VII—PUNITIVE MATTERS

“Sec.
“950p. Statement of substantive offenses.
“950q. Principals.
“950r. Accessory after the fact.
“950s. Conviction of lesser included offense.
“950t. Attempts.
“950u. Solicitation.
“950v. Crimes triable by military commissions.
“950w. Perjury and obstruction of justice; contempt.

“§950p. Statement of substantive offenses

“(a) PURPOSE.—The provisions of this subchapter codify offenses that have traditionally been triable by military commissions. This chapter does not establish new crimes that did not exist before its enactment, but rather codifies those crimes for trial by military commission.

“(b) EFFECT.—Because the provisions of this subchapter (including provisions that incorporate definitions in other provisions of law) are declarative of existing law, they do not preclude trial for crimes that occurred before the date of the enactment of this chapter.

“§950q. Principals

“Any person is punishable as a principal under this chapter who—

“(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

“(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

“(3) is a superior commander who, with regard to acts punishable under this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

“§950r. Accessory after the fact

“Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

“§950s. Conviction of lesser included offense

“An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

“§950t. Attempts

“(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

“(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

“(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

“§950u. Solicitation

“Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

“§950v. Crimes triable by military commissions

“(a) DEFINITIONS AND CONSTRUCTION.—In this section:

“(1) MILITARY OBJECTIVE.—The term ‘military objective’ means—

“(A) combatants; and

“(B) those objects during an armed conflict—

“(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

“(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

“(2) PROTECTED PERSON.—The term ‘protected person’ means any person entitled to protection under one or more of the Geneva Conventions, including—

“(A) civilians not taking an active part in hostilities;

“(B) military personnel placed hors de combat by sickness, wounds, or detention; and

“(C) military medical or religious personnel.

“(3) PROTECTED PROPERTY.—The term ‘protected property’ means property specifically protected by the law of war (such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

“(4) CONSTRUCTION.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

"(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"(11) TORTURE.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(12) CRUEL OR INHUMAN TREATMENT.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) DEFINITIONS.—In this paragraph:

"(i) The term 'serious physical pain or suffering' means bodily injury that involves—

"(I) a substantial risk of death;

"(II) extreme physical pain;

"(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

"(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

"(I) the term 'serious' shall replace the term 'severe' where it appears; and

"(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

"(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) protracted and obvious disfigurement; or

"(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

"(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the cobelligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"§ 950w. Perjury and obstruction of justice; contempt

"(a) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice related to military commissions under this chapter.

"(b) CONTEMPT.—A military commission under this chapter may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.".

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

"47A. Military Commissions .... 948a".

(b) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

"(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.".

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: "This section does not apply to a military commission established under chapter 47A of this title.".

(3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—

(A) in subsection (a), by inserting ", except as provided in chapter 47A of this title," after "but which may not"; and

(B) in subsection (b), by inserting before the period at the end ", except insofar as applicable to military commissions established under chapter 47A of this title".

(b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(a)" before "Any person"; and

(2) by adding at the end the following new subsection:

"(b) Any person subject to this chapter who conspires with any other person to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.".

SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term "Geneva Conventions" means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term "Third Geneva Convention" means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

"(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or"; and

(B) by adding at the end the following new subsection:

"(d) COMMON ARTICLE 3 VIOLATIONS.—

"(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

"(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

"(B) CRUEL OR INHUMAN TREATMENT.—The act of a person who commits, or conspires or attempts to commit, an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

"(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

"(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

"(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

"(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

"(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

"(H) SEXUAL ASSAULT OR ABUSE.—The act of a person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

"(I) TAKING HOSTAGES.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

"(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

"(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 2340(2) of this title;

"(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title;

"(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title;

"(D) the term 'serious physical pain or suffering' shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(E) the term 'serious mental pain or suffering' shall be applied for purposes of paragraph (1)(B) in accordance with the meaning given the term 'severe mental pain or suffering' (as defined in section 2340(2) of this title), except that—

"(i) the term 'serious' shall replace the term 'severe' where it appears; and

"(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.".

(2) RETROACTIVE APPLICABILITY.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 583 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.

SEC. 7. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking both the subsection (e) added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742) and the subsection (e) added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and inserting the following new subsection (e):

"(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

"(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(a) Counsel and Investigations.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1(b)) is amended—

(1) by striking "may provide" and inserting "shall provide";

(2) by inserting "or investigation" after "criminal prosecution"; and

(3) by inserting "whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies," after "described in that subsection".

(b) Protection of Personnel.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(1) in subparagraph (A), by striking "pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)" and inserting "by a military commission under chapter 47A of title 10, United States Code";

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

"(B) Grant of review.—Review under this paragraph shall be as of right.";

(3) in subparagraph (C)—

(A) in clause (i)—

(i) by striking "pursuant to the military order" and inserting "by a military commission"; and

(ii) by striking "at Guantanamo Bay, Cuba"; and

(B) in clause (ii), by striking "pursuant to such military order" and inserting "by the military commission"; and

(4) in subparagraph (D)(i), by striking "specified in the military order" and inserting "specified for a military commission".

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking "the Department of Defense at Guantanamo Bay, Cuba" and inserting "the United States".

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I thank the Presiding Officer.

This matter has now been brought to conclusion.

I yield the floor.

SECURE FENCE ACT OF 2006—Resumed

CLOTURE MOTION

The PRESIDING OFFICER (Mr. Allen). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

Bill Frist, Lamar Alexander, Richard Burr, Gordon Smith, John Thune, Johnny Isakson, John Cornyn, Judd Gregg, Jim Inhofe, Saxby Chambliss, Sam Brownback, Tom Coburn, Jeff Sessions, Richard Shelby, Craig Thomas, Michael B. Enzi, Lisa Murkowski.

Mr. KENNEDY. In May, the Senate passed a historic bipartisan bill that bolsters national security, ensures economic prosperity and protects families. The House passed a very different bill.

The logical next step would have been to appoint conferees and begin negotiating a compromise.

But, instead of working to get legislation to the President's desk, the House Republican leadership frittered away the summer, embarking on a political road show featuring 60 cynical onesided hearings, and wasting millions of precious taxpayer dollars.

Repeatedly, the American people have told us that they want our immigration system fixed, and fixed now. They know this complex problem requires border security, a solution for the 12 million undocumented, and a fair temporary worker program for future workers. All security experts agree.

So what does the Republican leadership have to show for its months of fist pounding and finger pointing?

All they have is old and failed plan—a fence bill. It makes for a good bumper sticker, but it is not a solution. It is a feel good vote that will do nothing but waste $9 billion.

The fence proposal we have before us: Goes far beyond what Secretary Chertoff needs; it doubles the size of the fence we have already approved. From 370 miles to 850 miles. It is also expensive. Estimates range from $3 million per mile. And it will not work. Fences will not stop illegal overstayers—who account for 40-50 percent of current undocumented population, or the many who continue to come here to work.

What the Republican leadership does not seem to get is that comprehensive immigration reform is all about security.

The American people want realistic solutions, not piecemeal feel-good measures that will waste billions of precious taxpayer dollars and do nothing to correct a serious problem.

Sacrificing good immigration policy for political expediency and hateful rhetoric is not just shameful it is cowardly.

Let us be frank. This is about politics not policy.

I urge my colleagues to choose good policy over political expedience and oppose this cloture motion.

Mr. FEINGOLD. Mr. President, every Member of this body recognizes that border security is critical to our Nation's security. We can and must improve our efforts at the borders and prevent potential terrorists from entering our country. I have long supported devoting more personnel and resources to border security, and I will continue to do so.

But this bill is a misguided effort to secure our borders. I cannot justify pouring billions of Federal dollars into efforts that are not likely to be effective.

Recent Congressional Budget Office estimates indicate that border fencing can cost more than $3 million per mile. Under this legislation, we would be committing vast resources to an unproven initiative. Adding hundreds of miles of fencing along the border will almost certainly not stem the flow of people who are willing to risk their lives to come to this country.

Furthermore, there are very serious concerns about the environmental impact this type of massive construction project would have on fragile ecosystems in border areas. Before we pour precious Federal dollars into a massive border fencing system, at the very least we should do a thorough analysis of the most effective and fiscally responsible means of securing our borders against illegal transit. In fact, S. 2611, the Comprehensive Immigration Reform Act of 2006, would direct the Attorney General, in cooperation with other executive branch officials, to conduct such a study on this question. The study would analyze the construction of a system of physical barriers along the southern international land and maritime border, including the necessity, feasibility, and impact of such barriers on the surrounding area.

Another reason that this bill is misguided is that improving our border security alone will not stem the tide of people who are willing to risk everything to enter this country. According to a recent Cato Institute report, the probability of catching an illegal immigrant has fallen over the past two decades from 33 percent to 5 percent, despite the fact that we have tripled the number of border agents and increased the enforcement budget tenfold. It would be fiscally irresponsible and self-defeating to devote more and more Federal dollars to border security efforts, like this fence, without also creating a realistic immigration system to allow people who legitimately want to come to this country to go through legal channels to do so.

That is why I oppose the House "enforcement only" bill. That is why business groups, labor unions and immigrant's rights groups have all come together to demand comprehensive immigration reform. And that is why I oppose this bill. We need a comprehensive, pragmatic approach that not only strengthens border security, but also brings people out of the shadows and ensures that our Government knows who is entering this country for legitimate reasons, so we can focus our efforts on finding those who want to do us harm. Border security alone is not enough. I will vote against cloture on this bill.

Mr. BYRD. Mr. President, I support cloture on H.R. 6061, the Secure Fence Act. The sooner the Congress passes this bill, the sooner the Congress can put aside the misguided amnesty legislation passed by the Senate earlier this year. The American people have listened and rejected the call to offer U.S. citizenship to illegal aliens. They have said NO to amnesty! Hallelujah!

Comprehensive immigration reform is a euphemism for amnesty, and I oppose it absolutely and unequivocally. I voted against the amnesty bill passed by the Senate, and I will continue to vote against amnesty as long as I am in the Senate.

I have seen how amnesties encourage illegal immigration, with the amnesties of the 1980s and 1990s corresponding with an unprecedented rise in the population of unlawful aliens.

I have seen how amnesties open the border to terrorists, with the perpetrators of terrorist plots against our country taking advantage of amnesties to circumvent the regular border and immigration checks.

I have seen how amnesties afford special rules to some immigrants. Amnesty undermines that great and egalitarian American promise that the rules will be applied equally and fairly to everyone.

We are a nation of immigrants to be sure, but that does not mean that we are obligated to give away U.S. citizenship. According to immigration experts, until 1986, the Congress never granted amnesty to any generation of immigrants. The Congress encouraged immigrants to learn the Constitutional principles of our Government and the history of our country. Immigrants learned English, and tried to assimilate. U.S. citizenship was their reward. The Congress did not reward illegal aliens with U.S. citizenship.

Now that this idea of amnesty has been rejected by the Congress, perhaps the administration will begin, at long last, to focus its efforts on actually reducing the number of illegal aliens already in the country. Such an effort will require a significant investment of funds to hire law enforcement and border security agents, and to give them the resources and equipment they need to do their job. In the years immediately after the September 11 attacks, those funds had not only been left out of the President's annual budgets but had been continuously blocked by the White House in the appropriations process. I and others tried to add funds where possible, but not until recently did the administration begin to respond to the inadequacies along the border. So much more is required and needs to be done.

The bill before the Senate today is a good bill. It would authorize two-layer fencing along the southern border where our security is weakest, and set timetables to which the Congress can hold the administration. But this bill will amount to little or no protection without the resources to implement it. The administration must do more. Without its continued support and a committed effort to prevent illegal immigration, the protective barrier called for in this bill will amount to nothing more than a line drawn in the sands of our porous Southern border.

Mr. KENNEDY. Mr. President, now we have 4 minutes that can be equally divided between those in favor and those in opposition; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Let us review where we in the Senate have been on the issue of immigration.

Last May, we passed by 63 votes, with 1 favorable vote missing, a comprehensive measure to try to deal with a complex and difficult issue. The House of Representatives passed this bill, but they refused to meet with the Senate of the United States. The House of Representatives held 60 hearings all over the country at taxpayers' expense—millions and millions of dollars. What do they come up with? After all the pounding and finger-pointing, they came up with an 800-mile fence.

Listen to Governor Napolitano: You show me a 50-foot fence, and I will show you a 51-foot ladder.

This is a feel-good bumper-sticker vote. It is not going to work. Why? Because half of all the undocumented come here legally. They don't come over the fence.

Do you hear us? This is going to cost $9 billion.

Listen to what Secretary Chertoff said about this issue. Secretary Chertoff said: "Don't give us old fences. Give us 20th century solutions." Tom Ridge, the former head of Homeland Security, said the same thing.

This is a waste of money. Let us do what we should have done in the first place. Let us sit down with the House, the way this institution is supposed to work, rather than just take what is served up by the House of Representatives that said take it or leave it. That is what they are saying to the Senate.

We have had a good debate which resulted in a comprehensive measure. Let us have a conference with the House. But let us reject this bumper-sticker solution. It isn't going to work. It is going to be enormously costly.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we know that fencing works. It is a proven approach. The San Diego fence has been incredibly successful. The illegal entries have fallen from 500,000 to 100,000. Crime in San Diego County, the whole county, dropped 56 percent. It is an absolutely successful experiment and demonstration of this working.

The chief of Border Patrol told one of the House hearings that it multiplies the capacity of their agents to be effective. There is no way individual agents can run up and down the border without some barriers in these high-traffic areas.

Secretary Chertoff asked us explicitly for 800 miles of barriers and fencing. He asked for that. We voted for it in May. We voted 83 to 16 in favor of the fence, and in August we voted 93 to 3 in favor of funding. But we haven't gotten there yet.

This bill is the kind of bill which can allow us to go forward and complete what the American people would like to see, and maybe then we can have some credibility with the public and we can begin to deal with the very important, sensitive issues of comprehensive immigration reform which I favor. But I believe the present bill that came through the Senate did not meet the required standard. We can do much better.

We have voted for this. We voted for it at least three times to make it a reality. And then we will have some credibility with the American people after we do that and then begin to talk comprehensively about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—71

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Landrien
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—28

Akaka
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Dodd
Durbin
Feingold
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Menendez
Murray
Obama
Reed
Reid
Salazar
Sarbanes
Schumer

NOT VOTING—1

Snowe

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will please report the bill.

The legislative clerk read as follows:

A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

Pending:

Frist amendment No. 5036, to establish military commissions.

Frist amendment No. 5037 (to amendment No. 5036), to establish the effective date.

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment.

Frist amendment No. 5038 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish military commissions.

Frist amendment No. 5039 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish the effective date.

Frist amendment No. 5040 (to amendment No. 5039), to amend the effective date.

The PRESIDING OFFICER. The Senator from Alaska.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, the Senate I proceed to the immediate consideration of the conference report to accompany H.R. 5631, the Defense appropriations bill. I further ask unanimous consent that there be 2 hours of debate equally divided between the majority and minority, with that debate time not counting against the 30 hours postcloture, and that a vote on adoption of the conference report occur at 10 a.m. on Friday, September 29.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5631), making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of September 25, 2006.)

The PRESIDING OFFICER. The Senator from Alaska. Mr. STEVENS. Mr. President, the time is equally divided, as I understand it.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. STEVENS. Mr. President, I am pleased to present the Defense appropriations conference report for fiscal year 2007 with my colleague from Hawaii, our cochairman, Senator INOUYE.

Two nights ago, in a strong measure of bipartisan support for our men and women in uniform, the House of Representatives passed this bill. There are only 4 days left in the fiscal year. The 2007 Defense appropriations conference report must be signed into law by the President before Saturday at midnight.

Finishing debate on this bill tonight and passing it tomorrow morning will ensure that this bill will get to the President in time so there will be no lapse in money available to our men and women in uniform to conduct the ongoing activities throughout the world.

This bill includes the continuing resolution for those appropriations bills which have not been completed. This continuing resolution, or CR, as we call it, was negotiated on a bicameral, bipartisan basis. It is what we call a clean CR. There is no other problem associated with this CR. It has been supported on both sides of the aisle, and we are grateful to the Members in both the House and the Senate for that approval.

Our conference report represents a balanced approach to fulfilling the financial needs of the Department for fiscal year 2007. It provides $436.5 billion in new discretionary spending authority for the Department of Defense. This amount also includes $70 billion in emergency spending for early fiscal year 2007 costs associated with the operations in Iraq and Afghanistan and the global war against terrorism.

The bill fully funds the 2.2 percent across-the-board military pay raise as proposed in the President's budget.

This conference agreement also provides $17.1 billion for additional fiscal year 2007 reset funding for the Army and $5.8 billion for the Marine Corps. These are specific amounts identified by the services as necessary to meet their fiscal year 2007 equipment requirements.

The additional reset funding provides for the replacement of aircraft lost in battle and the recapitalization and production of combat and tactical vehicles, ammunition, and communications equipment.

In addition, the conference report provides $1.1 billion for body armor and personal protection equipment and $1.9 billion to combat improvised explosive devices.

The bill also provides $1.5 billion for the Afghanistan security forces fund and $1.7 billion for the Iraq security forces fund. These funds will continue the training of indigenous security forces and provide equipment and infrastructure essential to developing capable security forces in Afghanistan and Iraq.

The bill does not address the funding for basic allowance for housing within the military personnel accounts, sustainment, readiness and modernization funds contained in the operation and maintenance accounts, environmental funding, or Defense Health Program funding. These accounts will be conferenced later this year with the House Appropriations subcommittee responsible for those accounts. They are separate from this bill.

Finally, I would like to note that the bill provides more than $3 billion for National Guard and Reserve equipment to improve their readiness in combat operations as well as their critical role in our Nation's response to natural disasters.

I urge all Members of the Senate to support this bill. It supports the men and women in uniform who risk their lives for our country each day. By voting for this measure, we show our support for what they do.

I also wish to thank my cochairman again, Senator INOUYE, for his support and invaluable counsel on the bill.

And before I recognize him, I would like to allocate 10 minutes of the time on our side to the distinguished Senator from Oklahoma. But I yield to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise to express my strong support for the conference report on H. R. 5631. This bill, as the chairman has noted, includes some $436.6 billion for the Department of Defense, including $70 billion to help offset the cost of war in Iraq and the global war on terrorism for the first several months of fiscal year 2007.

I want to remind my colleagues that the bill does not include funding, as noted by the chairman, for the Defense Health Program or for environmental and real property maintenance and related programs.

By agreement between the Appropriations Committees in both Houses, these amounts will be carried in the Military Construction bill which has not yet passed the Senate.

Accounting for this change, the bill is $9.3 billion higher than the bill which passed the Senate. Of this amount, approximately $4.7 billion is in emergency funding for the war on terror, and the balance is for regular appropriations.

This bill provides for the essential requirements of the Department of Defense and is a fair compromise between the priorities of the House and the Senate.

To my colleagues on the democratic side, I would say this is a good bill.

It was fashioned in a bi-partisan manner and it funds our critical defense needs.

Several items which were added to this bill by democratic amendments are addressed favorably in this conference report.

The agreement urges the President to report his plans in the event of increased sectarian violence in Iraq. It urges the director of national intelligence to assess many elements of the potential for civil war in Iraq.

It includes an additional $100 million to help eradicate poppies in Afghanistan and it addresses concerns raised in the Senate about increasing funding to find the leaders of al-Qaida.

I point out to the Senate that all the members of the conference on both sides of the aisle supported this agreement.

I fully support the bill that the Chairman is recommending, and I urge my colleagues to support the measure as well.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank the Senator from Alaska for all his hard work and dedication on defense in this country and the hard work he put forward. This bill undoubtedly will pass this body, and probably unanimously. I will note that there were several things I have a criticism of in the bill and things I would like to have seen in it, but they are not there. But I also note that we are having trouble maintaining Abrams fighting vehicles, maintaining tanks.

As we look at this bill, the $70 billion we are going to have for the war, that is an emergency and it is appropriate, there is no question about it. What is not appropriate in this bill—and this body passed 96 to 1—is the fact that we agreed in this body that whatever the earmarks were in the bill, there ought to be a scorecard on them, on whether the earmarks met the mission of the Defense Department.

There are going to be a lot of earmarks that are good, but a lot of them are stinky. There are 2,000 earmarks in the bill directed by Members of Congress—somewhere around $8 billion—and a large portion of those don't have anything to do with the mission of the Defense Department, and they have everything to do with us failing to do the things we should do in terms of prioritizing and making the hard decisions in this country.

I am going to vote for the bill because of its importance for our country. But in this bill, you don't know who did the earmarks. They are very cleverly written. You cannot find out exactly what contractor they are going to. You don't know who is responsible. They are not listed. That is OK if we want to do things that way, but it is not OK if you are going to do that and not at least assess the effect of the earmarks.

We passed in this Chamber, 96 to 1, that we would, in fact, ask the Defense Department to assist in how effective the earmarks are in accomplishing their mission. My disappointment is, that is not in the bill. If out of that $5 billion to $8 billion worth of earmarks, $2 billion or $3 billion is waste, think what we could have done for the defense of this country. Think what we could have done for those who are depending on us and we cannot fully supply their needs, whether it is early childhood education, Head Start, or the AIDS drug assistance program, just to name a few.

We will try again next year. We will try to get the earmarks published, out in the open, and into the sunlight, so the American people can see what we are directing, to whom we are directing it, and who is doing the directing. I will be back on every bill until we come clean with the American people on the political games we are playing with earmarks. We either need to have the agencies say what they are doing with them and whether they meet their mission or we need to be upfront on who is doing what, why, and what for.

I appreciate the hard work of the chairman and Senator INOUYE in terms of bringing this bill to the floor. More importantly, I appreciate those who dedicate their lives to this country by becoming a part of our Armed Services and setting an example we could very well learn from in this body when it comes to earmarks just by following their example of service, courage, and integrity.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent for time off of Senator INOUYE's time.

The PRESIDING OFFICER. Without objection, the Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, let me thank the chairman, Senator STEVENS from Alaska, and his ranking member, the Senator from Hawaii, Mr. INOUYE, for their hard work on this Defense appropriations bill. As a member of that subcommittee, I have been pleased to work with them and their very able and diligent staffs to shape a Defense appropriations bill that does indeed meet the needs of our times and provides the funding resources our military needs in these very trying times.

Again, I express my support for the underlying bill, the Defense appropriations bill. Again, my gratitude goes to the Senator from Alaska and the Senator from Hawaii for all their hard work.

Mr. KENNEDY. Mr. President, I welcome the decision of the Defense Appropriations Subcommittee conferees to support the Senate's request for a new National Intelligence Estimate on conditions in Iraq.

Earlier this week, the American people were shocked to learn about an assessment from the intelligence community which unequivocally concluded that the war in Iraq is creating a new generation of terrorists. It was especially shocking, given the administration's repeated insistence that we are winning the war on terror and that America is safer because of the war in Iraq. That 5-month-old assessment addressed the impact of the Iraq war on the global threat of terrorism, outside of Iraq's borders.

But what about Iraq itself? What is the collective assessment of the intelligence community about the prospects for success in Iraq versus the likelihood of full-scale civil war? The President insists that we are winning in Iraq but, remarkably, the intelligence community has not prepared a National Intelligence Estimate on conditions inside Iraq for more than 2 years. That must change.

America is in deep trouble in Iraq, and it's mystifying that an Intelligence estimate focusing on the internal situation in Iraq has not been prepared since July 2004. We know that the President is determined to convince the American people that we are winning the war and that America is safer, but what does the intelligence community believe? The recent revelations about the April 6 estimate underscore the value and importance of obtaining the collective wisdom of the intelligence community to inform our policy judgments and to ensure that the American people have the facts, not just the political spin of the White House.

Stopping the slide into full-scale civil war is our greatest challenge and highest priority in Iraq. The continuing violence and death is ominous. The UN reports that more than 6,500 civilians were killed in July and August alone. Militias are growing in strength and continue to operate outside the law. Death squads are rampant. Reports of torture in official detention centers remain widespread. Kidnappings are on the rise, and so are the numbers of Iraqis fleeing the violence.

More than 140,000 American troops are on the ground. It's essential that we obtain—and obtain soon—a candid and comprehensive assessment from the intelligence community on whether Iraq is in or is descending into civil war and what can be done to stop the sectarian violence that is spiraling out of control.

The stakes are enormously high for our troops and our national security, and completing a new NIE on Iraq should be one of Director Negroponte's highest priorities.

After our Senate amendment requiring a new estimate was approved to this bill on August 3, Director Negroponte agreed to ask the intelligence community to prepare it.

Certainly nobody has an interest in unnecessarily rushing the intelligence community. But it has been more than 2 years since an NIE on Iraq was prepared, and that's too long. It has been nearly 2 months since Mr. Negroponte announced his decision to ask the intelligence community to prepare a new assessment, yet the the first step—determining the scope of the issues to be covered—is still not finished.

With Iraq on the brink of a full-scale civil war, preparation of this intelligence assessment cannot be delayed any longer. With more than 140,000 Americans under fire every hour of every day in Iraq, it's wrong to slow-roll this assessment. For the sake of our men and women in uniform, the intelligence community must move forward, and it must move forward soon.

Earlier today I sent a letter to Mr. Negroponte with Senators ROCKEFELLER, BIDEN, LEVIN, REID, and REED urging him to move forward and indicating that preparation and completion of this intelligence assessment cannot be delayed any longer.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, Mr. Negroponte should be mindful of the specific provisions in this conference agreement, which urge him to follow the parameters set out in the Senate amendment to this bill. Under the amendment, the following issues would be included in the new National Intelligence estimate in Iraq:

The prospects for controlling severe sectarian violence that could lead to civil war; the prospects for reconciling Iraq's ethnic, religious, and tribal divisions; an assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm, demobilize, and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias; an assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community; and the prospects for economic reconstruction and the impact it will have on security and stability.

It is obviously important that we obtain an open and honest assessment from the Director of National Intelligence, particularly on the question of civil war, and my colleagues and I look forward to such an assessment. It is also our view that an unclassified summary, consistent with the protection of sources and methods, should be made available when the estimate is completed.

We continue to believe the National Intelligence Estimate should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having it include the following areas:

An assessment addressing the threat from violent extremist-related terrorism, including al Qaeda, in and from Iraq, including the extent to which terrorist actions in Iraq are targeted at the United States presence there and the likelihood that terrorist groups operating in Iraq will target U.S. interests outside Iraq; an assessment of whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the prospects for success in Iraq; a description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007; and an assessment of the extent to which the situation in Iraq is affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

The war in Iraq continues to be an immense strategic blunder for our country, and having the most thorough and comprehensive National Intelligence estimate possible will greatly inform the ongoing debate about our options for the future.

A new National Intelligence estimate is long overdue. As John Adams said, "Facts are stubborn things." It is abundantly clear that the facts matter on Iraq. They mattered before the war and during the war, and they matter now, as we try to deal effectively with the continuing quagmire.

I urge my colleagues to support this conference agreement, and I look forward to obtaining the new National Intelligence estimate on Iraq and to obtaining it soon.

Mr. President, I ask unanimous consent to have the letter to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
WASHINGTON, DC,
September 28, 2006.

Ambassador JOHN D. NEGROPONTE,
Director of National Intelligence, Office of the Director of National Intelligence, Washington, DC.

DEAR DIRECTOR NEGROPONTE: We welcome your response to our July 26 correspondence and our August 3 amendment to the Department of Defense Appropriations bill for fiscal year 2007 requiring an updated National Intelligence Estimate on Iraq. An NIE focusing on Iraq has not been prepared in more than two years, and we welcome your August 1 announcement that you will ask the intelligence community to prepare this document.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, we draw your attention to a provision in the conference agreement on the Department of Defense Appropriations bill which urges you to follow the parameters set out in our August 3 amendment on the NIE. Under the Senate amendment, the following issues would be included:

The prospects for controlling severe sectarian violence that could lead to civil war:

The prospects for Iraq's ethic, religious, and tribal divisions;

An assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm and demobilize and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias;

An assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community;

The prospects for economic reconstruction and the impact it will have on security and stability.

It's obviously important that we obtain an open and honest assessment from the intelligence community, particularly on the question of whether Iraq is in or is descending into civil war, and we look forward to the assessment from the intelligence community. It is also our view that an unclassified summary of the judgments, consistent with the protection of sources and methods, should be made available when the NIE is completed.

Additionally, we continue to believe the NIE should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having the following areas addressed in a new Iraq NIE:

An assessment addressing the threat from violent extremist-related terrorism, including al Qaida, ill and from Iraq, including the extent to which terrorist actions in Iraq are targeted at the United States presence there and the likelihood that terrorist groups operating in Iraq will target U.S. interests outside Iraq;

An assessment of whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the prospects for success in Iraq;

A description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007;

An assessment of the extent to which the situation in Iraq is affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

The stakes are enormously high in Iraq, and having the most thorough and comprehensive NIE possible will greatly inform the debate about our options in Iraq.

We look forward to hearing from you about the final terms of reference for the new Iraq NIE and to receiving the updated NIE. Certainly nobody has an interest in unnecessarily rushing the intelligence community. But it has been more than two years since an NIE on Iraq was prepared and nearly two months since you announced your decision to ask the intelligence community to prepare a new assessment. With more than 140,000 troops on the ground in Iraq, preparation of this intelligence assessment cannot be delayed any longer.

Sincerely,

John D. Rockefeller IV.
Joseph R. Biden, Jr.
Carl Levin.
Harry Reid.
Edward M. Kennedy.
Jack Reed.

Mr. LEAHY. Mr. President, the Senate is poised to approve the fiscal year 2007 Department of Defense Appropriations conference report. Like past Defense Appropriations bills, there are things in this bill that I support and there are others that I disagree with. Without taking much of the Senate's time today I want to mention one small but very important provision in this bill.

Section 9012 of the conference report states that no funds shall be made available for the establishment of permanent U.S. military bases in Iraq or to exercise U.S. control over any oil resource of Iraq. This language, which was sponsored by Senator Biden and which I strongly support, provides an important signal to the Iraqi people and to the sovereign government of Iraq that it is not the intent of the United States to control or maintain a permanent military presence in their country. It is especially important in light of the recent surveys which indicate that a significant majority of Iraqis want United States military forces to withdraw from their country.

For many Vermonters and for people around the world who have concerns and suspicions about the Bush administration's intentions in Iraq, this makes clear that regardless of the disagreements among us over the continued deployment of U.S. troops in Iraq, we agree that they are not there to establish permanent bases or to control Iraqi oil resources.

Mr. McCONNELL. Mr. President, on a related note, one portion of the much publicized National Intelligence Estimate that came out this week failed to capture much attention. It was a segment that said, "We cannot measure the extent of the spread [of jihadist terrorism] with precision . . ." This candid admission reflects just how difficult good intelligence is to come by. It also reflects why it is so important that this bill permits the CIA interrogation program to continue—because it provides valuable intelligence.

Over the weekend, much was made about this selective leak of national security information. Some of our colleagues pounced on the media reports to bolster their argument that we should pull out of Iraq, pull out now.

But whoever leaked this report somehow forgot to mention a key finding of the intelligence community. As anyone who read the declassified report knows, the findings are clear: If we defeat the terrorists in Iraq, there will be fewer terrorists inspired to carry on the fight elsewhere. But if we leave Iraq to the terrorists, it will only inspire more terrorists to join the fight.

In other words, defeating terrorists in Iraq not only secures the new democracy there but prevents future attacks here.

The New York Times editorial board rightly pointed out that "[t]he current situation will get worse if American forces leave."

Mr. President, it is a banner day when the New York Times editorial board contradicts my colleagues across the aisle, and the Times is certainly right, at least in this regard: a policy of retreat will not stop terrorists there—or prevent attacks here.

I have said it before, but it bears repeating. Terrorism against the United States didn't start on 9/11 or the day our troops entered Baghdad—But attacks here at home did stop when we started fighting al-Qaida where they live rather than responding after they hit.

We don't need to guess what will happen if we leave Iraq to the terrorists. We already have a real-world example of what will happen. Recall that Afghanistan was a wholly owned subsidiary of al-Qaida before 9/11. It was from there that they planned and executed—with impunity—attacks against the United States and our allies. Think what Iraq would be like if we let al-Qaida take possession of the country—like bin Laden wants us to do.

And remember what the 9/11 Commission concluded, and I quote: "If, for example, Iraq becomes a failed state, it will go to the top of the list of places that are breeding grounds for attacks against Americans at home."

Mr. President, we know what will happen if we leave Iraq before the job is finished. That is simply not in dispute. Remember, bin Laden declared that, for him, Iraq was the "capital of the Caliphate." We must not and we will not give him that victory.

RYAN WHITE CARE ACT

Mr. ENZI. Mr. President, I rise again today to ask unanimous consent that the Senate pass S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act, and I will make the formal request in just a few moments.

I want to make a few comments first in hopes that some who have a hold on this bill will come down and lodge the objection themselves. Just last week we requested the unanimous consent agreement to pass this bipartisan, bicameral legislation as it passed out of the House Energy and Commerce Committee last week. At 9:30 tonight it will pass on the floor of the House, and I expect by significant margins. But five Senators from three States are blocking a vote to create a more equitable program for providing life-sparing treatment for individuals suffering from HIV and AIDS.

Now, 2 days ago I made this same request to pass this critical legislation, and the five Senators who are holding up this legislation chose not to come to the floor to discuss their concerns or to debate their issues. Instead, the Senator from Minnesota, Mr. Dayton, was gracious enough to notify us of his objection, even though he stated he would vote for the bill.

So today I ask again the Senators from New York, New Jersey, and California, those who have holds on this critical legislation, to come to the floor themselves and lodge their objections to explain why their parochial interests should be permitted to deny lifesaving care to people who don't live in their States.

Now, I have a chart here that shows the New York and New Jersey situation. You can see that New York, under the current law, receives $509 per case above the national average. Under the reauthorization, they would still receive $304 above the national average per case. And not only that, at the end of the year, they have $29 million left over.

In New Jersey, they get $310 per case above the national average. Now, under the reauthorization, they would still get $88 more per case above the national average, and they have a little slush fund at the end of the year: $17.7 million.

These States have simply raised objections about what funds they will receive this year compared to last year. These States will still be overpaid per case, just no longer grossly overpaid. For example, New York is paid $509 more per AIDS case, as I showed my colleagues, than the national average and would get $304. They have been unable to spend $29 million in Ryan White funding. They can't spend the money they are taking in now. Yet those States' Senators still want more at the expense of many other States that are currently underfunded.

Now, these States have not objected to the underlying policies. Again, I must emphasize that these couple of States have been grossly overpaid for years, receiving well over the national average per patient with HIV. Even under this new bill, they will continue to be overpaid, although not quite as much.

Now, California is a little different situation. When the law was passed last time, we put some provisions into law, and we set a deadline for HIV/AIDS cases for fiscal year 2005 to have a conversion. Now, the Secretary opted to delay that until 2007 to give the States more time, and the CDC in 2005 urged all the States to transition immediately. California decided to transition in 2006. CDC offered resources and people in 2006 to help them make the transition. California declined.

There is a deadline. California will lose $74 million in 4 years under the current law for not meeting the deadline. When we pass this bill, under the new law, California would gain $60 million over the 4 years and have more time. So it is kind of a win-win situation for California. Under some of the formula, they were hoping, I think, to gain even more. But they can meet the deadline; extra help has been offered. So if they would take the extra help, they could meet that timeline, and under this bill, they would gain $60 million over 4 years instead of losing $74 million over that same 4 years by not complying with the transition language.

This bill would ensure that every State in the Nation has the appropriate funding to care for their residents living with HIV and AIDS.

Let me show you another chart. On the left-hand side, the States in red will have losses under the current law: 100,000 Americans get left out. This will happen on September 30 unless we pass a bill. On September 30, there will be huge penalties to these States. The bottom right shows the States that will gain under the reauthorization that we are doing, and you will notice that there are five States that will not gain, but only two of them are objecting. These five Senators who didn't come to the floor 2 days ago still continue to obstruct the Senate from passing a bill that can save more than 100,000 lives, including the lives of a growing number of women and minorities who are afflicted by this devastating disease.

As you can see from this chart, without this new law, people across the country who are suffering from HIV and AIDS will be hurt unless we pass the new bipartisan, bicameral bill. That means that we have worked on this for a long period of time, and we have people from both sides of the aisle in agreement. We even have people on both ends of the building in agreement, and, in fact, the bill that the House is passing tonight is the same bill that we worked out and are ready to pass over here.

So holding up passage of this new law is wrong. By doing so, these Senators are denying growing numbers of minorities and women living with HIV and AIDS equal protection under the Ryan White CARE Act.

This chart shows Americans are at risk. More than half of the HIV/AIDS cases are not counted under the Federal law in the States that are marked in red. Those are ones that are not getting half of the money that they need right now, half that they ought to have if the bill was fair.

So we need to pass this bill. We need to pass this bill by September 30. Let's see, today is the 28th. We only have 2 days to pass this bill. And if we don't pass the bill, a whole bunch of States are going to be penalized severely under the old law.

I have gotten letters from several of the Senators who are worried about what is going to happen to their States under the old law come just 2 days from now. If the bill is not authorized by September 30, hundreds and thousands of people in the States and the District of Columbia will lose access to lifesaving services.

Therefore, Senators from three States are holding up a bill that would help Connecticut, Georgia, Kentucky, New Hampshire, Pennsylvania, Delaware, Illinois, Maine, Oregon, Washington State, California, Hawaii, Massachusetts, Maryland, Montana, Rhode Island, Vermont, and the District of Columbia. Hundreds of thousands of people living with HIV and AIDS who live in these States will be needlessly hurt if a few Senators continue obstructing good policy.

As you can see from the chart, more than half of the HIV/AIDS cases are not counted under current law. As we all know, the Ryan White Program provides critical health care services for people who are infected with HIV/AIDS. These individuals rely on this vital program for drugs and other services. We need to pass this legislation so that we can provide them with the treatment they desperately need.

I urge the Senators who are holding up this bill to stop playing the numbers game so that Ryan White CARE Act funding can address the epidemic of today, not 2 days or 2 years ago.

The HIV/AIDS epidemic of today affects more women, more minorities, and more people in rural areas in the South than ever before. While we have made significant progress in understanding and treating this disease, there is still much more to do to ensure equitable treatment for all Americans infected with HIV and AIDS. We must ensure that those infected with HIV and living with AIDS will receive our support and our compassion regardless of their race, regardless of their gender, regardless of where they live.

Therefore, I urge my colleagues to support this key legislation and stop playing the numbers game so we can assist those with HIV in America.

UNANIMOUS CONSENT REQUEST—S. 2823

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, S. 2823, the Ryan White Act. I ask unanimous consent the Enzi substitute at the desk be agreed to, the committee reported amendment as amended be agreed to, the bill as amended be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, reserving the right to object. I want to say that I thank the Senator for his courtesy and for warning me about his intention here tonight. I salute him for his leadership on this legislation, which I support, so I am in a bit of an awkward situation, as he has recognized. But I guess I would ask the chairman, if my information is correct, there are actually 14 States that would lose funding under the revised formula.

As the chairman said the other day, there is a hold-harmless clause that is in effect, as I understand, for 3 years, and this is a 5-year reauthorization, so at that point these other States would lose funding.

Does the chairman find it surprising that Senators from those States are doing what I think I would do if I were in that situation? I am grateful the formula adds money for Minnesota, but I find it unsurprising that they are doing what any of us I believe would do, which is to protect our States.

My second question to the chairman is: Given that this is a $12.2 billion reauthorization over 5 years, what would it cost in additional authorization to give these States over the next 5 years the same amount of money as they receive presently?

Mr. ENZI. Mr. President, I thank the Senator for his reluctant objection, although it still counts as an objection.

The PRESIDING OFFICER. Has the Senator from Minnesota objected?

Mr. DAYTON. Mr. President, I am reserving the right to object. I directed two questions to the chairman, if I may, Mr. President.

Mr. ENZI. Mr. President, I will go ahead and answer the questions, then.

and hope this changes your mind on being the one willing to make the objection.

Would I protect my State if my State were losing money? I think we are elected to the Senate by the people in our States, but our obligation is to the people of the United States. And were my State grossly overpaid on an average, and I was still going to be grossly overpaid afterwards, and my State couldn't use the money each year that it received, I think I would have a terrible time trying to object to this bill. I hope we do not play that kind of numbers game, we don't get that parochial on bills around here.

Another bill I have been working on is the Older Americans Act, and it has a formula in it. Again, there are States that lose under that bill. But there are people who have been willing to work out a formula like we did on this. We must have run about 300 different programs trying to come up with something as equitable as possible. We even put in the 3 years hold harmless for people who were being grossly overpaid.

I think we have come up with as reasonable a bill as we possibly can. We need to get it passed, and we need to get it passed by September 30 so the penalties don't kick into effect for those States that have a big penalty coming up and that are desperately in need of making sure they get enough money to take care of the cases they presently have.

Mr. COBURN. Will the chairman yield for a question?

Mr. DAYTON. Mr. President, I haven't had my question answered.

Mr. ENZI. I have one more answer that I need to do.

The PRESIDING OFFICER. The Senator from Wyoming has the floor. His unanimous consent request is pending. Is there objection?

Mr. ENZI. I will yield for some other questions as soon as I finish answering this question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. There aren't 14 States that would lose money unless the new bill doesn't pass. There are only five States that will lose money under the new bill, the bill we are trying to get passed by unanimous consent—the bill that we are at least trying to be able to bring up by unanimous consent. We tried a number of different ways. There are just five States that are involved in losing money. Of those five, three have said we have to be fair. Two have said we don't care whether we are fair or not.

Mr. DAYTON. If I may direct a question again to the chairman, how much would it cost in addition to the $12.2 billion for this 5-year authorization? What additional authorization would it cost to give those five States the same level of funding over the next 5 years that they would receive as of today?

Mr. ENZI. Mr. President, I don't have that number. Like I say, we ran about 300 different iterations of different formulas. I will get the Senator that number.

But there is 3 years hold harmless in this. You are talking about 5 years hold harmless. Hold harmless means that the dollars don't follow the person, that the State gets the money even if they have run out of people with HIV/AIDS, and if there are decreasing numbers of them they should not continue to get those dollars. What you are asking is we continue to give those dollars even if we run out of people. All we are trying to do with this bill is make sure the dollars follow the person. You get more people, you get more money. You get less people, you get less money. It is take care of the people.

It is not an economic development bill.

Mr. DAYTON. Mr. President, I appreciate the answers of the chairman. I respect him very highly for what he has done. I must, however, object on behalf of my colleagues whom I believe are doing properly what they must and should do to protect their own States. So I do object.

The PRESIDING OFFICER. Objection is heard. The Senator from Oklahoma.

Mr. COBURN. Mr. President, it really strikes me strange, when we are talking about protecting money from States that already have full treatment programs, and people are dying across this country because there is inequity in the funding for those States. If that is the basis for an objection, that is an obscene objection.

We are talking about people dying who have no access to medicines, who have no access to treatment, while we have—let me get to the specifics—while we have in New York alone, last year—the city of New York spent $9 million on hotel rooms averaging $329 a night to house people. They spent money, $2.2 million, on people who were dead, paying for rented rooms they weren't even in. And we are talking about objecting to fair treatment and access to care for people who have none now because we don't want to see the fluff associated with other programs decline.

The President has asked us to pass this bill. On October 1, lots of changes take place. They are going to impact lots of people in lots of States.

I find it unconscionable that somebody would have somebody object for them rather than to come down and defend their objection. If you object to making sure African-American women across this country have access to lifesaving drugs, you ought to come to the floor and say you object to that because that is what an objection means for this bill starting October 1. There is already a lack. There are people dying in three States right now because they have waiting lists for drugs for HIV for people who have no other resources to take care of themselves.

Last year I offered an amendment on this floor, fully paid for and offset, for $60 million for additional ADAP funds that would have taken care of the very people who are going to suffer from this bill, and the very same Senators who are blocking this bill voted against those funds for those people who have no treatment today. There is something very wrong in the Senate when the leaders of the charge for this bill, with the exception of Senator KENNEDY who has done miraculous work with Senator ENZI—the leaders in the charge for getting this bill and making sure everybody has equal access to care for HIV in this country are four conservative Senators.

We ought to ask a question about that. Why are we down here fighting for this? We believe in equal treatment. We believe in equal access. Where are the people who claim all the time to defend that? Why aren't they here on the floor of the Senate?

I want to make a couple of other points. The Labor-HHS bill that we are going to be voting on this fall has $1 billion in earmarks in it; $1 billion in earmarks. Most of it has zero, in comparison to saving somebody's life, like ADAP drugs and access to treatment if you are infected with HIV and you don't have any access to care whatsoever. We don't see anybody volunteering to give up their earmarks.

Here is a stack of earmarks for New York State alone, last year in excess of $1.5 billion—over 600 earmarks. Nobody volunteered to give up the earmarks, the special projects that politicians get benefits from that sometimes do good and sometimes don't do good—nobody offered to give those up to pay for this loss. We want to continue to do what we are doing, having the privileges and prerogatives of a Senator or a Congressman to grease the skids of our own reelection with an earmark, but we will not give some of that up to make sure somebody in a State that is not having access, who is going to die in the next 3 months, has access to lifesaving drugs.

That is an incrimination on this process. It is an incrimination on this body. Shame on us if we allow this to continue to be held up.

New York State carried over $27 million. The Department of HHS—here is another. This past weekend, HHS spent $400,000 sending people—78 employees—to Hollywood, FL, of which 2 out of the 3 days didn't have anything to do with the conference. It was a party. As a matter of fact, as a quote from the New York Times states, at the last AIDS conference in Toronto, 78 HHS employees went, and as the New York Times said, this was a star-studied rock concert, a circus-like atmosphere that made it seem more like a convention and social gathering than a scientific meeting. For these and other reasons a number of leading scientists have stopped attending and some supporters claimed the quality of the presentations have declined at recent conferences.

We can find more money. We can find money from earmarks. We can find money from conferences. We can find money from waste, fraud, and abuse. What we cannot find is the integrity to treat everybody equally in this country because we want to protect the parochial interests of our city or our State. That is wrong.

It is wrong that they are not down here defending that immoral position. I challenge them to come down and defend it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank Chairman ENZI and Ranking Member KENNEDY for an incredible amount of work, not just within our committee but in a bicameral way with the House. Seldom do we get the opportunity to come to the floor of the Senate fully knowing that the House is on board to every word that is in a bill, which means even with the 2 days that the chairman has suggested we have before this bill adversely affects thousands in this country, we could actually have it on the President's desk and signed. But we are tonight, at almost 9 o'clock, with four Senators on the floor, finding absent the Senators who object to us bringing up this bill. Why would they object?

Senator DAYTON said because they owe it to their States to get as much money as they possibly can and to not be equitable under a distribution formula.

I tell you that could be the reason. But I think the reason they are not here is because their position is indefensible; to allow us to bring this bill to the floor one would challenge them on why they take the position that they do. Their position is indefensible because this formula is run on numbers.

It is very simple. The chairman stated it to the Senator from Minnesota very clearly. For every patient you have you get dollars to make sure that you provide the services and the pharmaceuticals that are needed. If you don't have the people, if you don't have the infected patients, you should not get the money. What is the fear? The fear is, they know they don't have the people. Therefore, they will not get the money. So why not have the debate? Stall and see what happens.

The chairman said there were a number of States—New York being the most egregious—where they received $2,122 per infected patient. The national average is $1,613. I represent the State of North Carolina. We have one of the fastest growing populations of HIV-infected individuals in the United States. Today what does North Carolina receive—$1.029 per individual infected with HIV/AIDS. Can any Member who blocks this come to the floor and tell me that is equitable? Can any Member come to the floor and suggest to me that this funding, designed to provide the drugs that these people need to live is equitable? That New York should get $2.122 per person but North Carolina should get $1,129 per person? Can they tell me that is equitable? It is not only not equitable, it is unjust. It is unfair. It is wrong.

You know what, the people in North Carolina say: We are tired. It can't happen anymore. You have to change it.

I have a State who, annually, has individuals on the ADAP waiting list—individuals waiting in line to be eligible to get pharmaceuticals, to stay alive. This is not the vision of America we have been taught. We have been taught that we need to make sure that safety net is there. But the argument tonight is that we are going to be denied the safety net in some States so that others can keep feeding at the trough—whether they have the population or not.

The people in North Carolina are tired of watching their State contribute the second highest percentage of dollars to the Ryan White Program but getting less Federal funding than States who barely contribute a dime on their own.

They are tired of seeing African-American women in the South of the United States 26 times more likely to be HIV-positive than a White woman and to see States that deny them the ability to provide the drugs that these women need. They are tired of hearing about HIV-positive people in San Francisco and New York getting dog-walking services and massages when some of my constituents can't even get HIV drugs.

They are tired of hearing terms such as "double counting," "hold harmless," "duplication of names," "grandfathered in." All of those terms translate to one word: unequal.

What is so wrong with the concept that Ryan White dollars follow HIV-infected individuals?

Recently, I had individuals in my office. They suggested that 3 years was not enough time to account for the infected population, that in fact they are going to be penalized because they have more individuals who are infected with HIV/AIDS than what we count today.

It is real simple. The chairman said 3 years hold harmless. They have 3 years to produce those names to verify that they are eligible for the funds, and if they don't do that then, in fact, that money goes elsewhere. So what was their argument? Three years is not enough time.

Every one of the individuals who is infected is enrolled in some type of program and service and receiving drugs and services. Clearly, if they receive those drugs and services on a regular basis, it is easy to account for who they are and where they are.

In fact, if they are not there, the last thing you want to do is have a program that accounts by an individual's name. But, in fact, that is what we do with this formula.

Right now, the Federal Government is giving exotic fruit to California and New York, and North Carolina is getting rotten apples. That is about the comparison. We allow them to have a Cadillac and, in fact, we don't even give those folks in North Carolina a car.

The transition that is going on in America is that the infected population is in rural America, and many of them are showing up in the southeastern part of the United States. They are not in urban areas: they are not in what we consider title I or title II towns. We don't get the enhanced dollars because of the concentration in a big city. They are at the end of a dirt road. They are 30 miles from an AIDS clinic.

When we look at how we service that newly infected population in the South, which is predominantly African-American women, it is not only where we get the money to supply the drug, it is where we get the money to provide the transportation so they can go to an AIDS clinic. Where do we get the money to provide the rest of the service for somebody who doesn't have a relationship with a health care professional? The closest thing they get to primary care is the day they walk in and get their drugs and they get a "quickie" check up. Then it is another process of a bus or a van or a friend who takes them to get it. But without that extra bit, they would never get the drug if, in fact, we didn't supply some type of transportation.

In 2000, North Carolina had 12.489 people living with HIV/AIDS. There are 6.000-plus infected people more today than that 2000 statistic. I know how many there are in North Carolina because we keep their names. We track the individuals.

We are not asking for more money than we have in infected patients. We are asking for this formula to be fair.

Through December 2004. North Carolina was a State with the 14th greatest number of AIDS cases in the Nation, and the highest ranking State—the only State in the top 17—without a title I city that had enhanced reimbursement you get because of the size of the city and the infected population.

In 2004, 66.7 percent of people living with AIDS in North Carolina were African American—the fifth highest rate in the Nation. The national average in 2004 was 39.9, and ours is 66.7.

I would like to think there would be 100 Senators down here talking about the outrage; that they would look at the racial disparity in this, the regional disparity; and that they would be down here arguing that this program has to be changed. It is not happening, and 72 percent of the new North Carolina cases in 2005 were minorities. It may be that the 66.7 percent of the infected population is, in fact, the low watermark, not the high watermark as we begin to see those new cases of minority individuals.

For those of us who are here arguing tonight that this should be changed, we recognize the fact that women of color in the South are 26 times more likely to be HIV-positive than White females.

This is an alarming trend that this Nation ought to turn around. We have a lot to do in 2 days—now a night and a day. We want to make that September 30 deadline.

It is clear that individuals in New York want to maintain the $2,100 per case and not accept the $1,613 average. The individuals in New Jersey want to keep their $1,923 and not settle for the $1,613 that is the national average. They are willing to suggest that is an equitable tradeoff with North Carolina that gets $1,129 per individual infected by HIV.

It is time that we show the leadership that we have to point out to people who are holding this up that we cannot let them hide behind some defense that "I can't lose for my State" money that they cannot prove goes in their State to save the lives of people who are dying in my State because they can't get the pharmaceutical products they need.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator ENZI, our chairman, for his great leadership and persuasive remarks earlier on this important issue.

My good friend, Dr. COBURN, has personally treated people with AIDS and has dealt with women who have had babies with AIDS. It is a matter deeply important to him.

Senator BURR is a force in our committee. He works extremely hard. His remarks go to the core of what we are all about here. He explained it in great detail. I am so appreciative of that.

I will just say a few things that I believe are important.

Senator DAYTON, I must tell you that my good friend Senator ENZI is a very fair man. If the chairman were asked, Chairman ENZI, why should New York give up anything? Why shouldn't they insist on keeping the special position they have?

Let me ask this question: How did New York get that special position? How did it happen? They came to the Congress a number of years ago. They said: We have an extraordinary problem in New York. Our problem is great. We have this growing problem with AIDS, and we need extra money.

The Nation said: We believe you are hurting, New York. We believe you have a special problem, and we will give you special money, extra money. You will get more than the rest of the country because it appears that the disease is more centered there and is spreading most rapidly there.

That was a good and decent thing for the country to do. It made sense that this bill passed. I am not disputing that. But I am telling you right now, as a representative of the people of the State of Alabama, having talked to the leadership that deals with AIDS in my State, they are really upset. They cannot imagine how it is possible that now my State and the entire Southern region is showing a faster increase in AIDS than any other region of the country—the South has the highest rate of increase of any region in the country. I will show this chart. It is actually beginning to surge here. It is a crisis in our State. Even this new bill, as Chairman ENZI said, still provides more money per patient for a big-city State than we would get in Alabama, even though our AIDS rate increase is higher by far than the Northeast or other areas.

How can that be justified? I know the people of New York say that New York City deserves more money to protect itself from terrorists because terrorists are more likely to attack New York. They complain about this. But the truth is, they get a lot more money in New York for that protection than the rest of the country gets. I think current legislation will give them even more for it. Why? Because the terrorist threat is more real. Well, the AIDS threat is real here; more real in Alabama. And it is falling on poor people and it is falling on the African-American community and it is falling hardest on African-American women.

Senator BURR said that, and that is an absolute fact. The numbers bear it out without any doubt whatsoever. I believe a fair proposal is on the floor of the Senate. I believe if we had any pretense of passing legislation that deals fairly and objectively with the deadly disease of AIDS, we need to pass this legislation. It is absolutely not right to continue this disproportionate shifting of revenue from States all over America to big cities that are getting almost twice as much in some instances as the poorer States and the rural States. It is not right to continue that. We need to fix that.

The chairman didn't overreact. Maybe next time, if we can't get this bill passed, we ought to pass a bill that makes it completely level across the board and not leave some of these States with a continued advantage. They have had an advantage for years and years now. I suggest that we need to work on that and work on it hard.

Let me point out again the yellow line which represents the increase in the South—far higher than the Northeast and the West. That is where the big cities are that are getting the biggest amount of money per patient, not just more money total but more money per patient.

We have all read reports of abuses of those moneys and some of the worst things they are doing in some of those centers. Senator COBURN mentioned the great conferences they go to where they have rock concerts and spend this money that they claim they do not have, I guess, to treat people who are sick.

Let's look at the next chart just to make one more point about what this legislation that Chairman ENZI and the committee hammered out is trying to do. There are 1.185 million Americans living with HIV/AIDS, and 250,000 of them do not know they are infected. One of the greatest things we can do is to make sure that people who are infected with HIV/AIDS know it as soon as possible. Treatment will commence immediately. It can mean years of extra life, years of extra healthy ability to live a normal life if we diagnose them early.

This bill provides new moves toward early diagnosis, early detection, and early testing. It absolutely is the right thing to do.

I was in my home State talking to some of our AIDS people who work on a daily basis. They told me about a lady who came in pregnant, and they did a test on her. She was 7 months pregnant. She was positive for HIV. That was a tragedy, of course. But that child, given the right treatment, is almost certain to be born without AIDS because she was diagnosed as having it before the child was born. Had she not been diagnosed, there would have been a 50–50 chance that the child would have been born with AIDS. What a tragedy which was averted in that instance. They began to talk to her. They ended up talking to her boyfriend. He agreed to be tested. They found out that he was positive. He didn't know that. Had he known that, he would never have infected the lady. I am convinced of it. Most people are going to protect themselves and their partners if they know they have AIDS.

There are a lot of reasons for early detection. One is that it will help reduce the spread of AIDS because most people would not want their partners to be infected. And it would allow them to get on medication at the earliest possible time. So we made some real progress in that area. It can save lives and money in the long run.

I salute the chairman. How the Senator has time to work all the bills he is leading members on in the HELP committee, I do not know. It is a tremendous challenge and the Senator does it with good humor and consistent efforts to do right thing.

The Senator is exactly right on this important issue. I thank the Senator for his leadership. We must pass this reform. We must have equity in distribution of the money. It absolutely needs to show a shift of resources to the most threatened area of our country—that is the South, our poor, our African American community, and particularly, African American women.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Alabama for his kind comments and even more so for his passion and understanding on this issue. I thank the others who have spoken.

We had given those who are objecting to the Senate completing this bill an hour to state their case; no one showed up. We were pretty sure of that based on the fact they had one of the Members who is not running for office to be the one to object. They sent someone from a State that actually gains by having the bill completed. That tells something about how willing they are to defend the position they have on this bill.

This bill is critical to people all over the United States. There are HIV/AIDS families in every single State asking Congress to pass this bill and to pass it immediately.

Thirteen States, on September 30, will have huge losses in revenue. We are getting more calls, naturally.

This is not just a bill. This is not just policy. This is life and death to people across this country

We have heard people are on waiting lists that cannot get drugs because the money does not follow the person. The money goes to the States that had the money before. This bill readjusts that so the people who need the drugs get the drugs. It sounds like an American principle to me.

As I mentioned before, there are other bills we work on where we are changing the formula. I have been very fortunate the people working with those bills have said, yes, we have to be fair. We always transition into these things. This is no exception. Three years of hold-harmless. That means they get the same amount of money whether they deserve it or not for 3 years, while they count again to see if they have more or less people affected.

STANDARDS CONVERSION

Mr. SANTORUM. Mr. President, I realize that Senator ENZI has been working with Senator KENNEDY and others to craft this underlying bipartisan, bicameral product. Already today, he has discussed how the bill will ensure more equitable treatment, target key resources, and save lives through treatment. However, he has also mentioned that someone from California is holding up the bill, due to concerns about converting their HIV system to standards created by the Centers for Disease Control and Prevention. I am curious about that, given that Pennsylvania, like California, is also in the process of converting its system. How long have States under current law to change their system?

Mr. ENZI. The 2000 reauthorization stated that States need to have CDC accepted HIV data as early as 2005 but not later than 2007. Therefore, States have already had seven years to make this change.

Mr. SANTORUM. How many more years will California and Pennsylvania have to make that change?

Mr. ENZI. Under the bipartisan, bicameral product, California and Pennsylvania will have 4 more years to make the change. Thus, you both will have had over a decade to convert your systems. However, in fiscal year 2011. only CDC standards for HIV cases will be used for the funding formula.

Mr. SANTORUM. So, I understand that you have given States like my own Pennsylvania more time to change their system, so that they don't have losses just due to system issues when people still need care. What would Pennsylvania and California lose if those States did not receive the 4-year extension you are proposing?

Mr. ENZI. According to a February 2006 report by the GAO, Pennsylvania would lose $9 million and California would lose $18.5 million in 1 year. With this bill that allows those States to still count the people that matter while the systems are transitioning. Pennsylvania would instead gain $4.8 million and California would gain $15.4 million.

Mr. SANTORUM. Will CDC provide assistance to States that need to make this change? How will the Federal Government assist?

Mr. ENZI. CDC has offered to provide assistance to States throughout the process. In fact, I recently confirmed today that CDC has already offered California technical assistance—up to six staff for up to 6 months—to help them make this change. Further, given some confusion about that technical assistance, I have asked CDC to send a letter to California, restating that they would provide that assistance.

Mr. President, Senator HATCH was the chairman of this committee when the original Ryan White HIV/AIDS treatment bill went through. He is the one that selected the name of Ryan White. He has an explanation of how that came about and the differences this bill has made and the urgency with which this needs to be done right now.

Mr. HATCH. Mr. President, I rise to support the effort to call up and immediately adopt S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act.

Adoption of this legislation offers us the opportunity to make a difference in the lives of the hundreds of thousands of people in the United States who are living with HIV/AIDS. We should not let this opportunity pass.

I am pleased to have joined HELP Committee Chairman ENZI and Ranking Minority Member KENNEDY. Majority Leader FRIST. and Senators DEWINE and BURR in introducing this reauthorization bill.

As my colleagues are aware, I was the author of the original legislation along with Senator KENNEDY and we introduced the first bill on this issue in the 101st Congress. The Ryan White Comprehensive AIDS Resources Emergency Act of 1990 was signed into public law on August 18, 1990 and became—excluding Medicaid and Medicare—the United States' largest Federally funded program for the care of those living with HIV and AIDS. It was a lot of hard work. But it was a lot of hard work for a very important cause.

Let us take a moment to remember one of the reasons why we did all that hard work in the first place. His name was Ryan White. Ryan was born in Kokomo. IN. in 1971. Three days after his birth, he was diagnosed with severe hemophilia. Fortunately for Ryan and his parents, there was a new blood-based product just approved by the Food and Drug Administration called Factor VIII, which contains the clotting agent found in blood.

While he was growing up. Ryan had many bleeds or hemorrhages in his joints which were very painful. A bleed occurs from a broken blood vessel or vein. Think of a water balloon. When the blood has nowhere to go. it swells up in a joint and creates painful pressure. Twice a week, Ryan would receive injections or IVs of Factor VIII, which clotted the blood and then broke it down.

In December of 1984. Ryan was battling severe pneumonia and had to have surgery to have 2 inches of his left lung removed. Two hours after the surgery. doctors told his mother that he had contracted AIDS as a result of his biweekly treatment with Factor VIII. He was given 6 months to live.

Ryan White was a fighter. He was determined to continue at his school and live life normally. But in 1985. not many people knew the truth about AIDS. Not very much was known about AIDS at all. Most of the so-called facts that people claimed to know were speculation. So Ryan faced a lot of discrimination, mostly based on the unknown.

Ryan was soon expelled from his high school because of the supposed health risk to other students. His situation became one of the most controversial cases in North America, with AIDS activists lobbying to have him reinstated while attempting to explain to the public that AIDS cannot be transmitted by casual contact.

After legal battles, Ryan and his mother settled with the school to have separate restrooms and use disposable silverware from the cafeteria. He agreed to drink from separate water fountains and no longer used the high school gymnasium.

But those concessions didn't stop much. Students vandalized his locker. Some restaurants threw his dishes away after he left. A bullet was even fired into his home.

Later, Ryan transferred to a different school where he was well-received by faculty and students who were fully educated into the nature of HIV. Ryan was a great student with an exceptional work ethic and perseverance. He was respected by his fellow students because of his admirable traits. They understood he was a human being—just like them, but living with a terrible disease.

Before he died on April 8, 1990, Ryan White worked to educate people on the nature of HIV and AIDS, to show that it was not a lifestyle disease and that, with a few precautions, it was safe to associate with people who were HIV-positive. His character sought to overcome stigma. He became an inspiration to patients and advocates throughout the United States and the rest of the world.

By the spring of 1990, over 128,000 people had been diagnosed with AIDS in the United States and 78,000 had died of the disease.

The Ryan White CARE Act was originally enacted in 1990 in response to the need for HIV primary care and support services. At that time, the focus of public policy was on research, public education, surveillance, and prevention. The CARE Act was the first approach developed to help people with HIV and AIDS to obtain primary care and support services to save and improve their lives. There is no doubt that the CARE Act has played a critical role in the Nation's response to the AIDS epidemic.

The CARE Act was reauthorized in 1996 and 2000 to address the fact that the epidemic continued to spread and that primary care and support services provided through the act were still vitally important to people living with HIV and AIDS.

Today, more than 944,000 cases of AIDS have been reported to the Centers for Disease Control and prevention, the CDC. Nearly 530,000 men, women, and children have died as the epidemic has spread over the last 25 years to both new populations and new geographic areas.

The public health burden and the economic burden of the AIDS epidemic have not been reduced since the CARE Act was passed. The continued need for services grows faster than the resources available.

Steady expansion and shifted demographics of the epidemic and the increasing survival rates for people living with AIDS have increased the stress on local health care systems in some areas. This strain is felt both in urban centers, where the epidemic continues to rage, and in smaller cities and rural areas, where the epidemic is expanding rapidly.

This reauthorization bill addresses those inequities and reevaluates funding formulas so that money for the program follows the epidemic. It keeps money for the AIDS Drug Assistance Program—known as ADAP—within ADAP, and even grants States flexibility to transfer funds to ADAP when they have demonstrated need. Currently, funds for the ADAP supplemental pool are frequently dipped into for other purposes, resulting in inadequate funding and waiting lists. It also protects States and eligible metropolitan areas from suffering catastrophic losses in funding.

I know that it is never easy to revise a bill that contains funding formulas. No matter what changes we make, they will always raise issues and questions. But let us move beyond the narrow fight and work for the greater good.

We have been talking a lot about numbers and codes and case counts and reporting data, but we need to remember that there are actual real people being affected by this, real people who need our help. Hundreds of thousands of people continue to live affected with and die from this disease, and we need to bring out all the tools within the Federal arsenal to help fight for them.

As of December 31, 2005, the Utah Department of Health reported a total of 1,907 people living with HIV and AIDS in the State of Utah. Many of these individuals rely on Title II funding from the Ryan White Program to receive health care, vital medications and support services.

These individuals are also counting on me to fight for their continued access to care and services that have such a big impact on their survival and quality of life. We in Congress are being counted on to work together on behalf of the nearly 1 million people living with HIV/AIDS in our country.

The last reauthorization period for the Ryan White Program expired in 2005. It is incredibly important that we reauthorize the program again now in order to continue providing the care that is so critical to these populations and alleviate strain from shifts in the epidemic felt by health care providers.

There are real people counting on us. We need to move forward in reauthorizing the only Federal program that helps the neediest of people living with this devastating disease. This bill extends the availability of vital services, and it includes changes that intend to fix discrepancies that have resulted in Ryan White funds not following the epidemic.

This is a good bill and I urge my colleagues to support it.

Mr. ENZI. I am very distressed. I have had a lot of success on other bills we are trying to get through. People have been willing to listen to reason and understand the urgency of a lot of the issues, particularly in the health area, but also in the education, labor, and pensions area.

As a committee, we work on these things across the aisle and across the building. As a result, we have had 12 bills signed by the President. Of those 12 bills, we have only spent about 2 hours total in the Senate debating them because we work across the aisle and across the building. We work on important issues. We solve the parts we can and we bring them here. This is one of those where we thought we had the parts solved that we could. There are a lot of moving parts to a lot of these things. We work to get as much consensus as we can, but occasionally we reach a sticking point like this.

I am really disappointed we have reached a sticking point like this where people are going to die. If, by tomorrow, we have not passed this bill and in case we go longer than tomorrow, I am going to ask the leader to file cloture on this bill so we can see if five Senators can hold up a Senate bill.

If we leave tomorrow or the next day, it won't ripen yet, but it can ripen as soon as we can get back. We can spend the time debating it, and those States that are losing money on September 30, while they will not be able to retrieve all the money they will lose, they will have some breathing room for the future.

I am desperate. I usually do not have to do that sort of thing. I am willing to do it on this bill. I am very distressed. Usually we are able to get agreement. We went a long ways toward giving concessions to those States.

In all fairness, if you do not have the cases, you really should not have the money tomorrow, let alone 3 more years. We have tried to be reasonable. We have tried to help out States. We have run a bunch of formulas to make it as fair as we possibly could and to protect the States as much as we can, but it is time to be fair to the people with HIV/AIDS and to be fair to the families of people with HIV/AIDS.

I ask unanimous consent that a Washington Post article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 28, 2006]

LAWMAKERS ARGUE OVER AIDS FUNDING BILL

(By Erica Werner)

WASHINGTON.—House members from rural areas, and the South clashed with big-city lawmakers Thursday over who should get a bigger share of federal money to care for AIDS patients.

"It's shameful and disgraceful," shouted Rep. Eliot Engel, D–N.Y., denouncing amendments to the $2.1 billion Ryan White CARE Act that could take millions of dollars out of New York's health care coffers.

The HIV/AIDS epidemic is moving," countered Rep. Joe Barton, R–Texas. "This is a very fair compromise. It begins to treat all states on an equal footing."

The House was expected to vote on the bill later in the evening. A two-thirds vote was needed for passage.

Even if it passes the House, the bill faces uncertain prospects in the Senate before Congress recesses at the end of the week to campaign for re-election. Senators from New York, New Jersey and California are blocking it.

Supporters said the election-year updates were needed because of how AIDS has changed since the Ryan White law first passed in 1990. Once a big-city epidemic infecting mostly gay white men, the disease is now prevalent in the South and among minorities.

By some measures federal funding has not kept up, and states like California, New York and New Jersey get more money per patient than Alabama, Kentucky or North Carolina.

The Ryan White amendments, the first since 2000, make a number of changes aiming to spread money more equally around the country.

While current law only counts patients with full-blown AIDS, the revision also would count patients with the HIV virus who have not developed AIDS.

That change would favor parts of the country where the disease is a newer phenomenon, which tend to be southern and rural areas.

New York state stands to lose $100 million over the five years of the bill. New Jersey would lose $70 million.

Alabama, by contrast, would get an increase from $11 million a year to about $18 million a year.

"The problem is that the population of those needing services has grown, but the funding for Ryan White programs has not grown with it," said Rep. Henry Waxman, D-Calif. "That means if we're going to give to some people who are very deserving, we're going to take from others who are very deserving."

California and some other states are worried about a change in the bill that mandates counting HIV patients by name instead of codes. Some states used code-based systems out of concern for patient privacy. California could lose an estimated $50 million in the last year of the bill, when the name-based system would take effect, because it won't be prepared to make the transition.

Mr. ENZI. I have a unanimous consent that has been agreed to by the majority and minority leader. I yield back all time on the Defense appropriations conference report.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME ALLOCATION

Mr. ENZI. I further ask that all time after 9 p.m. tonight be counted postcloture, notwithstanding the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRYOR NOMINATION TO PBS BOARD

Mr. PRYOR. Mr. President, I am very proud to say that my father has been nominated to a seat on the board of the Corporation for Public Broadcasting. I think he will do an excellent job. I think we will all be proud of his services there. However, because he is my father, I decided to recuse myself from that nomination and abstain from any votes. I don't think it has all been worked out yet, but my anticipation is that it will not be done by rollcall vote but by voice vote or some other type of vote.

I would like the record to show that I am abstaining from that vote and recusing myself from that nomination.

I thank the Chair.

Mr. WARNER. Mr. President, might I say that I was privileged not only to serve with the Senator's father but consider him a good personal and professional working partner. He is an extraordinary individual and the citizens of this country are fortunate if his nomination is confirmed and he takes up that service.

Mr. LEVIN. Mr. President, I add my compliments and congratulations to the Senator dad. I feel so close to him that I am tempted to recuse myself, but I won't do that. Instead, I will be very happy to vote for him whether it is a rollcall or a voice vote.

Mr. LEAHY. Mr. President, I was privileged to serve with David Pryor. I am proud of him. I think it is going to be a wonderful opportunity for the board to have his services.

DECENCY BLOCKING EDUCATIONAL CAMPAIGN

Mr. STEVENS. Mr. President, the television, cable, and satellite industries recently launched the "Be the Boss of What Your Kids Watch" campaign. This campaign, which is headed up by my good friend Jack Valenti, educates parents about how to protect their children from inappropriate television programming.

When Senator INOUYE and I first became co-chairmen of the Senate Commerce Committee, several groups and individuals approached us; they were concerned about decency in media content. In November 2005, our Committee began the process of bringing each of these groups together. We convened an Open Forum on Decency and held hearings. In all, more than 30 groups and individuals shared their concerns and insights with us.

The "Be the Boss" campaign is one noteworthy initiative which developed from these efforts. Surveys show that only three percent of Americans know how to use the V-chip, a feature in every television set which enables parents to block programs based on ratings. This $300 million ad campaign seeks to teach parents how to use this—and other—blocking technologies and will help them better monitor television programs.

In July, Jack Valenti and Peggy Conlon, the president of the Ad Council, kicked off the "Be the Boss" campaign when they showed our committee their first two public service announcements. Thanks to these announcements, and the campaign web site, www.thetvboss.org, parents now have information about the V-chip, cable and satellite controls, and television ratings.

Earlier this week, kits containing information about this campaign were delivered to every Member of Congress. I urge my colleagues to share these valuable resources with their constituents, and I thank Jack Valenti and his colleagues for their leadership on this issue.

I yield the floor.

TRIBUTE TO SPECIAL AGENT JOHN BAILEY

Mr. REID. Mr. President, I rise to honor the life of Special Agent John Lawrence Bailey. More than 15 years ago, Special Agent Bailey gave his life in the line of duty. Today, in a fitting memorial, law enforcement agents throughout Nevada enter the Federal Bureau of Investigation building in Las Vegas that bears his name.

John Bailey was an American success story. Born in 1942, he attended the University of Pittsburgh on an athletic scholarship. Shortly after receiving his degree, John enrolled in the United States Marine Corps. He would answer his nation's call by joining thousands of young men who went to Vietnam. There, John was awarded the Vietnam Campaign Medal, the Vietnam Service Award, and a Bronze Star. After Vietnam, John entered Quantico and began his distinguished career with the FBI.

While John had numerous work accomplishments, those who knew him best could say that he was most proud of his family. It is not easy being in Federal law enforcement, but his family was always supportive. Joined by his wife Beth and their two daughters, Amanda and Megan, the Baileys came to Nevada in 1977.

On the morning of June 25, 1990, Special Agent Bailey found himself in the middle of an armed robbery in a bank. Instead of standing by in fear, John confronted the robbers and drew his weapon. The robbers quickly turned and Special Agent Bailey fired. The bullet missed one suspect, but Agent Bailey was able to capture them and end the robbery. While securing the suspects, something distracted him. In that split second, a robber recovered his weapon and shot John. He died at the scene.

His heroism that day to save the lives of his fellow citizens was not out of the ordinary for those who knew

John. As a 21 year veteran of the FBI, John was a highly decorated agent. He was known throughout the Nevada law enforcement community for his efforts to break up organized crime in Las Vegas. His work even touched my life.

John Bailey was a good man and a friend. When I was the commissioner of the Nevada Gaming Control Board, I worked with John to clean up the gaming industry. It wasn't an easy task because organized crime had deep roots in Las Vegas. Each day, I faced threats against my life and against my family. There were even attempts to bribe me. Special Agent Bailey made the arrests on the gangsters who were after me. I will never forget him.

For all these reasons, I was pleased that the FBI decided to name their building in Las Vegas after Special Agent Bailey. It is a fitting tribute for a fallen officer. Later this fall, the FBI will be moving to a new building in Las Vegas. It is important to the FBI—and to me personally—that the new building at 1787 West Lake Mead Boulevard continue to carry the name of Special Agent John Bailey. Soon, I look forward to touring this new "John Lawrence Bailey Memorial Building."

I am pleased to have this opportunity to honor John before the Senate. With the dedication of the new FBI building. I am hopeful that future generations of law enforcement officers will be able to take a moment to reflect on the life and accomplishments of this distinguished officer.

NORTHEASTERN NEVADA HISTORICAL SOCIETY

Mr. REID. Mr. President, I rise to recognize the 50th anniversary of the Northeastern Nevada Historical Society. This important event is a testament to the hard work of many individuals across Nevada, and it is worthy of recognition today.

Since its founding in 1956, the Historical Society has grown from a membership of 8 to include over 2,000 members this year. Throughout this half century, the Historical Society has dedicated itself to the preservation of Nevada's heritage. Its collection of documents, artifacts, and art has become a valuable resource for genealogists, historians, Nevada residents, and visitors.

Today, almost any member of the public has access to the extensive research materials of the Northeastern Nevada Historical Society. Legal documents, personal papers, newspapers, maps, oral histories, family histories, and municipal records combine with a library of more than 2,200 books and 33,000 photographs to enhance the collection.

In 1968, the Northeastern Nevada Historical Society founded a museum in Elko. The Northeastern Nevada Museum houses the Historical Society's collections and permanent displays as well as special exhibits. The museum has prospered through the years, adding exhibition space to accommodate an increasingly large collection and growing popularity among patrons. It is a source of pride for the entire Elko community.

The Historical Society's collections represent many different faces of Nevada. Exhibits on geology and natural history display the prehistory of Nevada. Another important exhibit is the treasure trove of artifacts from the Great Basin Indian tribes. History comes alive at the museum through representations of the Pony Express, mining camps, the California Trail, and the Basque and Chinese experience in the West. The museum's collection extends into the 21st century to reflect the well-preserved wilderness and contemporary art that define Nevada today.

The Historical Society has also reached out to the residents of northeastern Nevada. They welcome school groups, sponsor speaker series and slide shows, and host local artists. At the same time, the Historical Society extended its reach beyond the local region by publishing a quarterly journal and attracting museum visitors from many different states and countries.

I can confidently say that the people of Nevada are grateful for the Historical Society's dedicated effort to preserve the rich history of our State. I am proud to commend the Northeastern Nevada Historical Society and extend my congratulations on the Society's 50th anniversary. I am confident that the next 50 years will be just as successful as the past 50 have been.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November, 9, 1996, Alan Fitzgerald Walker was murdered in his home in Fayetteville, AR. The tires on his car were slashed and anti-gay notes were written on the doors of the vehicle. Prosecutors say Adam Blackford and Yitzak Marta met Walker outside of a gay night club and murdered him. Marta testified at Blackford's trial that the motivation for this crime was the victim's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

GLOBAL WARMING

Mr. INHOFE. This past Monday, I took to this floor for the eighth time to discuss global warming. My speech focused on the myths surrounding global warming and how our national news media has embarrassed itself with a 100-year documented legacy of coverage on what turned out to be trendy climate science theories.

Over the last century, the media has flip-flopped between global cooling and warming scares. At the turn of the 20th century, the media peddled an upcoming ice age—and they said the world was coming to an end. Then in the 1930s, the alarm was raised about disaster from global warming—and they said the world was coming to an end. Then in the 1970s an alarm for another ice age was raised—and they said the world was coming to an end. And now, today, we are back to fears of catastrophic global warming—and again they are saying the world is coming to an end.

Today I would like to share the fascinating events that have unfolded since my floor speech on Monday.

This morning, CNN ran a segment criticizing my speech on global warming and attempted to refute the scientific evidence I presented to counter climate fears.

First off, CNN reporter Miles O'Brien inaccurately claimed I was "too busy" to appear on his program this week to discuss my 50-minute floor speech on global warming. But they were told I simply was not available on Tuesday or Wednesday.

I did appear on another CNN program today—Thursday—which I hope everyone will watch. The segment airs tonight on CNN's Headline News at 7 p.m. and repeats at 9 p.m. and midnight eastern.

Second, CNN's O'Brien falsely claimed that I was all "alone on Capitol Hill" when it comes to questioning global warming.

Mr. O'Brien is obviously not aware that the U.S. Senate has overwhelmingly rejected Kyoto-style carbon caps when it voted down the McCain-Lieberman climate bill 60 to 38 last year—an even larger margin than its rejection in 2003.

Third, CNN's O'Brien, claimed that my speech earlier contained errors regarding climate science. O'Brien said my claim that the Antarctic was actually cooling and gaining ice was incorrect. But both the journals Science and Nature have published studies recently finding—on balance—Antarctica is both cooling and gaining ice.

CNN's O'Brien also criticized me for saying polar bears are thriving in the

Arctic. But he ignored that the person I was quoting is intimately familiar with the health of polar bear populations. Let me repeat what biologist Dr. Mitchell Taylor from the Arctic Government of Nunavut, a territory of Canada, said recently: "Of the 13 populations of polar bears in Canada, 11 are stable or increasing in number. They are not going extinct, or even appear to be affected at present."

CNN's O'Brien also ignores the fact that in the Arctic, temperatures were warmer in the 1930s than today.

O'Brien also claimed that the "Hockey Stick" temperature graph was supported by most climate scientists despite the fact that the National Academy of Sciences and many independent experts have made it clear that the Hockey Stick's claim that the 1990s was the hottest decade of the last 100 years was unsupportable.

So it seems my speech struck a nerve with the mainstream media. Their only response was to cherry-pick the science in a failed attempt to refute me.

It seems that it is business as usual for many of them. Sadly, it looks like my challenge to the media to be objective and balanced has fallen on deaf ears.

Despite the traditional media's failed attempt to dismiss the science I presented to counter global warming alarmism, the American people bypassed the tired old traditional media by watching CSPAN or clicking on the Drudge Report and reading the speech online.

From the flood of overwhelming positive feedback I received, I can tell you the American people responded enthusiastically to my message.

The central theme was not only one of thanks, but expressing frustration with the major media outlets because they knew in their guts that what they have been hearing in the news was false and misleading.

Here is a brief sampling:

Janet of Saugus, MA: "Thank you Senator INHOFE. Finally someone with the guts to stand up and call it what it is—a sham. I think you have taken over Toby Keith's place as my favorite Oklahoman."

Al of Clinton, CT: "It's about time someone with a loud microphone spoke up on the global warming scam. You have courage—if only this message could get into the schools where kids are being brow-beaten with the fear message almost daily."

Kevin of Jacksonville, FL, writes: "I'm so glad that we have leaders like you who are willing to stand up against the onslaught of liberal media, Hollywood and the foolish elected officials on this topic. Please keep up the fight."

Steven of Phoenix, AZ, writes: "As a scientist, I am extremely pleased to see that there is at least one Member of Congress who recognizes the global warming hysteria for what it is. I am extremely impressed by the Senator's summary and wish he was running for President."

Craig of Grand Rapids, MI, writes: "As a meteorologist, I strongly agree with everything you said."

My speech ignited an Internet firestorm; so much so, that my speech became the subject of a heated media controversy in New Zealand. Halfway across the globe, a top official from the New Zealand Climate Science Coalition challenging New Zealand's television station to balance what he termed "alarmist doomcasting" and criticized them for failing to report the views of scientists in their own country that I cited here in America.

As the controversy in New Zealand shows, global warming hysteria has captured more than just the American media.

I do have to give credit to one publication here in America, Congressional Quarterly, or CQ for short. On Tuesday, CQ's Toni Johnson took the issues I raised seriously and followed up with phone calls to scientist-turned global warming pop star James Hansen's office. CQ wanted to ask Hansen about his partisan financial ties to the left-wing Heinz Foundation, whose money originated from the Heinz family ketchup fortune. But he was unavailable to respond to their questions, which is highly unusual for a man who finds his way into the media on an almost daily basis. Mr. Hansen is always available when he is peddling his increasingly dire predictions of climate doom.

The reaction to my speech keeps coming in: Just this morning, the Pittsburgh Tribune-Review newspaper wrote an editorial calling my speech "an unusual display of reason" on the Senate floor.

I have been engaged in this debate for several years and believe there is a growing backlash of Americans rejecting what they see as climate scare tactics. And as a result, global warming alarmists are becoming increasingly desperate.

Perhaps that explains why the very next day after I spoke on the floor, ABC News's Bill Blakemore on "Good Morning America" prominently featured James Hansen touting future scary climate scenarios that could, might, possibly happen.

The segment used all the well-worn tactics from the alarmist guidebook—warning of heat waves, wildfires, droughts, melting glaciers, mass extinctions unless mankind put itself on a starvation energy diet and taxed emissions.

But that is no surprise—Blakemore was already on the record that there was no scientific debate about man-made catastrophic global warming.

You have to be a pretty poor investigator to believe that. Why would 60 prominent scientists this last spring have written Canadian Prime Minister Harper that "if, back in the mid-1990s, we knew what we know today about climate, Kyoto would almost certainly not exist, because we would have concluded it was not necessary."

I believe it is these kinds of stories which explain why the American public is growing increasingly skeptical of the hype. Despite the enormous 2006 media campaign to instill fear into the public, the number of people who believe that weather naturally changes is increasing.

A Los Angeles Times/Bloomberg poll in August found that most Americans do not attribute the cause of recent severe weather events to global warming, and the portion of Americans who believe that climate change is due to natural variability has increased over 50 percent in the last 5 years. And that, my fellow Senators, is why the Hollywood elitists and the rest of the liberal climate alarmists are starting to panic.

I hope my other colleagues will join me on the floor and start speaking out to debunk hysteria surrounding global warming. This issue is too important to our generation and future generations to allow distortions and media propaganda to derail the economic health of our Nation.

WASTEWATER TREATMENT WORKS

Mr. INHOFE. Mr. President, I would like to discuss the urgent need for this legislation. The Nation's wastewater treatment works—POTWs—provide a vital service to our Nation. They ensure that municipal and industrial waste is cleaned to a level safe enough to be released back into the Nation's waterways.

After the tragic events of September 11, 2001, much more focus was placed on the Nation's water and wastewater facilities. POTWs not only release treated effluent into the Nation's waters but also consist of miles of pipes that run underground and are often large enough for someone to stand in. They are literally underground roadways.

In the 107th Congress, the House of Representatives passed by voice vote legislation—H.R. 5169—to provide POTWs with the resources they needed to conduct vulnerability assessments and secure their facilities. The bill, H.R. 866, was again introduced in the 108th Congress and passed by a vote of 413–2, with every Democrat who voted supporting the bill. I was pleased to introduce the companion to this legislation, S. 1039 with my colleague and then subcommittee Chairman, MIKE CRAPO. Last year, despite reporting the bill on a bipartisan vote of 13 to 6, members of the Senate minority objected to Senate consideration of S. 1039.

S. 2781 is a variation of S. 1039 with some important improvements, like the addition of site security plans and a more streamlined grantmaking progress. Senator LINCOLN CHAFEE, chairman of the Fisheries, Wildlife and Water Subcommittee and Senator LISA MURKOWSKI, a distinguished member of the EPW Committee joined me in sponsoring S. 2781.

Our bill passed the EPW Committee on a voice vote. Unfortunately, once again, my colleague from Vermont has objected to consideration of wastewater security legislation by the full Senate.

My colleagues in the minority argue that my bill is insufficient because it does not impose on POTW's unfunded federal mandates and because it does not assume that local officials are ignoring the security of their facilities.

POTWs are arms of local government. They are largely owned and operated by the Nation's cities and towns. In 1995 Congress passed the Unfunded Mandates Reform Act in which we pledged not to impose costly regulatory burdens on our partners in local government. Just as it is our obligation as U.S. Senators to serve the public good, preserve the public trust and protect the citizenry, so it is the obligation of locally elected, appointed and employed officials.

Why do so many of my colleagues assume that we at the Federal level care more about the citizens of the Nation's towns than the locally elected officials do? Why do so many of them assume that they know more about how to evacuate citizens, secure local treatment plants and protect local citizens than the very people who live in those towns whose jobs it is to protect them?

S. 2781 would simply provide towns with resources to conduct vulnerability assessments and to secure their facilities. It provides funds to research the means to secure the collection systems that are made up of the miles of underground pipes. There are logistical and financial problems with trying to secure these systems that need to be addressed, particularly before imposing an unfunded Federal mandate on the Nation's towns. My bill would support the already ongoing activities of many of the national wastewater associations and the Environmental Protection Agency, EPA, to develop assessment tools and industry security standards as well as conduct security trainings. The national water associations make up the Security Coordinating Council and regularly meet with the Environmental Protection Agency, the Agency charged with overseeing security at POTWs. The SCC and EPA are developing a sector security plan to, among other things, establish measures of security improvements.

My colleagues will argue that this is not enough. Local governments cannot be trusted to proceed on their own with a little Federal guidance because to date, they really have not done anything to secure their facilities. However, one need look no further than a March 2006 GAO report to see how much in fact they are doing. According to GAO, 74 percent of the largest 206 treatment works had completed or were in the process of completing a vulnerability assessment. Further, the majority of treatment works had made significant improvements to the physical security of their facility. They did so after careful review of their individual communities' needs. Most importantly, they have done so out of concern for their citizens, not in response to a Federal mandate.

My colleagues will also turn this discussion not into one about security but one about chlorine. Chlorine is by far the most effective disinfectant available and it is the least expensive. During these times of aging systems, growing Federal regulations and limited resources, cost is an important consideration. Washington, DC's treatment works, Blue Plains, spent $12.5 million to change technologies. San Jose, CA, spent $5 million to switch from gaseous chlorine to sodium hypochlorite. The city of Wilmington, DE, spent $160,000 to switch. However, there is much more to their story than that cost figure. Wilmington already had in place a sodium hypochlorite system that was serving as backup to its gaseous chlorine system. Further, Wilmington will spend hundreds of thousands of dollars more each year in operations and maintenance costs.

There are other considerations that must be factored in as well, such as downstream effects of a chlorine alternative. For example, the switch from chlorine to chloramines in Washington, DC's drinking water system was found to cause lead to leach out of service pipes and into the faucets of homes and businesses. Thus, decisions about chlorine must be fully evaluated and must be site-specific. Many POTWs are already undergoing these evaluations. After careful review of cost, technical feasibility and safety considerations, and without the presence of a Federal mandate on technology, 116 of the 206 largest POTWs do not use gaseous chlorine: According to the GAO report, another 20 plan to switch to a technology other than chlorine. To sum, nearly two-thirds of the Nation's largest POTWs are not using or will soon stop using chlorine. Those who continue to use chlorine have taken steps to ensure the chlorine is secure. My bill would provide POTWs who decide for themselves to switch treatment technologies with grant money to make the switch. However, my bill maintains trust in local officials who know best their water, the community and their security needs.

Let me be clear. This is an important security bill and I regret that for the second Congress in a row my colleagues on the other side of the aisle are obstructing it. Members of the minority have criticized the chemical security legislation for not covering these facilities. This legislation has basically passed the House of Representatives twice. The minority party in the Senate is blocking this important security bill.

TRIBUTE TO CONGRESSMAN JOEL T. BROYHILL

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding Virginian, and dear friend, the former 10th District Congressman, Joel T. Broyhill, who died this past weekend.

Congressman Broyhill was an outstanding public servant. He had a certain "joie de vivre" that one does not often find—his presence, his spirit would fill up a whole room. His sense of civic responsibility—both through his service in the U.S. Army and as the Representative to Congress from Virginia's 10th District—was second to none. And his devotion to his three daughters, stepdaughter, grandchildren, and great-grandchildren was unmatched; they were the joys of his life.

A native of Hopewell, VA, Congressman Broyhill was born on November 14, 1919. He attended Fork Union Military Academy and George Washington University.

In 1942, he enlisted in the Army. He served as an officer in the European Theater in the 106th Infantry Division and was taken prisoner in the Battle of the Bulge. After 6 months in German prison camps, he escaped and rejoined the advancing American forces. On November 1, 1945, after 4 years of service, Congressman Broyhill was released from active duty as a captain.

In 1952, at the age of 33, Broyhill was elected as a Republican from Virginia's newly created 10th District to the 83d Congress, by 322 votes. Congressman Broyhill was reelected 10 times, serving 21 years in Congress, until December 1974.

Congressman Broyhill's prime source of political success was his dedication to constituent service. At the time of Congressman Broyhill's tenure in Congress, the 10th District contained more Federal employees than any other district in the United States. In 1972, Congressman Broyhill estimated that he had aided more than 100,000 district residents during his 20-plus years in office.

According to the 1974 Almanac of American Politics:

> [t]here are few congressional offices in which the demand for services is so high, given the number of Federal employees in Broyhill's district; and there are few indeed that take care of constituents' needs and complaints with more efficiency.

The 10th District of Virginia was shaped and forever changed by Congressman Broyhill's initiatives in Congress. He laid the foundation for major transportation projects, including the construction of Interstate 66, the Metrorail System, the Woodrow Wilson Bridge, and Washington Dulles International Airport.

The Almanac also describes Congressman Broyhill as one who "should be credited with voting his conscience."

Even after he left Congress, Congressman Broyhill continued serving constituents by maintaining an office to assist those with problems relating to the federal government. In fact, my Senate office would receive a call about once a month from the "Broyhill Office" asking us to follow up on a constituent inquiry.

In 1978, I was honored and proud to have my longtime friend come out of retirement to serve as General Chairman of my U.S. Senate campaign. It was great to see him back on the political stage in Virginia. Congressman Broyhill's knowledge of the Commonwealth and of campaign strategy were invaluable to me as he introduced a most interesting couple to the political scene. Congressman Broyhill helped me to convince my wife at the time, Elizabeth Taylor, that being a candidate's spouse was the best role she could play. Many times he accompanied Elizabeth to campaign events when I was unable to attend. He was an exemplary ambassador for my 1978 campaign.

Congressman Broyhill's "house by the side of the road" in Arlington was never without yard signs during any election. As one of the first Republicans elected in Virginia, he was a trailblazer and he helped every Republican member of the Virginia congressional delegation—including its two current U.S. Senators—to be elected under the Republican banner.

Congressman Broyhill was instrumental in building his father's real estate business, M.T. Broyhill & Sons. The company was started in Hopewell, and the family later relocated to northern Virginia when Congressman Broyhill was growing up.

Congressman Broyhill and his wife Suzy were stalwarts of charitable giving and have given both their time and resources to many organizations across the Commonwealth, and notably, to the Wolf Trap Foundation for the Performing Arts.

It is with a great sense of humility that we pay tribute today to the life of our dear friend and dedicated public servant, Congressman Joel T. Broyhill. We offer our condolences to his three daughters, Nancy, Jeanne and Jane Anne, his stepdaughter, Kimi, and his wife of 25 years, Suzy. He also has four grandchildren: Meredith, Maureen, Lindsay, and Kathleen, and three great-grandchildren: Molly, Jack, and Kara.

THAILAND

Mr. FEINGOLD. Mr. President, I remain deeply troubled by the military coup that occurred in Thailand on September 19. The forceful removal of Thai Prime Minister Thaksin Shinawatra was an assault on the democratic institutions of that country and is a dangerous development for a key ally in an increasingly important region. Now, almost 2 weeks after the coup, it is apparent that the coup leaders had only a tentative plan for transitioning back to democratic rule and that their rhetoric about restoring democracy to Thailand may not be as sincere as some had hoped. As the military junta fumbles through its next steps, it is critical that the United States show strong leadership in helping this critical ally reinstitute a civilian democratic government and that it do so immediately.

Mr. President, this coup is particularly troubling because it is a step backward from almost a decade of relatively positive democratic developments. During Thailand's last coup in February 1991, the military overthrew Prime Minister Chatichai Choonhavan and a bloody power transfer followed, culminating in what Thais call "Black May." Those events kicked off a national dialogue that resulted in the establishment of a new constitution in 1997 that restored authority to civilian democratic institutions, ultimately ushering in democratic elections in 2001 and 2005. Thaksin's party, Thai Rak Thai—"Thais love Thai"—won both of those elections in landslide victories.

This recent coup rolls back these developments. There is no doubt that Thailand was suffering from extreme political divisiveness during Thaksin's tenure. When I met with him in Bangkok earlier this year, he was in the throes of a political battle against a growing opposition movement. He was also under fire for mishandling the insurgency in Thailand's three southernmost provinces in which 1,700 people have been killed since January 2004. It was evident that his ability to effectively manage the Thai Government had been diminished.

But this hardly provides justification for a military junta to overthrow a popularly elected government and to discard the nation's constitution. This new military junta, led by General Sonthi Boonyaratglin, and awkwardly self-titled the "Council for Democratic Reform Under Constitutional Monarchy", is deeply troubling.

This coup is a significant setback for Thailand's democracy. While the coup occurred in a matter of hours, it may take years before a new civilian and democratic government restores full authority and legitimacy in Bangkok. Unfortunately, this new military council has banned political gatherings and has put some restrictions on the media. It has disseminated a wide range of other decrees and rules, many of which have troubling consequences for freedom of expression and the democratic process. Given these early signs, we have no reason to believe that this council will be any different in nature than previous military juntas. Additionally, this coup could have negative consequences for Thailand's simmering human rights problems and the insurgency in the south. The coup leaders have already stated that they will focus on quelling a separatist insurgency in southern Thailand. This is worrisome if the military council relies on a strictly military approach to the unrest.

The coup is also bad for the region. Events in Thailand are sending the wrong message to democracies throughout the region that are dealing with legacies of military coups. Secretary Rice has dismissed the notion that this could have a contagion effect throughout the region. While I hope this is true, we should not ignore the fact that a number of countries in Southeast Asia are still dealing with the legacies of military dictatorships. Indonesia is recovering from years of dictatorial military rule, and the Republic of the Philippines is still working to strengthen its democratic institutions and repair its recent history of military intervention. The coup is also, significantly, going to have a direct impact on Thailand's ability to serve as a broker between Burma and the rest of the world.

Finally, it will have an impact on U.S. interests in the region. Thailand is a critical strategic partner of the United States, and some may be tempted to maintain warm relations with the Thai military. Our close political and military relationship goes back decades and is a vital component of U.S. national security policies in the region. But this friendship must take into consideration the dangerous behavior of those who led this coup. We must resist the temptation to give the leaders of this coup a free pass. Instead, we must take strong action.

We need to signal a real sense of urgency to restoring legitimacy to the democratic institutions within Thailand. It is imperative that the Thai military restore the authority of democratic institutions in Thailand expeditiously. President Bush needs to weigh in decisively. The U.S. Government must signal that it will not accept this new interim authority as the status quo and that the Thais must take immediate actions to restore democracy to Thailand. There are four specific things that must occur.

First, the United States must pressure the military council to schedule national elections immediately. General Sonthi has promised elections by October 2007. This is insufficient. Elections should be held at the earliest possible date, understanding the logistical requirements involved in preparing to hold a national election. This is essential and is the only way the military council can prove that it does intend to reintroduce democracy to Thailand.

Second, the administration must immediately put into place sanctions that are required under U.S. law. This means cutting off military assistance now. As we learned in Indonesia, this in itself will send a powerful message to the Thai military that usurping democracy does not pay. The administration would do itself a favor by making the conditions for reinstituting military-to-military relations clear from the outset. Still, this must be a clean break and must be leveraged in the future to help restore democracy.

Third, the United States must work vigorously with other key players in the region to create a united front of disapproval for the coup. The United States can't be alone in its criticisms or in applying pressure on the Thai junta. Secretary Rice's use of the phrase "U-Turn" doesn't cut it. We need a strong message that recognizes the grave nature of these developments. ASEAN members, in particular, have a strong role to play. Thailand's neighbors and regional partners must speak out about this coup in strong ways and must use their economic, political, and social leverage to help reinstall democracy in Thailand.

Finally, and until national elections can be carried out, the military council must lift all restrictions on democratic parties, the press, and political leaders. This includes Thaksin supporters. Those who broke the law under the Thaksin Government should be held accountable in the courts of law, not a military junta. Political opposition parties must be allowed to convene, and press freedoms must be established.

Mr. President, I close by reiterating the concern I laid out at the beginning of this statement. The military's endrun of the country's democratic institutions will undermine Thailand's important role throughout the region and the world and will therefore harm our own country's national security interests in the region. Thailand is a critical partner in the region and in the broader fight against terrorist networks. We need a strong, democratic Thailand to serve as our partner. We can't do this if this new military dictatorship derails a democratic government. The United States and international community must urge the Thai military to take the necessary action to restore Thailand's democracy.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise again this year to remind my colleagues that October 1 to 7 is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The Society of Nuclear Medicine is an international scientific and professional organization of more than 16,000 members dedicated to promoting the science, technology, and practical applications of nuclear medicine. I commend the society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently performed nuclear medicine procedures include bone scans to examine orthopedic injuries,. fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, to measure heart function or to determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and renal imaging in children to examine kidney function.

I thank all of those who serve in this very important medical field and join them in celebrating Nuclear Medicine Week during the first week of October.

TRIBUTE TO PARK B. SMITH

Mr. LEAHY. Mr. President, I would like to recognize the exceptional generosity and work of Park B. Smith and his wife, Linda Johnson Smith.

Park and I met through our mutual involvement in The Marine Corps—Law Enforcement Foundation, an organization that believes in and supports the potential of our youth. They provide scholarship bonds for children of active-duty Marines and Federal law enforcement personnel killed in the line of duty. Park has become a good friend and someone whom I admire.

Park, an alumnus of the College of the Holy Cross, and Linda have a strong belief in the value of education and have exemplified this dedication. Through their generosity, the College of the Holy Cross has been able to continue to grow and build its community. It is for this reason that I would like to ask unanimous consent to have an article about Park and Linda Smith from The Wall Street Journal printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Friday, Sept. 15, 2006]

GIVING BACK—DONOR TO TURN WINE INTO BREAD

(By Kelly Crow)

Park B. Smith has written his share of million-dollar checks to benefit his alma mater. Now, he has decided to donate by turning over part of his prized wine collection to a major auctioneer.

On Nov. 18, Sotheby's in New York will auction the equivalent of 14,000 bottles from Mr. Smith's private collection—including 50 cases of coveted 1982 Mouton Rothschild—in a sale estimated to bring in up to $4.8 million. His proceeds will go to build new athletic facilities at the College of the Holy Cross in Worcester, Mass. He's also planning a $25,000-a-plate dinner at his New York restaurant, Veritas, to benefit Holy Cross.

The Sotheby's auction represents a rare mix of beneficence and big auctioneer. In a more typical charity wine auction, nonprofits enlist local auctioneers to sell bottles donated by wineries or collectors. This season brings a range of such events: In Chicago, Hart Davis Hart Wine Co. is holding a Sept. 28 auction at Tru restaurant ($1,500 a plate) to help children with spina bifida. In Harrisburg, Pa., 600 people will bid to benefit the Whitaker Center for Science and the Arts. In California, Napa Valley winemaker John Schwartz, of Amuse Bouche, says he gets 25 letters a week from charities requesting wine. Mr. Schwartz is organizing his own Oct. 27 wine auction, in Phnom Penh, Cambodia, to benefit a Cambodian orphanage.

Mr. Smith, known in the home-furnishings industry for his namesake line of draperies and bedspreads, says he hopes to capitalize on the marketing muscle of Sotheby's to reach top connoisseurs. He also moved the auction date up a year to take advantage of the strong wine and art market. Mr. Smith is betting a high-profile sale will bring high prices, but by going with a big auctioneer he is also subject to its seller's commission rates (20 percent is standard, though Sotheby's says it will charge less because it's for a good cause). And he'll have to pay higher capital-gains taxes, as much as 28 percent, because the wine will be sold rather than given outright.

Mr. Smith started drinking wine while serving in the Marines (an early favorite was 89-cent bottles of Beaujolais) and has since gained a reputation for collecting top wines. One reason he isn't donating cash: His 65,000-bottle Connecticut cellar is at capacity. "I'm raising money for Holy Cross but I'm also making more room," he says.

Mr. Smith, a 1954 graduate and trustee of the Jesuit liberal-arts college, has given the school $20 million over the years. Now he wants to fix its "disgraceful" field house. Father Michael McFarland, college president, says he's awed by Mr. Smith's generosity—and relieved he can accept auction proceeds rather than thousands of bottles: "We don't even have a wine cellar—just a couple cases stuffed under a sink."

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, in early August, I was unable to be in Washington for the cloture vote on the so-called trifecta bill, which so insidiously tried to hold hostage a necessary increase in the minimum wage and necessary extensions of tax credits important to American families and business to an excessive and unjustifiable reduction in the estate tax paid by the richest families in our country. I want to make clear that I would not have voted to allow this bill to proceed and that my inability to cast a vote in no way undercut the effort to stop this outrageous legislation. Since it was necessary for proponents of the legislation to find 60 votes irrespective of the number of votes against cloture cast by those of us in opposition, the very act of not voting for the cloture motion was, in effect, a vote against the motion.

At the time of the vote, I issued a press statement expressing my disappointment over the Senate's failure to enact a minimum wage hike and my dismay at the Republican proponents' tactic of linking the wage hike to an estate tax giveaway that would have increased an already out-of-control Federal budget deficit. In that statement, I rejected the Republicans proponents' hollow claim to favor a minimum wage increase. In fact, they have actively opposed a minimum wage increase for years; in this trifecta bill, they were using the wage hike only as a cynical ploy to attract votes for the estate tax rollback.

In my statement, I noted that the failure of the trifecta bill, though a victory for fiscal sanity, was no cause for rejoicing. An inappropriately low national minimum wage has been a big part of the problem of working-family poverty for many years. It is a problem for workers in Connecticut where the State minimum wage is higher, since a low national minimum wage creates pressure for companies to move Connecticut jobs to low wage States. The minimum wage was last raised almost 10 years ago. We need to act this year to pass a minimum wage increase—without tying it to an excessive cut in the estate tax. It is also essential that we pass the tax "extenders" which will support families paying college tuition, promote work opportunities for low-income Americans, and give incentives to businesses pursuing important research and development. These and other important tax extenders were also taken hostage by the Republicans' irresponsible estate tax scheme.

I have cosponsored a separate bill that would raise the minimum wage and extend these important tax incentives for middle-class families and businesses. I will continue to work with my colleagues to accomplish these goals without paying the high cost of excessive estate tax cuts to the wealthiest sliver of the population.

Mr. President, I also wish to express my support for the pension reform legislation which passed the Senate on August 2. Had I been present, I would have voted in favor of the conference report.

While we all recognize that the legislation that passed was not perfect, it marked the end of a long and difficult legislative process that necessarily involved a great deal of compromise on all sides. It represents a success in terms of bipartisan cooperation in the Senate, something we need to see much more of in the future so we can truly begin to address many of the serious and complex problems our nation faces.

Senate passage of the pension reform bill was the culmination of more than a year of work by lawmakers concerned about record unfunded liabilities at the PBGC—which is supposed to be the bulwark against pension collapse—as well as what had become a widespread epidemic of chronic underfunding of pension plans.

The legislation as passed by the House and Senate, and now signed by the President, would require companies to fund 100 percent of their plan liabilities, up from 90 percent under current law. Those with funding shortfalls generally would have 7 years to make up the difference. Companies at risk of default would be subject to other restrictions and would have to make accelerated contributions.

The legislation provides specific relief for financially troubled airlines, giving up to 17 years to fully fund their plans. Some airlines were given more relief than others; so there may be an effort to pass a technical corrections bill to address this issue.

Also included in the legislation are provisions aimed at encouraging workers to make contributions to retirement savings plans, including allowing companies to automatically enroll employees in a 401(k). This will accomplish a relatively simple but tremendously effective change to ensure that more Americans are saving for their retirement

The legislation also contains many other improvements and protections to the necessarily complex system we have constructed to address the retirement security of tens of millions of our citizens. The bill would provide needed reforms to both single employer and multiemployer plans: to defined benefit as well as defined contribution plans; and to hybrid "cash balance" plans. It also provides greater security to spouses with respect to their share of a spouse's retirement plan after death or divorce.

Further, the bill includes tax incentives for charitable giving. Many of these incentives were in the CARE Act which I have sponsored in this as well as previous congresses.

TRIBUTE TO JUDGE GLEN MORGAN WILLIAMS

Mr. ALLEN. Mr. President, I rise today to speak about a wonderful gentleman and a respected judge who has served our country with distinction and also helped start my legal career, which has ultimately led to where I stand today: Judge Glen Morgan Williams.

As a newly minted graduate fresh out of the University of Virginia Law School, I had the honor of serving as a clerk to Judge Williams, an experience that had a profound affect on me. I was privileged to see first hand how Judge Williams' legal knowledge and fairness—as a judge on the U.S. District Court for the Western District of Virginia—has served the people of Virginia and America. I also had the unique privilege of hearing his stories of life, his commonsense wisdom and special humor and laughs.

Prior to serving as a Federal judge, Glen Williams served with distinction in the U.S. Navy during World War II. Judge Williams served as a minesweeper in the Atlantic, Pacific and Mediterranean theaters and was decorated for his service with the Commander's Citation. Judge Williams participated in the invasion of Southern France and thereafter commanded the USS *Seer* in the Pacific until 1946.

Upon returning from the war, Judge Williams entered private law practice where he quickly became one of the leading trial lawyers in Virginia and one of the Nation's leading experts on Social Security, where he testified before Congress on Social Security reform.

Judge Williams began his tenure on the U.S. District Court for the Western District of Virginia, serving as a magistrate from 1963 to 1975.

On September 8, 1976, Judge Williams was nominated by President Gerald R. Ford to serve as a judge on that distinguished court and ultimately won Senate confirmation on September 17, 1976.

During his time on the court, Judge Williams has been instrumental in reestablishing the Big Stone Gap division of the court and the opening of the clerk's office down there in the far southwest part of Virginia.

During his 30 years of service on the bench, Judge Williams has written more than 300 published opinions in every area of Federal law. Judge Williams' opinions have been particularly influential in the coal mining industry weighing the rights of coal miners, operators and landowners and interpreting the constitutionality of the Surface Mining Control and Reclamation Act.

Judge Williams' 30 years of service have been instrumental in shaping jurisprudence in the Western District of Virginia and has been an admired, outstanding and loved mentor for scores of Virginia lawyers who have had the privilege of learning from his experience. Besides myself, former clerks also include a member of the Virginia Supreme Court and many of the best lawyers in Virginia and throughout the country.

I have the ability to speak today about this magnificent wonderful gentleman, lawyer and judge who has been so positively influential in my life and career. On behalf of all his clerks and staff throughout the years, I thank Judge Williams for his 30 years of exemplary service to our country on the Federal bench.

Moreover, I thank God for sending into our world and my life a character of a man with truly unmatched wit and wisdom, the truly honorable Glen M. Williams of Lee County, VA.

Mr. WARNER. Mr. President, it is my privilege today to speak in honor of a longtime servant to the Federal judiciary, the Honorable Glen Morgan Williams, U.S. District Judge for the Western District of Virginia.

I have been in the Senate now for 28 years. During that time, I have participated in the Senate's advice and consent process more than 2,000 times with respect to Federal judges. In fact, of all active Federal judges on the district court bench in Virginia, I have had the distinct privilege of voting for every single one.

There are two judges whose chambers exist in Abingdon, VA, whose service predates mine: Judge H. Emory Widener, Jr., and Judge Glen Morgan Williams. Judge Widener was confirmed to the district court in 1969, and then to the U.S. Court of Appeals for the Fourth Circuit in 1972. Judge Williams received his first judicial appointment, that of Magistrate Judge for the U.S. District Court for the Western District of Virginia, in 1963. Following 12 years as a magistrate, Judge Williams was nominated to be a district court judge by President Gerald R. Ford in 1976, and he was confirmed for this position by the Senate on September 17, 1976. Both judges are distinguished fixtures in the Virginia legal community, admired and respected by all who are fortunate enough to know them.

Because this year marks the thirtieth year that Judge Williams has served as a Federal district judge in the Western District, I join with my colleague from Virginia, Senator GEORGE ALLEN, in commending this exceptional jurist for his efforts.

As a young man, Glen Williams answered his Nation's call to duty in World War II. Earning a commander's citation, Mr. Williams served with distinction in the U.S. Navy from 1942 to 1946. Remarkably, his experience included the Atlantic, Pacific, and Mediterranean theaters and the Allies' invasion of southern France.

Mr. Williams and I followed similar paths to our respective careers after our naval tours in World War II; like me, he also received his training in law from the University of Virginia. Starting out as a sole practitioner after law school, Mr. Williams began his career in civilian public service as a Commonwealth's Attorney, followed by a term in the Virginia State Senate. During his career in private practice, he established himself as a leading expert on Social Security law, and Mr. Williams' testimony on this subject was sought by the Congress.

During his career on the bench, Judge Williams has produced more than 300 published opinions on a number of matters of great importance for our country, and certainly for those who live and work in the coal-mining regions of Virginia's beautiful Western District. In fact, the U.S. Supreme Court cited Judge Williams' opinions with respect to the funding of health care for beneficiaries of the United Mine Workers Health and Retirement Funds in its interpretation of the Coal Act.

While Judge Williams assumed senior status in the Western District in 1988, he remains active in both the Abingdon and Big Stone Gap divisions through the present day. In particular, he is to be commended for his diligence in reestablishing the Big Stone Gap division and for the reopening of both the clerk's office and the courthouse in this division.

Judge Williams remains an asset for our Federal judicial system, for his knowledge and insight as well as for his mentorship of the many judicial law clerks who have had the opportunity to work with him, including Senator ALLEN. In honor of his 30 years of service to our Federal judiciary as a Federal district court judge, I simply say to Judge Glen Williams, "Well done, Your Honor." Your longevity and commitment to our Constitution, to our third branch of government, and to those four words that are forever engraved into the marble at the United States Supreme Court—"Equal Justice Under Law"—remain the hallmarks of your remarkable career.

HONORING CAROLE GRUNBERG

Mr. WYDEN. Today I honor Carole Grunberg for her years of service to me and to the Senate. Carole is retiring after serving as my legislative director for more than 10 years. In total, she has 16 years of Senate service along with more than a decade in the House of Representatives. I want to take this opportunity to talk about Carole and how much I appreciate everything she has done for the Nation, the State of Oregon, and me.

When it comes to legislative directors, Carole was truly the gold standard. Her skills and ability to get things done were unsurpassed. She was a master at designing strategies to take a concept, develop it into legislation, and guide it through Congress to become law. And she pursued each of these efforts with passion and commitment until the legislation made it into the statute books.

Known by many as one of this Nation's top ranked squash players, Carole brought that same competitive passion to the Senate's competitive marketplace of ideas and legislation. Keeping the Internet free of discriminatory taxes, recognizing electronic signatures as legally valid, protecting Oregon's vote by mail, retraining service workers displaced by trade, and our ongoing effort to end secret holds are just a few examples of initiatives Carole made into her personal quests.

Carole also brought out the best in our entire legislative team, using an approach that was part den mother and part drill sergeant. She proudly described our legislative staff as the best on Capitol Hill and pushed them to meet that standard every day. But the same big, competitive heart that made Carole expect the best from herself and her staff also filled her with enormous compassion and a burning desire for justice.

Carole always viewed the entire Wyden staff, from the most senior to the newest intern, as part of one team—Team Wyden. And she successfully marshaled all our staff in efforts ranging from shutting down Admiral Poindexter's Total Information Awareness Program, which basically would have involved holding every American upside down and shaking them to see if anything bad fell out, to crafting my fair flat tax bill to simplify and reform the Tax Code.

Carole's team-building efforts extended well beyond the office. She organized and served as captain for a Wyden Team that ran the 195-mile relay race from Mt. Hood to the Oregon coast. As Carole saw it, there is no better way to build camaraderie than to have a bunch of sweaty runners crammed into a van together for 20 hours.

For someone who is used to spending her spare time running marathons and winning national championship squash tournaments, I don't see Carole's retirement as a glidepath to the rocking chair. She has got too much energy and too much passion to sit on the sidelines for long. I know that she and her longtime partner—and fellow Senate veteran—Kate Cudlipp, will be making certain that her skills and energy are put to good use. And in whatever she chooses to do, I know she will continue to shine.

Again, I can't thank Carole enough for all she has done for me, my staff, the State of Oregon, and the Nation. She will always be my dear friend and a member of our Team Wyden family. I wish her all the best for the next chapter of her life.

TRIBUTE TO CHARLIE BATTERY

Mr. THUNE. Mr. President, today I rise to thank Charlie Battery, 1st Battalion, 147th Field Artillery, and congratulate and welcome them home after a year spent proudly serving their country in Iraq. Charlie Battery, based in Yankton, SD, has certainly earned this homecoming and the gratitude of our Nation.

These brave soldiers have been away from their loved ones for over a year, and they have accomplished an enormous amount in that time. Charlie Battery served commendably in some of the most dangerous areas of Iraq. They performed transition team missions with Iraqi police and conducted joint patrols that included route security, reconnaissance, rescue and recovery, and personal security detachment missions all over Baghdad.

The soldiers of Charlie Battery were not immune to the violence that has plagued Iraq. On this day of celebration and reunion, let us remember those who were wounded and those who made the ultimate sacrifice protecting and serving our Nation, as well as the family members and friends they left behind. Those who gave their lives in Iraq include SSG Greg Wagner, SFC Richard Schild, SSG Daniel Cuka and SGT. Allen Kokesh, Jr.

But let us also remember that these sacrifices were not in vain. Charlie Battery, 1st Battalion, 147th Field Artillery, trained more than 1,000 Iraqi police and created stability in the southern and eastern districts of Baghdad. Charlie Battery's efforts enabled a district in the center of Baghdad to become the first to transition responsibility of security to Iraqi police. While the mission is not over, Charlie Battery has done the Iraqi and the American people a great service by their accomplishments, and they have made their country proud. I thank them, I applaud their courage, and I welcome them home.

COSPONSORS OF S. 3709

Mr. LUGAR. Mr. President, on July 24 the majority leader placed in the RECORD a list of the Senators who had sought to be cosponsors of S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act.

Mr. President, I ask unanimous consent that an updated list of those who wish to be listed as cosponsors be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LUGAR, BIDEN, HAGEL, CHAFEE, ALLEN, COLEMAN, VOINOVICH, ALEXANDER, SUNUNU, MURKOWSKI, MARTINEZ, DODD, KERRY, NELSON (FL), OBAMA, CORNYN, BAYH, HUTCHISON, and DEWINE.

ADDITIONAL STATEMENTS

TRUANCY COURT PROJECT

● Mr. THUNE. Mr. President, today I recognize the students who participated in the Truancy Court Project for the Pennington County Juvenile Diversion Program.

The students who participated are Emanuel Martindel Campo, Christopher Eagle Bull, Randolph Two Bulls, Alan Shaw, Corey Johnson, Alicia Moon, Brian Dooley, Jennifer Martell, Collin McCracken, Amanda Hastings, Shane Watkins, Timothy Gerry, Darrin Leenknecht, Adam Erickson, Eldon Jennesse, Corey Johnson, and Lalita Isabel.

These students successfully participated in the Truancy Court Project and deserve the special recognition they are receiving today. After starting off the school year with a rocky beginning, each individual student took it upon themselves to volunteer for this project and to excel at it. Each of them has improved attendance, improved their relationships with their teachers, and most importantly learned the value of education.

It gives me great pleasure to rise with the citizens of Rapid City and Ellsworth in congratulating the Truancy Court Project students for their successful participation in the program.●

TRIBUTE TO ROBERT LAURENZ

● Mr. THUNE. Mr. President, today I recognize Robert Laurenz, who was named the South Dakota Minority Small Business Person of the Year by the Small Business Administration. This is a prestigious award that reflects the quality of small businesses that are found in South Dakota.

Mr. Laurenz's business, Dakota 2000, Inc., was founded in 1995 and supports Federal, State, local, and tribal government agencies with information technology services. Dakota 2000, Inc., sells millions of goods and services annually and has successfully completed contracts with several government agencies. Businesses such as Dakota 2000, Inc., are vital to the health and economic well-being of South Dakota's future.

It gives me great pleasure to rise with Robert Laurenz and to congratulate him on receiving this well-earned award. I wish him and Dakota 2000, Inc., continued success in the years to come.●

TRIBUTE TO JAMES T. CASSIDY, MD

● Mr. BOND. Mr. President, today I wish to honor and recognize the immeasurable contribution Dr. James T. Cassidy has made to pediatric medicine in Missouri and across the United States.

Born in 1930 in Oil City, PA, Dr. Cassidy received his both undergraduate and medical education at the University of Michigan. He completed 2 years of active duty in the U.S. Navy and 7 years in the Naval Reserve. He returned to the University of Michigan to complete his residency in internal medicine and a rheumatology fellowship in the Rackham Arthritis Research Unit under the mentorship of Dr. Roseman and Dr. Johnson. He went on to the faculty in 1963 and worked his way up the ranks becoming professor of internal medicine and pediatrics in 1974. In 1984, he was recruited as professor and chair of pediatrics at Creighton University School of Medicine in Omaha, NE. Four years later he came to the University of Missouri-Columbia as a professor in the Department of Child Health and Internal Medicine and chief of pediatric rheumatology. He became emeritus professor in 1996 and continued to staff his arthritis clinics until this year. In 1991, Dr. Cassidy published with Ross Petty, M.D., the first "Textbook of Pediatric Rheumatology," a textbook now in its fifth edition which remains the foremost authority in the field both nationally and internationally. He has received many awards, including ACR Master and the ACR Distinguished Clinical Scholar Award from the American College of Rheumatology.

I am particularly proud of his work in Missouri. As a professor in the Department of Child Health and Internal Medicine at the University of Missouri-Columbia, Dr. Cassidy has inspired cutting-edge research and shared his limitless expertise in pediatric rheumatology. Yet Dr. Cassidy has done more than just teach, write, and research. Through his efforts, the Missouri Department of Health established the Juvenile Arthritis Care Coordination Program in 1993 to help families obtain family-centered, community-based, coordinated care for children diagnosed with juvenile arthritis. His efforts did not stop there.

Realizing that there were children in Southern Missouri who were too poor or too sick to travel to Columbia to receive treatment, Dr. Cassidy and his wife Nan would get in their car every other week and drive to a small clinic in Springfield, MO, and see as many as 25 young children suffering from juvenile arthritis. It didn't matter that they couldn't pay. Dr. Cassidy insisted on finding a way to get the children the treatments they needed. As one doctor said, "Dr. Cassidy will go to any length to help a child."

Dr. Cassidy's support extended to his patients' families as well. "He is an incredibly compassionate physician," said one mother, "who ensures that each family understands how juvenile arthritis affects their child and what parents can do to help their child lead normal and healthy lives." Dr. Cassidy was instrumental in building a community of support across Missouri and the United States for families living with juvenile arthritis. In 1980, it was through the encouragement and support of Dr. Cassidy that a mother of one of his patients and two other mothers from other States formed the American Juvenile Arthritis Organization, AJAO, which eventually became a council of the Arthritis Foundation.

Dr. Cassidy was instrumental in organizing the first juvenile arthritis educational conference for parents, children, and health professionals held in 1983 which became an annual national conference. He felt education for families of children with arthritis was critical to their care and helped coordinate many Missouri regional conferences in St. Joseph, Kansas City, St. Louis, and Columbia.

Perhaps the best measure of Dr. Cassidy's legacy as a doctor comes from the praise and admiration of his patients. Twelve years ago, Dr. Cassidy began treating two young sisters who suffered debilitating pain from juvenile arthritis. Throughout the years he persistently encouraged them, to their chagrin, to wear braces and take their medicine. Recently, Dr. Cassidy received a letter from the girls. They are starting college as healthy, happy, young women—a circumstance virtually unthinkable when Dr. Cassidy began his career. They thanked him for supporting them and giving them the opportunity to live life as they never thought they could.

Dr. Cassidy has led an extraordinary life in which he has practiced, researched, and guided aspiring doctors for almost 50 years. He has improved the understanding and awareness of pediatric rheumatology and changed the lives of thousands of children. On behalf of the children and families in Missouri and across the country, is my pleasure and honor to commemorate the distinguished career of Dr. Cassidy, a true pioneer in the field of pediatric rheumatology.•

HONORING CHARITIES FOR THE BLIND

• Mrs. BOXER. Mr. President, today I ask my colleagues to join me in recognizing Charities for the Blind, a nonprofit organization in southern California. This organization continues to make a positive impact on the lives of individuals who are blind or visually impaired.

Charities for the Blind is an organization that provides computer adaptive technology and training to blind and visually impaired individuals. The men and women who volunteer their time and energy to this organization provide an important service to the people of Southern California and our Nation.

Charities for the Blind was created by Craig Schneider in 2000 after he suffered a complete loss of his vision. Craig Schneider is a general building contractor who became blind after complications from radiation treatments and exposure to radon gas. He found it difficult to adapt to a visually impaired lifestyle. He took computer courses with the assistance of computer adaptive technology but found them difficult and frustrating. Other students were similarly frustrated, and when some began to drop out of classes, he knew that he was not alone. After seeking assistance from State rehabilitation authorities and blind charities, Craig Schneider recognized that there is an important need among the visually impaired that needed to be met.

According to the National Federation of the Blind, 70 percent of individuals who live with blindness or a visual impairment are unemployed. This overwhelming number of individuals have the potential to live highly productive lives and gain meaningful employment. Charities for the Blind recognizes this need and works to assist individuals with blindness and visual impairment, providing them with tools they need to overcome their disability.

In addition to providing training, counseling, and computer adaptive equipment to the visually impaired and blind, Charities for the Blind also employs blind individuals directly. Craig Schneider has five employees who work with him who are also blind, who help make Charities for the Blind possible. Craig Schneider funds the organization from his private business, which allows him to pay for computers and equipment, employees and technicians, and travel to and from people's homes to help train them in the use of adaptive equipment.

In its first year, Charities for the Blind gave away 12 computers. Today, the organization provides roughly 30 computers each month, with a short yet successful history of meeting needs in the blind and visually impaired community for individuals between the ages of 10 and 96. Those who have received counseling and equipment from Charities for the Blind have gained new levels of independence, and more and more blind and visually impaired individuals are being empowered and employed each day.

Today I salute the dedication and service of Charities for the Blind. This organization has recognized a tremendous need and works daily to help empower our Nation's blind and visually impaired. I applaud the work and commitment Charities for the Blind has made in bettering the lives of many.•

TRIBUTE TO EDGAR WAYBURN

• Mrs. BOXER. Mr. President, it is with great pleasure that today I ask my colleagues to join me in saluting the incomparable Dr. Edgar Wayburn on his 100th birthday. To Californians and others across the United States, Ed Wayburn is a living legacy and an environmental hero.

Ed Wayburn was born on September 17, 1906, in Macon, GA. He attended Harvard Medical School and moved to San Francisco in 1933 to start his medical practice. He found northern California's natural beauty intoxicating and refers to the Sierra Nevada and Yosemite National Park as his "first wilderness love."

Within 6 years of moving to California, Ed joined the Sierra Club. And over the next 50 years, his love and passion for nature and conservation grew. He served five terms as the Sierra Club's elected president.

Ed shared this love of nature with his wife Peggy Wayburn. Together they traveled throughout Alaska and fought to protect natural areas in California and the West for over 50 years.

More than 100 million acres of natural beauty throughout California and Alaska have been protected today thanks to Ed's hard work, including northern California's Golden Gate National Recreation Area and Point Reyes National Seashore and Alaska's Denali and Glacier Bay National Parks.

Dr. Wayburn is credited with saving more wilderness than any other person alive today.

I always say that one of my proudest honors is the Edgar Wayburn Award presented to me by the Sierra Club. It is a frequent reminder of the work Ed and I have done together. It is also a reminder of the important work which still remains to protect and preserve our natural surroundings.

Without Ed's efforts over the past decades, I would not want to imagine what the American landscape would look like today. Ed's leadership and perseverance have ensured the preservation of precious open space and wild areas for generations to come. His work will continue to be an inspiration to countless environmental advocates and others working to effect change. His work is certainly an inspiration to me.

I extend my most heartfelt wishes to Ed Wayburn for a very happy 100th birthday. Thank you, Ed, for all you have done for the protection of our natural environment.•

TRIBUTE TO NATIONAL WEATHER SERVICE

• Mr. BAUCUS. Mr. President, I wish to commend the National Weather Service and the Billings, MT office.

This year Billings, MT, hosted the 13th national signature event commemorating the Bicentennial of the Lewis and Clark Corps of Discovery Exploration. The event at Pompeys Pillar was one of the most successful signature events in the country, and I was proud to participate in the opening ceremonies.

A great deal of preparation and partnership went into the planning surrounding those 4 days in July and the thousands of visitors expected to attend. Federal agencies stepped up to the table. Federal partnerships were key to this success. Specific concern centered on area wildfires already burning that had been started by lightning strikes from afternoon and evening storms. The National Weather Service took on major responsibility for these weather-related public safety issues.

On Saturday, July 22 and Sunday, July 23, late afternoon storms accompanied by upwards of 60-mph winds necessitated rapid evacuations of the public events at Pompeys Pillar. Efficient communication and clear direction from the National Weather Service, in coordination with the Bureau of Land Management, provided safe passage out of Pompeys Pillar in a swift and orderly fashion for the remaining public visitors, volunteers, and employees on those days.

It is apparent that the storm's effect and damage could have easily become a larger story attributed to the Pompeys Pillar signature event. That it was not is a testament to the science, technology, and public service and dedication of your agency and of your employees. Thanks to all of you for what you do for Montana. It is a job well done.●

CONGRATULATIONS TO SERGEANT LEIGH ANN HESTER

● Mr. BUNNING. Mr. President, I would like to recognize and congratulate U.S. Army SGT Leigh Ann Hester, a recent recipient of the United Service Organization's 'Service Member of the Year' Award. This honor is presented annually to one enlisted member from each branch of the Armed Forces and must be given to a soldier who demonstrates remarkable courage and skill, often risking their own lives to save the lives of others.

On March 20, 2005, Sergeant Leigh Ann Hester of the 617th Military Police Company, a National Guard unit out of Richmond, KY, was escorting a convoy of 26 supply vehicles when they were suddenly ambushed. According to military accounts of the firefight, about 40 insurgents attacked the convoy as it was traveling south of Baghdad, launching their assault from trenches alongside the road using rifles, machine guns, and rocketpropelled grenades. Despite being outnumbered five to one and coming under heavy enemy fire, Sergeant Hester led her team through the 'kill zone' and into a flanking position, where she assaulted a trench line with grenades and M203 grenade-launcher rounds.

Her quick thinking saved the lives of numerous convoy members. When the conflict ended, 27 insurgents were dead, 6 were wounded, and 1 was captured.

SGT Leigh Ann Hester is the first woman to receive the USO 'Service Member of the Year' Award and the first woman in over 60 years to receive the Silver Star—the Army's third highest award for valor in combat.

SGT Hester was only 23 years old at the time of this encounter. She was born in 1982 in Bowling Green, KY, later moved to Nashville, TN, and she joined the National Guard in April of 2001. As she continues the legacy of military service in her family—her uncle, Carl Sollinger, served honorably in Vietnam, and her grandfather, Oran Sollinger, was awarded a Bronze Star for his valor in World War II—Sergeant Hester intends to continue to serve our country by beginning a career in law enforcement.

On behalf of the people of Kentucky and the Senate, I thank SGT Leigh Ann Hester for her commitment to her country, community, and fellow soldiers. It is my honor to recognize her today for her bravery and her accomplishments. My thoughts and prayers are always with her and all the men and women who protect this Nation.●

RECOGNIZING SOUTH CAROLINA ORGANIZATIONS

● Mr. GRAHAM. Mr. President, today I wish to call attention to the good work of the Columbia, SC, Urban League and the Department of Veterans Affairs, VA. On September 11, 2006, the Columbia Urban League and the VA cohosted a training seminar for church leaders in South Carolina to help address the growing population of troubled military veterans returning from combat zones. This Veterans Ministry Workshop was led by a panel of 10 physicians from the Dorn VA Medical Center in Columbia, each of whom explained the various psychological challenges that face veterans returning from conflict. The panelists discussed methods for dealing with veterans' children and spouses while offering practical tips for church members to follow. Around 100 church leaders attended the event.

I salute the VA, the Columbia Urban League, and in particular its president, Mr. James T. McLawhorn, for their initiative in organizing the Veterans Ministry Workshop. It was Mr. McLawhorn, a member of the VA Advisory Committee on Minority Affairs, who originally proposed the idea in response to studies released by the Journal of the American Medical Association, JAMA. Without his leadership and the cooperation of VA officials on the ground in South Carolina, the Veterans Ministry Workshop may have never happened. I am confident that the workshop will have a tremendous impact on the veteran community in South Carolina, and I hope that the Columbia Urban League and VA will build on its success.●

WHITE LAKE SCHOOL DISTRICT

● Mr. JOHNSON. Mr. President, it is with great pleasure that today I publicly honor and congratulate White Lake School District on achieving blue ribbon status under the Federal No Child Left Behind Act. The prestigious blue ribbon designation is based on strong test scores and a myriad of other successes.

The White Lake School District is among only 250 entities to be recognized nationwide so far this year. For public schools like White Lake to qualify for blue ribbon status, they must meet State testing levels or have a student body comprised of a high percentage of economically disadvantaged students, yet demonstrate improvement. Achieving this goal is a wonderful accomplishment, and White Lake schools ought to be applauded.

This is not the first time White Lake schools have been honored. In both the 2003–2004 and 2004–2005 school years, the district was named a Distinguished District, due to high scores on the DakotaSTEP achievement test. The U.S. Department of Education has also named White Lake as a Title I Distinguished School. In order to apply to be a blue ribbon school, the White Lake School District submitted a 27-page application outlining their strategies and techniques for learning success.

Mr. President, I am proud to have this opportunity to honor White Lake School District. It is a privilege for me to share with my colleagues the exemplary leadership and tireless commitment to education that White Lake School District provides to its students. I strongly commend the hard work and dedication that the faculty, administrators, and staff devote to White Lake schools, and I am very pleased that their hard work and the students' substantial efforts are being publicly honored and celebrated. On behalf of all South Dakotans, I would like to congratulate this extraordinary school system and wish them continued success.●

TRIBUTE TO BETTY J. MARTIN

● Mr. LEVIN. Mr. President, I would like to take this opportunity to honor the life of Betty J. Martin. Mrs. Martin passed away on August 30, 2006, at the age of 68. Throughout her life, Betty was a dedicated public servant who dedicated her life to serving less fortunate individuals in the Saginaw community. Her efforts over the years have brought aid and comfort to so many, and we should all be grateful for her work.

Betty made a meaningful impact in the city of Saginaw. Her life's work stands as a testament to her many successes. In 1979, she became the director of the Good Neighbor Mission in Saginaw, a food pantry that serves the local needy. In 1991, Betty founded the Restoration Community Outreach Center. This center has enabled thousands struggling with substance abuse, mental illness, or physical disabilities to get the necessary assistance to begin to repair their lives.

Over the years, Betty has received numerous awards for her efforts, including the 1996 U.S. Department of Housing and Urban Development Certificate of Recognition for Dedicated Service to the Homeless, the 2002 Salvation Army Appreciation Award and the 2005 Saginaw City Council Certificate of Recognition. She has created a legacy that will reverberate in the city of Saginaw for many years to come, and her commitment to serving the needy should serve as an example for us all.

Betty is survived by her husband of 42 years, Judge Martin, one son, Bernard Smith Abernathy, one step-daughter, Joyce Ann Martin, and nine grandchildren. I know my colleagues in the Senate join me in offering my condolences to her family, colleagues, and friends. I hope they take comfort in the amount of good she has done over the years.•

RETIREMENT OF JOHN STENCEL

• Mr. SALAZAR. Mr. President, today I honor John Stencel, who will soon retire as president of the Rocky Mountain Farmers Union. John has been a tireless advocate for rural America, and he can retire with the comfort that he has profoundly influenced an entire generation of farmers and ranchers in Colorado and across the Nation.

For almost 50 years John has worked with the Rocky Mountain Farmers Union, during which time he has served as a steady and pragmatic compass. He early on saw the benefits of cooperatives so that small farmers could add significant value to their products. He has embraced the potential of biobased fuels as an innovative pathway to power production and transportation fuel needs. He has recognized that responsible stewardship of the land should be a top priority for farmers and ranchers, as clean water, energy conservation, and biodiversity all enhance our society.

John is a tireless advocate for the future sustainability of the rural way of life. His leadership has shaped the next generation of rural citizens, serving as the president of Colorado 4-H Foundation, vice president of the Colorado Future Farmers of America, and as a board member of the Colorado State University Board of Agriculture. His leadership in these organizations ensures that the traits that have characterized him, that of perseverance, dedication, and moral fiber, will manifest themselves in future generations of agricultural leadership.

However, my deep respect for John Stencel isn't only based on his involvement with these organizations; it is based on the common values that underlie those efforts and have driven his policies and agendas. My respect is based on his commitment to sustain and strengthen family farm and ranch agriculture, and to preserve the rural way of life we know and love. These values are embodied by John Stencel.

John has been an influential and indispensable guide, and though he is retiring from his service to the Rocky Mountain Farmers Union, I take comfort in the longevity of our friendship and his steadfast leadership for rural America, and I wish him nothing but the best.•

TRIBUTE IN HONOR OF JIMMY WILLIAMSON

• Mr. SHELBY. Mr. President, today I honor Mr. Jimmy Williamson, who will become the first Alabamian to serve as chairman of the board for the American Institute of Certified Public Accountants.

This is a tremendous honor, both for Jimmy and for Alabama. The American Institute of Certified Public Accountants serves as the national professional association for more than 350,000 certified public accountants. Jimmy's education, experience, and passion for finance make him the best choice to take the helm of the organization.

Jimmy, a past president of the Alabama Society of CPAs, is a senior partner and stockholder in the MDA Professional Group accounting firm where he specializes in profit sharing plans, fringe benefits, nonqualified deferred compensation plans, estate and personal financial planning, business acquisitions, and investment review and analysis. I am also proud to say that Jimmy and I share an interest in fraud prevention and detection, one of the most important financial issues we face today. His professional work and leadership on committees, that are too plentiful to name, make him uniquely qualified and prepared for this position. I am proud to recognize his professional achievements and congratulate him on this important post.•

TRIBUTE IN HONOR OF BILL CHANDLER

• Mr. SHELBY. Mr. President, today I honor William "Bill" Chandler, a pillar of the Montgomery, AL community. Bill devoted 50 years of his life to developing the YMCA in Montgomery and influencing the lives of thousands of youth.

Bill, known as "Mr. YMCA" in Montgomery, was a father figure to many young men and women in need of guidance. Bill believed that civic education and open discussions were important to developing youth into productive citizens. He was instrumental in creating and implementing innumerable youth programs focused on leadership development including the Alabama Youth Legislature, the YMCA Youth Conference on National Affairs, Lions International Youth Camp, and the Hi-Y and Tri-Hi-Y programs. Without a doubt, many of Montgomery's, Alabama's, and the Nation's leaders have been directly influenced by Mr. Chandler and the programs he championed.

Mr. Chandler also proved himself to be an effective leader and businessman as president of the Montgomery YMCA. Under his leadership, Montgomery's single YMCA grew into the multiple branches operating across the city. His commitment to service was also recognized when he was chosen to serve as the president of Lion's Club International.

Mr. Chandler also served as an important leader in Alabama throughout times of racial tension in Montgomery and the State. He worked to open facilities in all parts of the Montgomery community to serve people from all walks of life and was at the forefront of providing integrated services. In 1983, when racial discord was near its boiling point in Montgomery, Mr. Chandler worked with community and civil rights leaders to develop the biracial Youth One Montgomery organization to allow Black and White youth to conduct an open dialog and better understand the issues surrounding race.

Bill Chandler, a graduate of Rice University and the University of Georgia, served with distinction as an officer in the U.S. Navy during World War II. An accomplished athlete himself, Bill was also responsible for the creation of a city sports league and the Jimmy Hitchcock award to honor character in high school athletes.

Bill was an inspiration to many, and I am truly grateful for the endless contributions he made to the youth in Alabama. He was preceded in death by his wife, Martha Spidle Chandler and will be missed by his three children, Carroll Chandler Phelps, Elizabeth Chandler Walston, and William Robert Chandler; his seven grandchildren; and his sister, Evelyn Chandler Berg. His dedication to community service will be remembered and shared by those whose lives he touched for generations to come.•

TRIBUTE TO 50TH ANNIVERSARY OF HOLT INTERNATIONAL

• Mr. SMITH. Mr. President, in the mid 1950s, Harry and Bertha Holt of Eugene, OR, saw a film about children in Korean orphanages who were in desperate need of help. Touched by what they saw, the Holts sent money and clothes to the orphanages, but they still felt the need to do more.

As they thought and prayed about what to do, it dawned on the Holts that what the children needed more than money and clothes were families. So Harry and Bertha decided to provide that family. They decided to adopt eight Korean children. No matter what roadblocks were placed in the way of that decision—including the need to get Congress to pass a special law—the Holts persevered. Soon they were the parents of eight new sons and daughters.

The adoption was revolutionary. Previously, adoption was regarded as something to be kept secret. The Holts, however, proudly adopted children who were obviously not their birth children. In doing so, they showed that a family's love is greater than barriers of race and nationality.

But the Holts story did not end with the adoption of their children. As word spread about what they had done, others sought their advice and asked how they could adopt. Just 5 months after bringing his new family home, Harry headed back to Korea to match other children with new families. In 1956, financed almost entirely by Harry and Bertha's personal funds, Holt International was born.

Fifty years have now passed since Holt International was officially incorporated. Harry and Bertha are no longer with us. But their dream lives on. Today, Holt is the Nation's largest adoption agency, having united nearly 40,000 children with adoptive families in the United States. It is simply impossible to calculate how much happiness and joy have been brought into the life of those children and, in return, how much happiness and joy they have provided for their families.

As a U.S. Senator from Oregon, which continues to be home to the headquarters of Holt International, and as the father of three adopted children, I am privileged to rise today to extend my congratulations—and I know the congratulations of the entire Senate—to Holt on the occasion of their 50th anniversary. I stand ready to help them in any way possible as they continue their inspiring mission in the years ahead.

Mr. President, I will conclude with the eloquent words of Bertha Holt, who said, "All children are beautiful when they are loved." May all children be as blessed as those adopted by the Holts.•

TRIBUTE TO THOMAS R. ETLING

• Mr. TALENT. Mr. President, today I wish to recognize the efforts of a good friend and to highlight his service to our Nation. Thomas R. Etling, of Chesterfield MO, is privileged to have served for 26 years as an adjunct faculty member of the Saint Louis Community College at Florissant Valley. In his years in the Business and Human Relations Division, he has taught a variety of subjects ranging from statistics, to marketing and human relations.

Throughout Mr. Etling's career, he has been honored with several distinctions for his hard work and dedication in the classroom. During the 2001–2002 academic year, he was selected as Adjunct Faculty Member of the Year. In 2004, Mr. Etling was named the Business Teacher of the Year, the first adjunct faculty member to be so honored.

Outside the classroom, Mr. Etling has continued to dedicate his time to serving the academic community. He has served on several committees, most notably as a member of the Academic Council and the Assessment Committee. Currently, he is working with the dean of the business division to develop a mentoring program to assist students who have the entrepreneurial spirit to help them develop their ideas. For this program, he has recruited a number of successful local business leaders and other faculty members. Mr. Etling looks forward to continuing to work for the success of the students and the college. I thank him for setting such a great example for us all.•

TRIBUTE TO BOYD "BUTCH" KITTERMAN

• Mr. THUNE. Mr. President, today I wish to honor Boyd "Butch" Kitterman of Wall, SD. Butch is being honored for his many years of volunteer service with the Wall Volunteer Fire Department.

Butch has been with the Wall Volunteer Fire Department for 50 years. He has served as fire chief, truck captain, and is currently treasurer for the department. South Dakota's communities depend on volunteers like Butch to keep our citizens and homes safe during times of trouble. His initiative, expertise, and dedication to serving the city of Wall for 50 years is truly commendable.

Today I rise with Butch Kitterman's friends and family in celebrating his 50 years of selfless dedication and service to the city of Wall.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:23 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3850. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

H.R. 683. An act to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

H.R. 1036. An act to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

H.R. 3127. An act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed today, September 28, 2006, by the President pro tempore (Mr. STEVENS).

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

H.R. 5074. An act to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the treasury, and for other purposes.

H.R. 5187. An act to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

At 3:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1556. An act to designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the "Clyde S. Cahill Memorial Park".

H.R. 1711. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

H.R. 2069. An act to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes.

H.R. 2110. An act to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to the Arapaho and Roosevelt National Forests in Colorado, and for other purposes.

H.R. 2134. An act to establish the Commission to Study the Potential Creation of a National Museum of American Latino Heritage to develop a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, D.C., and for other purposes.

H.R. 2322. An act to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building".

H.R. 3606. An act to modify a land grant patent issued by the Secretary of the Interior.

H.R. 3626. An act to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized.

H.R. 4750. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas.

H.R. 4766. An act to amend the Native American Programs Act of 1974 to provide for the revitalization of Native American languages. through Native American language immersion programs; and for other purposes.

H.R. 4789. An act to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wels Hydroelectric Project of Public Utility District No.1 of Douglas County, Washington, to the utility district.

H.R. 4876. An act to ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.

H.R. 4981. An act to amend the National Dam Safety Program Act.

H.R. 5016. An act to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes.

H.R. 5026. An act to designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, as the "Andres Toro Building".

H.R. 5160. An act to establish the Long Island Sound Stewardship Initiative.

H.R. 5340. An act to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes.

H.R. 5483. An act to increase the disability earning limitation under the Railroad Retirement Act and to index the amount of allowable earnings consistent with increases in the substantial gainful activity dollar amount under the Social Security Act.

H.R. 5503. An act to amend the National Housing Act to increase the mortgage amount limits applicable to FHA mortgage insurance for multifamily housing located in high-cost areas.

H.R. 5516. An act to allow for the renegotiation of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley County Water District, and for other purposes.

H.R. 5546. An act to designate the United States courthouse to be constructed in Greenville, South Carolina, as the "Carroll A. Campbell, Jr. United States Courthouse".

H.R. 5585. An act to improve the netting process for financial contracts, and for other purposes.

H.R. 5606. An act to designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the "William M. Steger Federal Building and United States Courthouse".

H.R. 5637. An act to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes.

H.R. 5690. An act to adjust the boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas.

H.R. 5692. An act to direct the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle Columbia in the State of Texas and for its inclusion as a unit of the National Park System.

H.R. 5842. An act to compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

H.R. 5946. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improve monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

H.R. 6014. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to improve California's Sacramento-San Joaquin Delta and water supply.

H.R. 6051. An act to designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the "John F. Seiberling Federal Building and United States Courthouse".

H.R. 6062. An act to enhance community development investments by financial institutions, and for other purposes.

H.R. 6072. An act to amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and clarify certain provisions of law applicable to such institutions, and for other purposes.

H.R. 6079. An act to require the President's Working Group on Financial Markets to conduct a study on the hedge fund industry.

H.R. 6106. An act to extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109–148.

H.R. 6115. An act to extend the authority of the Secretary of Housing and Urban Development to restructure mortgages and rental assistance for certain assisted multifamily housing.

H.R. 6138. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 6198. An act to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 478. Concurrent resolution supporting the goals and ideals of "Lights on Afterschool", a national celebration of afterschool programs.

The message also announced that the House has passed the following bills, without amendment:

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 213. An act to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

The message further announced that the House has passed the bill (S. 362) to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes, with an amendment.

The message also announced that the House has passed the bill (S. 2430) to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2856) to provide regulatory relief and improve productivity for insured depository institutions, and her purposes, with an amendment, in which it requests the concurrence of the Senate.

At 5:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that it has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6197. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 2464. An act to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

S. 2146. An act to extend relocation expenses test programs for Federal employees.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

At 7:01 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4545. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Los Angeles County Water Supply Augmentation Demonstration Project, and for other purposes.

H.R. 4846. An act to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.

H.R. 5108. An act to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the "Lance Corporal Robert A. Martinez Post Office Building".

H.R. 6162. An act to require financial accountability with respect to certain contract actions related to the Secure Border Initiative of the Department of Homeland Security.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 222. Concurrent resolution supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day.

H. Con. Res. 473. Concurrent resolution supporting the goals and ideals of Gynecologic Cancer Awareness Month.

* * *

At 8:13 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the of the two Houses thereon, and appoints from the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. KING of New York, Mr. YOUNG of Alaska, Mr. DANIEL E. LUNGREN of California, Mr. LINDER, Mr. SIMMONS, Mr. MCCAUL of Texas, Mr. REICHERT, THOMPSON of Mississippi, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Ms. HARMAN, and Mr. PASCRELL;

From the Committee on Energy and Commerce for consideration of titles VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Mr. BARTON of Texas, Mr. UPTON, and Mr. DINGELL;

From the Committee on Science, for consideration of sections 201 and 401 of the House bill, and sections 111, 121, 302, 303, 305, 513, 607, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. SODREL, and Mr. MELANCON;

From the Committee on Transportation and Infrastructure, for consideration of sections 101–104, 107–109, and 204 of the House bill, and sections 101–104, 106–108, 111, 202, 232, 234, 235, 503, 507–512, 514, 517–519, title VI, sections 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Mr. LOBIONDO, Mr. SHUSTER, and Mr. OBERSTAR;

From the Committee on Ways and Means, for consideration of sections 102, 121, 201, 203 and 301 of the House bill, and sections 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. SHAW, and Mr. RANGEL, as managers of the conference on the part of the House.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 5132. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the Battles of the River Raisin during the War of 1812.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 3982. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs and to indemnify manufacturers and health care professional for the administration of medical products needed for biodefense.

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 28, 2006, she had presented to the President of the United States the following enrolled bills:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

S. 3850. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8463. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of an officer authorized to wear the insignia of the grade of rear admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-8464. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Deepwater Ports" ((RIN1625-AA20)(USCG-1998-3884)) received on September 22, 2006; to the Committee on Commerce, Science, and Transportation.

EC-8465. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more from the Government of the Netherlands to the Government of Chile; to the Committee on Foreign Relations.

EC-8466. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more from the Government of the United Kingdom to the Government of Chile; to the Committee on Foreign Relations.

EC-8467. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC-8468. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad (Sweden); to the Committee on Foreign Relations.

EC-8469. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more from the Republic of Germany to the Republic of Korea; to the Committee on Foreign Relations.

EC-8470. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the termination of the 15% Danger Pay Allowance for East Timor as of August 20, 2006; to the Committee on Foreign Relations.

EC-8471. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Amendment to the International Traffic in Arms Regulations: Partial Lifting of Arms Embargo Against Haiti" (22 CFR Part 126) received on September 27, 2006; to the Committee on Foreign Relations.

EC-8472. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Italy; to the Committee on Foreign Relations.

EC-8473. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Connecticut Advisory Committee; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 1463. A bill to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the "Justin W. Williams United States Attorney's Building".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mr. SPECTER):

S. 3963. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT:

S. 3964. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER:

S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 3966. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 3967. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):

S. 3968. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

By Mr. OBAMA (for himself and Mrs. CLINTON):

S. 3969. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ALLEN:

S. 3970. A bill to amend the Energy Policy Act of 2005 to direct the President to establish an energy security working group; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. FRIST, Mr. CORNYN, Mr. NELSON of Florida, Mr. CRAPO, Mr. LOTT, Mr. DEWINE, and Mr. COLEMAN):

S. 3971. A bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MURKOWSKI):

S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. SANTORUM, Mr. SPECTER, Mr. CORNYN, Mrs. BOXER, Mr. KERRY, Mrs. DOLE, and Mr. BOND):

S. 3973. A bill to ensure local governments have the flexibility needed to enhance decision-making regarding certain mass transit projects; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUNNING (for himself and Mr. CONRAD):

S. 3974. A bill to permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue; to the Committee on Finance.

By Mr. BINGAMAN:

S. 3975. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN (for himself and Mr. GRASSLEY):

S. 3976. A bill to provide a mechanism for the determination on the merits of the claims of claimants who met the class criteria in a civil action relating to racial discrimination by the Department of Agriculture but who were denied that determination; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON:

S. 3978. A bill to provide consumer protections for lost or stolen check cards and debit cards similar to those provided with respect to credit cards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN:

S. 3979. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the North Country National Scenic Trail; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. FRIST, Mr. HARKIN, Mrs. CLINTON, Mr. REED, and Mr. DURBIN):

S. 3980. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 3982. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs; read the first time.

By Mr. KENNEDY:

S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs and to indemnify manufacturers and health care professional for the administration of medical products needed for biodefense; read the first time.

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3984. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. LANDRIEU:

S. 3985. A bill to promote the recovery of oil and gas revenues on the Outer Continental Shelf, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:

S. 3986. A bill to designate as wilderness certain land within the Rocky Mountain National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON:

S. 3987. A bill to amend the Longshore and Harbor Workers' Compensation Act to improve the compensation system, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA:

S. 3988. A bill to amend title 10 and 38, United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN:

S. 3989. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. 3990. A bill to designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the "Hamilton H. Judson Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CONRAD (for himself, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. DORGAN, Mr. SALAZAR, Mr. COLEMAN, Mr. BAUCUS, Mr. JOHNSON, Mr. BURNS, Mr. HARKIN, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. INOUYE, Mr. THUNE, Mr. DURBIN, Mr. OBAMA, and Mr. REID):

S. 3991. A bill to provide emergency agricultural disaster assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

By Mr. MARTINEZ:

S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER:

S. Res. 589. A resolution commending New York State Senator John J. Marchi on his 50 years in the New York State Senate and on becoming the longest serving state legislator in the United States; to the Committee on the Judiciary.

By Mr. VITTER:

S. Res. 590. A resolution designating the second Sunday in December 2006, as "National Children's Memorial Day" in conjunction with The Compassionate Friends Worldwide Candle Lighting; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 484

At the request of Mr. WARNER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 911

At the request of Mr. CONRAD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1173

At the request of Mr. DEMINT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1173, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 1687

At the request of Ms. MIKULSKI, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 1687, supra.

S. 1911

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 1911, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1915

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2123

At the request of Mr. ALLARD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2123, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 2395

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2395, a bill to amend title 39, United States Code, to require that air carriers accept as mail shipments certain live animals.

S. 2506

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 2506, a bill to require Federal agencies to support health impact assessments and take other actions to improve health and the environmental quality of communities, and for other purposes.

S. 2824

At the request of Mr. DEMINT, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2824, a bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002.

S. 3128

At the request of Mr. BURR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3508

At the request of Mr. SUNUNU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3508, a bill to authorize the Moving to Work Charter program to enable public housing agencies to improve the effectiveness of Federal housing assistance, and for other purposes.

S. 3516

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3516, a bill to amend title XVIII of the Social Security Act to permanently extend the floor on the Medicare work geographic adjustment under the fee schedule for physicians' services.

S. 3523

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 3523, a bill to amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending.

S. 3677

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3677, a bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs.

S. 3678

At the request of Mr. BURR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3678, a bill to amend the Public Health Service Act with respect to public health security and all-hazards preparedness and response, and for other purposes.

S. 3681

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 3696

At the request of Mr. BROWNBACK, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3705

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

S. 3707

At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 3737

At the request of Mr. CARPER, his name was added as a cosponsor of S. 3737, a bill to amend the National Trails System Act to designate the Washington-Rochambeau Route National Historic Trail.

S. 3744

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3791

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 3795

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3795, supra.

S. 3802

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3802, a bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the county organized health insuring organizations authorized to enroll Medicaid beneficiaries.

S. 3819

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3819, a bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended medicaid DSH allotments, and for other purposes.

S. 3847

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3847, a bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the "Jacob Samuel Fletcher Post Office Building".

S. 3853

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3853, a bill to designate the facility of the United States Postal Service located at 39-25 61st Street in Woodside, New York, as the "Thomas J. Manton Post Office Building".

S. 3862

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3862, a bill to amend the Animal Health Protection Act to prohibit the Secretary of Agriculture from implementing or carrying out a National Animal Identification System or similar requirement, to prohibit the use of Federal funds to carry out such a requirement, and to require the Secretary to protect information obtained as part of any voluntary animal identification system.

S. 3884

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3884, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

S. 3913

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

S. 3918

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3918, a bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon.

S. 3931

At the request of Mr. SPECTER, his name and the name of the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 3931, a bill to establish procedures for the review of electronic surveillance programs.

S. 3936

At the request of Mr. FRIST, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 3943

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election.

S. 3952

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3952, a bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes.

AMENDMENT NO. 5029

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 5029 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5033

At the request of Mr. LUGAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of amendment No. 5033 proposed to H.R. 3127, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

AMENDMENT NO. 5066

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 5066 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5087

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 5087 proposed to S. 3930, a bill to authorize trial by military commission for violations of the law of war, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. SPECTER):

S. 3963. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation service under part B of the Medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the "Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006." This bill would improve patient access to physical medicine and rehabilitation services while also reducing Medicare costs.

As medicine has become increasingly specialized, the types of health professionals physicians employ to assist them in delivering high quality, cost-effective healthcare has changed dramatically. While States have typically kept up with these developments by creating regulatory mechanisms to ensure that these health professionals are properly educated and trained, the Medicare program has not kept pace. In fact, a recent Medicare policy has actually turned back the clock on these innovative ways of delivering care and this is having a negative affect on not only the availability of services, but what Medicare pays for these services.

We are all well aware of the struggles the Medicare program has had trying to control spending for therapy services. In fact, we have had to impose a cap on beneficiary spending because it has gotten so out of control. Unfortunately, in the midst of our efforts to control aggregate spending on therapy services, the Centers for Medicare and Medicaid Services, CMS, has adopted policies that will lead to higher per beneficiary expenditures and make it even more difficult for seniors to get the care they need.

Since late in 2005, CMS has been enforcing a policy, sometimes referred to as the "therapy incident-to" rule, that prevents doctors from employing anyone other than a physical therapist to provide physical medicine and rehabilitation services in their offices. Frankly, this policy ignores the fact that there are many State licensed or certified health professionals who are qualified to offer identical services at a lower cost to Medicare.

Many of us are familiar with the devastating affects breast cancer has on millions of women and men each year. One of the consequences of breast cancer treatment is a condition called lymphedema. This is a debilitating and disfiguring swelling of the extremities that occurs from damage to the lymph nodes located in the arm pit. The only effective treatment for this condition is a specialized type of massage that should only be delivered by a certified lymphedema therapist. Due to CMS' policy, over ⅓ of the nationally certified lymphedema therapists can no longer provide this service to Medicare beneficiaries. Failure to treat lymphedema often results in long hospitals stays due to infection and can lead to amputation in the most extreme cases.

Prior to the adoption of the CMS rule, physicians had the freedom to choose the State licensed or authorized health professional they thought most appropriate to help their Medicare patients recover from injuries or debilitating conditions. I believe we should allow physicians, not government bureaucrats, to decide which State licensed healthcare professionals have the necessary education and training to provide the most high quality, cost-effective physical medicine and rehabilitation services to their patients. Additionally, the health professionals often approved to perform services are not readily available in many rural communities. This means patients must go without care or have to travel long distances to get services that were previously available in their home towns. As Republican Co-Chair of the Senate Rural Health Caucus, I have consistently supported policies and initiatives that help rural Medicare beneficiaries get and maintain access to services in their own communities in a more effective and efficient way.

Finally, it is important to note that access to state licensed, certified professionals will save the Medicare program money—not increase costs. The CMS rule implemented last year will result in higher Medicare expenditures than if the old policy had remained in place. In fact, a recent Medicare Payment Advisory Commission, MedPAC, report based on 2002 data showed that the most cost-effective place for Medicare beneficiaries to obtain physical therapy was in the physician's office. After reviewing the legislation, I hope that my colleagues will consider joining me in this important effort to restore physician judgment, patient choice, and common sense to the Medicare program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006".

SEC. 2. ACCESS TO PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED INCIDENT TO A PHYSICIAN.

Section 1862(a)(20) of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended by striking "(other than any licensing requirement specified by the Secretary)" and inserting "(other than any licensing, education, or credentialing requirements specified by the Secretary)".

SEC. 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER SERVICES AND CERTIFIED LYMPHEDEMA THERAPIST SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) in subparagraph (Z), by striking "and" at the end;

(B) in subparagraph (AA), by adding "and" at the end; and

(C) by adding at the end the following new subparagraph:

"(BB) certified athletic trainer services (as defined in subsection (ccc)(1)) and lymphedema therapist services (as defined in subsection (ccc)(3))."; and

(2) by adding at the end the following new subsection:

"Athletic Trainer Services and Lymphedema Therapist Services

"(ccc)(1) The term 'athletic trainer services' means services performed by a certified athletic trainer (as defined in paragraph (2)) under the supervision of a physician (as defined in section 1861(r)), which the athletic trainer is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physician's professional service, to an individual—

"(A) who is under the care of a physician (as so defined); and

"(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(2) The term 'certified athletic trainer' means an individual who—

"(A) possesses a bachelor's, master's, or doctoral degree which qualifies for licensure or certification as an athletic trainer; and

"(B) in the case of an individual performing services in a State that provides for licensure or certification of athletic trainers, is licensed or certified as an athletic trainer in such State.

"(3) The term 'certified lymphedema therapist services' means services performed by a certified lymphedema therapist (as defined in paragraph (4)) under the supervision of a physician (as defined by paragraph (1) or (3) of section 1861(r)) which the lymphedema therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as incident to a physicians professional service, to an individual—

"(A) who is under the care of a physician (as so defined); and

"(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services

"(4) The term 'certified lymphedema therapist' means an individual who—

"(A) possesses a current unrestricted license as a health professional in the State in which he or she practices;

"(B) after obtaining such a license, has successfully completed 135 hours of Complete Decongestive Therapy coursework which consists of theoretical instruction and practical laboratory work utilizing teaching methods directly aimed at the treatment of lymphatic and vascular disease from a lymphedema training program recognized by the Secretary for purposes of certifying lymphedema therapists; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of lymphedema therapists, is licensed or certified as a lymphedema therapist in such State.".

(b) PAYMENT.—

(1) IN GENERAL.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

"(v) athletic trainer services and lymphedema therapist services; and".

(2) AMOUNT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended--

(A) by striking "and (V)" and inserting "(V)"; and

(B) by inserting before the semicolon at the end the following: ", and (W) with respect to athletic trainer services and lymphedema therapist services under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the fee schedule amount under section 1848 for the same service performed by a physician".

(c) INCLUSION OF SERVICES IN THE THERAPY CAP.—Services provided by a certified athletic trainer or a certified lymphedema therapist (as those terms are defined in section 1861(ccc) of the Social Security Act, as added by subsection (a)) shall be subject to the limitation on payments described in section 1833(g) of such Act (42 U.S.C. 1395l(g)) in the same manner those services would be subject to limitation if the service had been provided by a physician personally.

(d) INCLUSION OF ATHLETIC TRAINERS AND LYMPHEDEMA THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C.1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

"(vii) A certified athletic trainer (as defined in section 1861(ccc)(1)).

"(viii) A certified lymphedema therapist (as defined in section 1861(ccc)(2)).".

(e) COVERAGE OF CERTAIN PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "or by a clinical social worker (as defined in subsection (hh)(1))" and inserting ", by a clinical social worker (as defined in subsection (hh)(1)), by a certified athletic trainer (as defined in subsection (ccc)(2)), or by a certified lymphedema therapist (as defined in subsection (ccc)(4))".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2007.

By Mr. LOTT:

S. 3964. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

Mr. LOTT. Mr. President, the first African American to serve a full term in the United States Senate represented my great State of Mississippi.

Blanche Kelso Bruce was elected to the Senate in 1874 by the Mississippi State Legislature where he served from 1875 until 1881.

On February 14, 1879, he broke a second barrier by becoming the first African American to preside over a Senate session. He was a leader in the nationwide fight for African American rights, fighting for desegregation of the Army and protection of voting rights.

Blanche Kelso Bruce was born into slavery near Farmville, VA, on March 1, 1841, and spent his early years in Virginia and Missouri. He was 20 years old when the Civil War broke out. He tried to enlist in the Union Army but was rejected because of his race.

He then turned his attention to teaching and while in Missouri organized that State's first school for African Americans.

In 1869 he moved to Mississippi to become a planter on a cotton plantation, and the Magnolia State is where he became active in Republican politics. He rose in Mississippi politics from membership on the Mississippi Levee Board, as the sheriff and tax collector for Bolivar County surrounding Cleveland, Mississippi, and as the Sergeant-at-Arms for the Mississippi State Senate. It was Blanche Kelso Bruce's perseverance, selfless public service and commitment to Mississippi that led to the Mississippi State Legislature's election of him to serve in the U.S. Senate.

In the Senate, he served on the Pensions, Manufacturers, Education and Labor committees. He chaired the Committee on River Improvements and the Select Committee to Investigate the Freedman's Savings and Trust Company.

Senator Bruce left the Senate in 1881 and was appointed Registrar of the Treasury by President James Garfield, a position he also held in 1897. He subsequently received appointments from Presidents Chester Arthur, Benjamin Harrison and William McKinley.

Senator Bruce joined the board of Howard University in Washington, D.C. where he received an honorary degree. He died in Washington on March 17, 1898, at the age of 57.

Four years ago, on September 17, 2002, in my position as Senate Majority Leader, I joined with Senator CHRIS DODD in honoring this revered adopted son of Mississippi by unveiling the portrait of Blanche Kelso Bruce in the U.S. Capitol.

Today I rise to further honor this great statesman and pioneer by introducing legislation to issue the Senator Blanche Kelso Bruce commemorative postage stamp. Mississippi takes great pride in our leaders who often quietly, with little fanfare, blaze paths for the rest of the Nation to follow. Senator Blanche Kelso Bruce is one such great pioneer, and I call on my colleagues to join me in honoring him.

By Mrs. BOXER:

S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I rise to introduce the Latina Health Access Act. This important legislation addresses the serious health care access barriers, and consequently higher incidences of disease and poorer health outcomes, for the Latina population in the United States.

The United States has witnessed a tremendous growth in the Latino population across the Nation. There are now 35 million Latinos residing in the U.S., and Latinas are more than half of the total Latino population—for a total of 18 million Latinas in the United States. In my home State of California, 29 percent of the female population is Latina—this is approximately 5 million women. The number of Latinas is expected to continue to grow, and it is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to disproportionately face serious health concerns, including sexually transmitted diseases, diabetes, and cancer, which are otherwise preventable, or treatable, with adequate health access.

Latinas are particularly at risk for being uninsured. It is estimated that 37 percent of Latinas are uninsured, almost double the rate of the national average. This lack of adequate health care results in health problems that could otherwise be prevented. For example, 1 in 12 Latinas will develop breast cancer nationwide. White women have the highest rates of breast cancer; however, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment. As a result, Latinas are more likely to die from breast cancer than white women. Also, the prevalence of diabetes is at least two to four times higher among Latinas than among white women. More than 25 percent of Latinas aged 65 to 74 have Type II diabetes. All of these health problems would be more effectively treated or prevented with adequate health care coverage.

To address these health concerns, the Latina Health Access Act provides a two-fold approach to dealing with this problem. First, the bill would provide greater health access to Latinas. Second, the bill would provide educational outreach programs targeted at Latinas in regards to health care access.

The bill would create a program at the Department of Health and Human Services (HHS) that provides funding for high-performing hospitals and community health centers targeted at serving the growing Latina population of the United States. Also, the bill would mandate that HHS provide grants to various nonprofits, state or local governments that serve Latino communities, and lastly to women of color who seek to create diversity in the health care community. Finally, the bill would direct HHS to provide $18 million for grants to fund research institutions so that they may conduct research on the health status of Latinas.

The Latina Health Access Act also focuses on educational outreach to the Latina population. The bill would fund health education programs targeted specifically to Latinas through community-centered informational forums, public service announcements and media campaigns.

Adequate health access is the key to diagnosing and treating diseases before they become deadly and rampant. We need to strengthen our efforts to bring greater health access to the Latina population. I urge my colleagues to join me in supporting this effort.

I ask unanimous consent that the text my bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Latina Health Access Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) As of 2006, there are 18,000,000 Latinas residing in the United States. The number of Latinas is expected to grow considerably. It is estimated that by the year 2050, 1 out of every 4 women in the United States will be a Latina.

(2) Latinas are particularly at risk for being uninsured. 37 percent of Latinas are uninsured, almost double the national average.

(3) With respect to sexually transmitted diseases—

(A) the HIV infection rate is 7 times more for Latinas than their white counterparts, and Latinas represent 18 percent of new HIV infections among women;

(B) the AIDS case rate for Latinas is more than 5 times more than the rate for white women;

(C) the rate of chlamydia for Latinas is 4 times more than the rate for white women; and

(D) among Latinas, the gonorrhea incidence is nearly double that of white women.

(4) With respect to cancer—

(A) The national incidence rate for cervical cancer in Latinas over the age of 30 is nearly double that of non-Latinas;

(B) 1 in 12 Latinas nationwide will develop breast cancer; and

(C) while white women have the highest rates of breast cancer, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment and, as a result, are more likely to die from breast cancer compared to white women.

(5) The prevalence of diabetes is at least 2 to 4 times more among Latinas than among white women. More than 25 percent of Latinas aged 65 to74 have Type II diabetes.

(6) Heart disease is the main cause of death for all women, and heart disease risk and death rates are higher among Latinas partly because of higher rates of obesity and diabetes.

(7) Therefore, despite their growing numbers, Latinas continue to face serious health concerns (including sexually transmitted diseases, diabetes, and cancer) that are otherwise preventable, or treatable, with adequate health access.

SEC. 3. HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS

"SEC. 2901. HEALTH CARE ACCESS FOR PREVENTABLE HEALTH PROBLEMS.

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a high-performing hospital or community health center that serves medically underserved areas with large numbers of uninsured and low-income individuals, such as Latina populations;

"(2) a State or local government; or

"(3) a private nonprofit entity.

"(b) IN GENERAL.—The Secretary shall award grants to eligible entities to enable the eligible entities to provide programs and activities that provide health care services to uninsured and low-income individuals in medically underserved areas.

"(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) AUTHORIZED ACTIVITIES.—An eligible entity receiving a grant under this section shall use grant funds to carry out programs and activities that provide access to care for a full spectrum of preventable and treatable health care problems in a culturally and linguistically appropriate manner, including—

"(1) family planning services and information;

"(2) prenatal and postnatal care; and

"(3) assistance and services with respect to asthma, cancer, HIV disease and AIDS, sexually transmitted diseases, mental health, diabetes, and heart disease.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.

"SEC. 2902. FOCUS ON UNINSURED AND LOW-INCOME POPULATIONS.

"(a) PRIORITIZING HEALTH GRANTS TO INCREASE FUNDING EQUITY.—In order to create a more diverse movement, cultivate new leaders, and address health issues within medically underserved areas, the Secretary shall, in awarding grants and other assistance under this Act, reserve a portion of the grants and assistance for entities that—

"(1) represent medically underserved areas or populations with a large number of uninsured and low-income individuals; and

"(2) otherwise meet all requirements for the grant or assistance.

"(b) RESEARCH BENEFITTING POPULATIONS WITH A LACK OF HEALTH DATA.—

"(1) GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) for a fiscal year, the Secretary shall award grants to research institutions in order to enable the institutions—

"(A) to conduct research on the health status of populations for which there is an absence of health data, such as the Latina population; or

"(B) to work with organizations that focus on populations for which there is an absence of health data, such as the Latina population, on developing participatory community-based research methods.

"(2) APPLICATION.—A research institution desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $18,000,000 for fiscal year 2007 and each of the succeeding fiscal years.

"SEC. 2903. EDUCATION AND OUTREACH.

"(a) JOINT EFFORT FOR HEALTH OUTCOMES.—In order to improve health outcomes for uninsured and low-income individuals, the Secretary shall, through a joint effort with health care professionals, health advocates, and community-based organizations in medically underserved areas, provide outreach, education, and delivery of comprehensive health services to uninsured and low-income individuals in a culturally competent manner.

"(b) TARGETED HEALTH EDUCATION PROGRAMS.—The Secretary shall carry out a health education program targeted specifically to populations of uninsured and low-income individuals, including the Latina population, through community centered informational forums, public service announcements, and media campaigns.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year."

By Mrs. BOXER:

S. 3966. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, and Pensions.

Mrs. BOXER. Mr. President, today I rise to reintroduce the HOPE (Hispanas Organized for Political Equality) Youth Pregnancy Prevention Act.

The United States has the highest rate of teen pregnancy in the Western industrialized world, and the U.S. teen-pregnancy rate is nearly twice that of Canada and Great Britain. Although overall teen pregnancy rates have decreased in recent years, the teen pregnancy rates for Hispanics and other ethnic and racial minority teens in the United States are significantly higher than the national average. For example, 51 percent of Latina girls in the U.S. will become pregnant once before the age 20.

The Latina population in the United States has grown tremendously. Currently, there are approximately 18 million Latinas that reside in the U.S. In my home State of California, 29 percent of all women are Latinas, this is approximately five million women. The number of Latinas is expected to continue to grow. It is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to face serious health care access barriers and consequently higher incidences of teenage pregnancy.

To address the growing risk for many reproductive and other health concerns that are otherwise preventable, the HOPE Youth Pregnancy Prevention Act would provide a comprehensive solution and the resources to help prevent teen pregnancy among at-risk and minority youth.

Specifically, the bill would provide grants to States, localities, and nongovernmental organizations for teenage pregnancy prevention activities targeted to areas with large ethnic minorities and other at-risk youth. These grants could be used for a number of activities, including youth development, work-related interventions and other educational activities, parental involvement, teenage outreach and clinical services. The bill would authorize $30 million a year for five years for these grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teenage pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth.

Over the past 10 years, we have made progress in reducing teen pregnancy, but our work is not done. We need to strengthen our efforts, especially among Latinas and other minority youth. I urge my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HOPE Youth Pregnancy Prevention Act".

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399Q. YOUTH PREGNANCY PREVENTION.

"(a) AT-RISK TEEN PREGNANCY PREVENTION GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out teenage pregnancy prevention activities that are targeted at areas with large ethnic minorities and other youth at-risk of becoming pregnant.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

"(A) be a State or local government or a private nonprofit entity; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) ELIGIBLE ACTIVITIES.—Activities carried out under a grant under this subsection may include—

"(A) youth development for adolescents;

"(B) work-related interventions and other educational activities;

"(C) parental involvement;

"(D) teenage outreach; and

"(E) clinical services.

"(b) MULTIMEDIA PUBLIC AWARENESS AND OUTREACH GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

"(A) be a State government or a private nonprofit entity; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) ACTIVITIES.—The purpose of the campaigns established under a grant under paragraph (1) shall be to prevent teenage pregnancy through the use of advertising using television, radio, print media, billboards, posters, the Internet, and other methods determined appropriate by the Secretary.

"(4) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that express an intention to carry out activities that target ethnic minorities and other at-risk youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out subsection (a), $30,000,000 for each of fiscal years 2007 through 2011; and

"(2) to carry out subsection (b), $20,000,000 for each of fiscal years 2007 through 2011.".

By Mrs. CLINTON:

S. 3967. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I am pleased today to introduce a bill that will help inform the Congress and the American people about our Nation's trade agreements.

The trade policy debate here in Washington is heated and polarized. Supporters of "free trade" often view trade agreements uncritically and without question while others are suspicious of any agreement that makes it easier to trade with other countries. I believe that trade policy decisions should be based on an understanding of the concrete results of these agreements and the impact that they have on our economy and the American people, rather than on preconceived notions.

My bill, the Trade Agreement Accountability Act, will inject factual analysis in to this debate. The bill requires the International Trade Commission to report on the effects of every trade agreement we sign. These reports will examine the good and the bad of every trade agreement after two years, after five years and then every five years after it goes into effect. They will study the effect of each trade agreement on a sector-by-sector basis, and conduct an assessment and quantitative analysis of how each agreement is fostering economic growth, improving living standards and helping to create jobs.

In short, this bill will help educate policymakers and the American people about this important debate. I hope that by evaluating the results of past agreements, we will be able to better understand the consequences of future ones.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the " Trade Agreement Assessment Act".

SEC. 2. ITC REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, 5 years after the date of the enactment of this Act, and every 5 years thereafter, the International Trade Commission shall submit a report to Congress on each free trade agreement in force with respect to the United States. The report shall, with respect to each free trade agreement, contain an analysis and assessment of the analysis and predictions made by the International Trade Commission, the United States Trade Representative, and other Federal agencies, before implementation of the agreement and actual results of the agreement on the United States economy.

(b) CONTENTS OF REPORT.—Each report required by subsection (a) shall contain the following:

(1) With respect to the United States and each country that is a party to a free trade agreement, an assessment and quantitative analysis of how each agreement—

(A) is fostering economic growth;

(B) is improving living standards;

(C) is helping create jobs; and

(D) is reducing or eliminating barriers to trade and investment.

(2) An assessment and quantitative analysis of how each agreement is meeting the specific objectives and goals set out in connection with the implementation of that agreement, the impact of the agreement on the United States economy as a whole, and on specific industry sectors, including the impact the agreement is having on—

(A) the gross domestic product;

(B) exports and imports;

(C) aggregate employment, and competitive positions of industries;

(D) United States consumers; and

(E) the overall competitiveness of the United States.

(3) An assessment and quantitative analysis of how each agreement is meeting the goals and objectives for the agreement on a sector-by-sector basis, including—

(A) trade in goods;

(B) customs matters, rules or origin, and enforcement cooperation;

(C) sanitary and phytosanitary measures;

(D) intellectual property rights;

(E) trade in services;

(F) electronic commerce;

(G) government procurement;

(H) transparency, anti-corruption; and regulatory reform; and

(I) any other issues with respect to which the International Trade Commission submitted a report under section 2104(f) of the Bipartisan Trade Promotion Authority Act of 2002.

(4) A summary of how each country that is a party to an agreement has changed its labor and environmental laws since entry into force of the agreement.

(5) An analysis of whether the agreement is making progress in achieving the applicable purposes, policies, priorities, and objectives of the Bipartisan Trade Promotion Authority Act of 2002.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):

S. 3968. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, I rise to introduce "The Intelligence Community Audit Act of 2006," with Senator LAUTENBERG which would reaffirm the Comptroller General of the United States and head of the Government Accountability Office's, GAO, authority to audit the financial transactions and evaluate the programs and activities of the intelligence community (IC). Representative BENNIE THOMPSON, ranking member of the House Homeland Security Committee, is introducing similar legislation.

The bill Senator LAUTENBERG and I offer today is in keeping with legislation introduced in 1987 by Senator John Glenn, the former chairman of the Governmental Affairs Committee, to ensure more effective oversight of the Central Intelligence Agency (CIA) in the wake of the Iran-Contra scandal.

The need for greater oversight and availability of information to appropriate congressional committees is not new. What is new is that Congress does not have the luxury of failure in this era of terrorism. Failure brings terrible consequence.

Since 9/11, effective oversight is needed now more than ever for two very basic reasons: First, intelligence reforms have spawned new agencies with new intelligence functions demanding even more inter-agency cooperation. The Congress needs to ensure that these agencies have the assets, resources, and capability to do their job in protecting our national security. However, now the Congress cannot do its job properly, in part, because its key investigative arm, the Government Accountability Office, is not given adequate access to the intelligence community, led by the Director of National Intelligence (DNI).

Moreover, intelligence oversight is no longer the sole purview of the Senate and House intelligence committees. Other committees have jurisdiction over such departments as Homeland Security, State, Defense, Justice, Energy, and even Treasury and Commerce, which, in this war on terrorism, have intelligence collection and sharing responsibilities. Nor is the information necessary for these committees to exercise their oversight responsibilities restricted to the two intelligence committees as their organizing resolutions make clear. Unfortunately, the intelligence community stonewalls the GAO when committees of jurisdiction request that GAO investigate problems despite the clear responsibility of Congress to ensure that these agencies are operating effectively to protect America.

This is not always the case. Some agencies recognize the valuable contribution that GAO makes in improving the quality of our intelligence. As Lieutenant General Lew Allen, Jr., then Director of the National Security Agency (NSA), observed in testimony before the Senate Select Committee To Study Governmental Operations With Respect To Intelligence Activities, on October 29, 1975: "Another feature of congressional review is that since 1955 resident auditors of the General Accounting Office have been assigned at the Agency to perform on-site audits. Additional GAO auditors were cleared for access in 1973, and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions." Not surprisingly, this outpost of the GAO still exists at the NSA.

Second, and equally important, is the inability of Congress to ensure that unfettered intelligence collection does not trample civil liberties. New technologies and new personal information data bases threaten our individual right to a secure private life, free from unlawful government invasion. The Congress must ensure that private information being collected by the intelligence community is not misused and is secure.

Over 30 years ago, Senator Charles Percy urged Congress to "act now to gain control over the Government's dangerously proliferating police, investigative, and intelligence activities." He noted that "we find ourselves threatened by the specter of a 'watchdog' Government, breeding a nation of snoopers."

The privacy concerns expressed by our former colleague have become vastly more complicated. As I have noted, the institutional landscape has become littered with new intelligence agencies with ever-increasing demands and responsibilities on law enforcement at every level of government since the establishment of the Department of Homeland Security and the passage of the Intelligence Reform and Terrorism Prevention Act of 2004. They have the legitimate mission to protect the country against potential threats. Congress' role is to ensure that their mission remains legitimate.

The intelligence community today consists of 19 different agencies or components: the Office of the Director of National Intelligence; Central Intelligence Agency; Department of Defense; Defense Intelligence Agency; National Security Agency; Departments of the Army, Navy, Marine Corps, and Air Force; Department of State; Department of Treasury; Department of Energy; Department of Justice; Federal Bureau of Investigation; National Reconnaissance Office; National Geospatial-Intelligence Agency; Coast Guard; Department of Homeland Security, and the Drug Enforcement Administration.

I ask unanimous consent that a memorandum prepared by the Congressional Research Service, entitled "Congressional Intelligence Oversight," be included in the RECORD.

As both House Rule 48 and Senate Resolution 400 establishing the intelligence oversight committees state, "Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee."

Despite this clear and unambiguous statement, the ability of non-intelligence committees to obtain information, no matter how vital to improving the security of our Nation, has been restricted by the various elements of the intelligence community.

Two recent incidents have made this situation disturbingly clear. At a hearing entitled "Access Delayed: Fixing the Security Clearance Process, Part II," before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on which I serve as Ranking Member, on November 9, 2005, GAO was asked about steps it would take to ensure that the Office of Personnel Management (OPM), the Office of Management and Budget, and the intelligence community met the goals and objectives outlined in the OPM security clearance strategic plan. Fixing the security clearance process, which is on GAO's high-risk list, is essential to our national security. But as GAO observed in a written response to a question raised by Senator VOINOVICH, "while we have the authority to do such work, we lack the cooperation we need to get our job done in that area." The intelligence community is blocking GAO's work in this essential area.

A similar case arose in response to a GAO investigation for the Senate Homeland Security Committee and the House Government Reform Committee on how agencies are sharing terrorism-related and sensitive but unclassified information. The report, entitled "Information Sharing, the Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information" (GAO-06-385), was released in March 2006.

At a time when Congress is criticized by members of the 9-11 Commission for failing to implement its recommendations, we should remember that improving terrorism information sharing among agencies was one of the critical recommendations of the 9-11 Commission. Moreover, the Intelligence Reform and Terrorism Prevention Act of 2004 mandated the sharing of terrorism information through the creation of an Information Sharing Environment. Yet, when asked by GAO for comments on the GAO report, the Office of the Director of National Intelligence refused, stating that "the review of intelligence activities is beyond GAO's purview."

However, as a Congressional Research Service memorandum entitled "Overview of 'Classified' and 'Sensitive but Unclassified' Information," concludes, "it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security." I ask unanimous consent that the memo be printed in the RECORD following my remarks.

Unfortunately I have more examples, that predate the post 9-11 reforms. Indeed, in July 2001, in testimony entitled "Central Intelligence Agency, Observations on GAO Access to Information on CIA Programs and Activities" (GAO-01-975T) before the House Committee on Government Reform, the GAO noted, as a practical matter, "our access is generally limited to obtaining information on threat assessments when the CIA does not perceives [sic] our audits as oversight of its activities." I ask consent that this testimony also be printed following my remarks.

It is inconceivable that the GAO—the audit arm of the U.S. Congress—has been unable to conduct evaluations of the CIA for over 40 years.

If the GAO had been able to conduct basic auditing functions of the CIA, perhaps some of the problems that were so clearly exposed following the terrorist attacks in September 2001 would have been resolved. And yet, it is extraordinary that five years after 9-11 the same problems persist.

Once more I refer to Senator Glenn's bill S. 1458, the "General Accounting Office-Central Intelligence Agency Audit Act of 1987." On its introduction he said, "in the long run, I believe carefully controlled GAO audits of CIA will lower the probability of future abuses of power, boost the credibility of CIA management, increase the essential public support the Agency's mission deserves, assist the Congress in conducting meaningful oversight, and in no way compromise the CIA mission." Unfortunately, S. 1458 did not become law, and nearly 20 years later, the CIA's apparent management challenges led to the creation of the Director of National Intelligence with the Intelligence Reform Act of 2004. If Senator Glenn's proposal made in 1987 had been accepted, perhaps, again, some of the problems that became apparent with our intelligence agencies following 9-11 might never have occurred.

I want to be clear that my legislation does not detract from the authority of the intelligence committees. In fact, the language makes explicit that the Comptroller General may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon the request of the intelligence committees or at the request of the congressional majority or minority leaders. The measure also prescribes for the security of the information collected by the Comptroller General.

However, my bill reaffirms the authority of the Comptroller General to conduct audits and evaluations—other than those relating to sources and methods, or covert actions—relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management for other relevant committees of the Congress.

Attached is a detailed description of the legislation. I urge my colleagues to join me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the materials were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, September 14, 2006.

Subject: Congressional Oversight of Intelligence.

From: Alfred Cumming, Specialist in Intelligence and National Security Foreign Affairs, Defense, and Trade Division.

This memorandum examines the intelligence oversight structure established by Congress in the 1970s, including the creation of the congressional select intelligence committees by the U.S. House of Representatives and the Senate, respectively. It also looks at the intelligence oversight role that Congress reserved for congressional committees other than the intelligence committees; examines certain existing statutory procedures that govern how the executive branch is to keep the congressional intelligence committees informed of U.S. intelligence activities; and looks at the circumstances under which the two intelligence committees are expected to keep congressional standing committees, as well as both chambers, informed of intelligence activities.

If I can be of further assistance, please call at 707-7739.

BACKGROUND

In the wake of congressional investigations into Intelligence Community activities in the mid-1970s, the U.S. Senate in 1976 created a select committee on intelligence to conduct more effective oversight on a continuing basis. The U.S. House of Representatives established its own intelligence oversight committee the following year.

Until the two intelligence committees were created, other congressional standing committees—principally the Senate and House Armed Services and Appropriations committees—shared responsibility for overseeing the intelligence community. Although willing to cede primary jurisdiction over the Central Intelligence Agency (CIA) to the two new select intelligence committees, these congressional standing committees wanted to retain jurisdiction over the intelligence activities of the other departments and agencies they oversaw. According to one observer, the standing committees asserted their jurisdictional prerogatives for two reasons—to protect "turf," but also to provide "a hedge against the possibility that the newly launched experiment in oversight might go badly."

INTELLIGENCE COMMITTEES' STATUTORY OBLIGATIONS

Under current statute, the President is required to ensure that the congressional intelligence committees are kept "fully and currently informed" of U.S. intelligence activities, including any "significant anticipated intelligence activity, and the President and the intelligence committees are to establish any procedures as may be necessary to carry out these provisions.

The statute, however, stipulates that the intelligence committees in turn are responsible for alerting the respective chambers or congressional standing committees of any intelligence activities requiring further attention. The intelligence committees are to carry out this responsibility in accordance with procedures established by the House of Representatives and the Senate, in consultation with the Director of National Intelligence, in order to protect against unauthorized disclosure of classified information, and all information relating to sources and methods.

The statute stipulates that: "each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees."

This provision was included in statute after being specifically requested in a letter from then Senate Foreign Relations Chairman Frank Church and Ranking Minority Member Jacob Javits in an Apr. 30, 1980 letter to then-intelligence committee Chairman Birch Bayh and Vice Chairman Barry Goldwater.

INTELLIGENCE COMMITTEE OBLIGATIONS UNDER RESOLUTION

In an apparent effort to address various concerns relating to committee jurisdiction, the House of Representatives and the Senate, in the resolutions establishing each of the intelligence committees, included language preserving oversight roles for those standing committees with jurisdiction over matters affected by intelligence activities.

Specifically, each intelligence committee's resolution states that: "Nothing in this [Charter] shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee."

Both resolutions also stipulate that:

> Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

Finally, both charters direct that each intelligence committee alert the appropriate standing committees, or the respective chambers, of any matter requiring attention. The charters state:

> The select committee, for the purposes of accountability to the [House/Senate] shall make regular and periodic reports to the [House/Senate] on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the [House/Senate] or to any other appropriate committee or committees of the [House/Senate] any matters requiring the attention of the [House/Senate] or such other appropriate committee or committees.

CROSS-OVER MEMBERSHIP

Both resolutions also direct that the membership of each intelligence committee include members who serve on the four standing committees that historically have been involved in intelligence oversight. The respective resolutions designate the following committees as falling in this category: Appropriations, Armed Services, Judiciary, and the Senate Foreign Relations Committee and the House International Relations Committee.

Although each resolution directs that such cross-over members be designated, neither specifies whether cross-over members are to play any additional role beyond serving on the intelligence committees. For example, neither resolution outlines whether cross-over members are to inform colleagues on standing committees they represent. Rather, each resolution directs only that the "intelligence committee" shall promptly call such matters to the attention of standing committees and the respective chambers if the committees determine that they require further attention by those entities.

SUMMARY CONCLUSIONS

Although the President is statutorily obligated to keep the congressional intelligence committees fully and currently informed of intelligence activities, the statute obligates the intelligence committees to inform the respective chambers, or standing committees, of such activities, if either of the two committees determine that further oversight attention is required.

Further, resolutions establishing the two intelligence committees make clear that the intelligence committees share intelligence oversight responsibilities with other standing committees, to the extent that certain intelligence activities affect matters that fall under the jurisdiction of a committee other than the intelligence committees.

Finally, the resolutions establishing the intelligence committees provide for the designation of "cross-over" members representing certain standing committees that played a role in intelligence oversight prior to the establishment of the intelligence committees in the 1970s. The resolutions, however, do not specify what role, if any, these "cross-over" members play in keeping standing committees on which they serve informed of certain intelligence activities. Rather, each resolution states that the respective intelligence committee shall make that determination.

CONGRESSIONAL RESEARCH SERVICE, JULY 18, 2006.

MEMORANDUM

Subject: Overview of "Classified" and "Sensitive but Unclassified" Information

From: Harold C. Relyea, Specialist in American National Government, Government and Finance Division

Prescribed in various ways, federal policies may require the protection of, or a privileged status for, particular kinds of information. This memorandum provides a brief introduction to, and overview of, two categories of such information policy. The first category is demarcated largely in a single policy instrument—a presidential executive order—with a clear focus and in considerable detail: the classification of national security information in terms of three degrees of harm the disclosure of such information could cause to the nation, resulting in Confidential, Secret, and Top Secret designations. The second category is, by contrast with the first, much broader in terms of the kinds of information it covers, to the point of even being nebulous in some instances, and is expressed in various instruments, the majority of which are non-statutory: the marking of sensitive but unclassified (SBU) information for protective management, although its public disclosure may be permissible pursuant to the Freedom of Information Act (FOIA). These two categories are reviewed in the discussion set out below.

SECURITY CLASSIFIED INFORMATION

Current security classification arrangements, prescribed by an executive order of the President, trace their origins to a March 1940 directive issued by President Franklin D. Roosevelt as E.O. 8381. This development was probably prompted somewhat by desires to clarify the authority of civilian personnel in the national defense community to classify information, to establish a broader basis for protecting military information in view of growing global hostilities, and to manage better a discretionary power seemingly of increasing importance to the entire executive branch. Prior to this 1940 order, information had been designated officially secret by armed forces personnel pursuant to Army and Navy general orders and regulations. The first systematic procedures for the protection of national defense information, devoid of special markings, were established by War Department General Orders No. 3 of February 1912. Records determined to be "confidential" were to be kept under lock, "accessible only to the officer to whom intrusted." Serial numbers were issued for all such "confidential" materials, with the numbers marked on the documents, and lists of same kept at the offices from which they emanated. With the enlargement of the armed forces after the entry of the United States into World War I, the registry system was abandoned and a tripartite system of classification markings was inaugurated in November 1917 with General Orders No. 64 of the General Headquarters of the American Expeditionary Force.

The entry of the United States into World War II prompted some additional arrangements for the protection of information pertaining to the nation's security. Personnel cleared to work on the Manhattan Project for the production of the atomic bomb, for instance, in committing themselves not to disclose protected information improperly, were "required to read and sign either the Espionage Act or a special secrecy agreement," establishing their awareness of their secrecy obligations and a fiduciary trust which, if breached, constituted a basis for their dismissal.

A few years after the conclusion of World War II, President Harry S. Truman, in February 1950, issued E.O. 10104, which, while superseding E.O. 8381, basically reiterated its text, but added a fourth Top Secret classification designation to existing Restricted, Confidential, and Secret markings, making American information security categories consistent with those of our allies. At the time of the promulgation of this order, however, plans were underway for a complete overhaul of the classification program, which would result in a dramatic change in policy.

E.O. 10290, issued in September 1951, introduced three sweeping innovations in security classification policy. First, the order indicated the Chief Executive was relying upon "the authority vested in me by the Constitution and statutes, and as President of the United States" in issuing the directive. This formula appeared to strengthen the President's discretion to make official secrecy policy: it intertwined his responsibility as Commander in Chief with the constitutional obligation to "take care that the laws be faithfully executed." Second, information was now classified in the interest of "national security," a somewhat new, but nebulous, concept, which, in the view of some, conveyed more latitude for the creation of official secrets. It replaced the heretofore relied upon "national defense" standard for classification. Third, the order extended classification authority to nonmilitary entities throughout the executive branch, to be exercised by, presumably, but not explicitly limited to, those having some role in "national security" policy.

The broad discretion to create official secrets granted by E.G. 10290 engendered widespread criticism from the public and the press. In response, President Dwight D. Eisenhower, shortly after his election to office, instructed Attorney General Herbert Brownell to review the order with a view to revising or rescinding it. The subsequent recommendation was for a new directive, which was issued in November 1953 as E.O. 10501. It withdrew classification authority from 28 entities, limited this discretion in 17 other units to the agency head, returned to the "national defense" standard for applying secrecy, eliminated the "Restricted" category, which was the lowest level of protection, and explicitly defined the remaining three classification areas to prevent their indiscriminate use.

Thereafter, E.G. 10501, with slight amendment, prescribed operative security classification policy and procedure for the next two decades. Successor orders built on this reform. These included E.O. 11652, issued by President Richard M. Nixon in March 1972, followed by E.O. 12065, promulgated by President Jimmy Carter in June 1978. For 30 years, these classification directives narrowed the bases and discretion for assigning official secrecy to executive branch documents and materials. Then, in April 1982, this trend was reversed with E.O. 12356, issued by President Ronald Reagan. This order expanded the categories of classifiable information, mandated that information falling within these categories be classified, authorized the reclassification of previously declassified documents, admonished classifiers to err on the side of classification, and eliminated automatic declassification arrangements.

President William Clinton returned security classification policy and procedure to the reform trend of the Eisenhower, Nixon, and Carter Administrations with E.O. 12958 in April 1995. Adding impetus to the development and issuance of the new order were changing world conditions: the democratization of many eastern European countries, the demise of the Soviet Union, and the end of the Cold War. Accountability and cost considerations were also significant influences. In 1985, the temporary Department of Defense (DOD) Security Review Commission, chaired by retired General Richard G. Stilwell, declared that there were "no verifiable figures as to the amount of classified material produced in DOD and in defense industry each year." Nonetheless, it concluded that "too much information appears to be classified and much at higher levels than is warranted." In October 1993, the cost of the security classification program became clearer when the General Accounting Office (GAO) reported that it was "able to identify government-wide costs directly applicable to national security information totaling over $350 million for 1992." After breaking this figure down—it included only $6 million for declassification work—the report added that "the U.S. government also spends additional billions of dollars annually to safeguard information, personnel, and property." E.O. 12958 set limits for the duration of classification, prohibited the reclassification of properly declassified records, authorized government employees to challenge the classification status of records, reestablished the balancing test of E.O. 12065 weighing the need to protect information vis-a-vis the public interest in its disclosure, and created two review panels—one on classification and declassification actions and one to advise on policy and procedure.

Most recently, in March 2003, President George W. Bush issued E.O. 13292, amending E.O. 12958. Among the changes made by this order were adding infrastructure vulnerabilities or capabilities, protection services relating to national security, and weapons of mass destruction to the categories of classifiable information; easing the reclassification of declassified records; postponing the automatic declassification of protected records 25 or more years old, beginning in mid-April 2003 to the end of December 2006; eliminating the requirement that agencies prepare plans for declassifying records; and permitting the Director of Central Intelligence to block declassification actions of the Interagency Security Classification Appeals Panel, unless overruled by the President.

The security classification program has evolved during the past 66 years. One may not agree with all of its rules and requirements, but attention to detail in its policy and procedure result in a significant management regime. The operative executive order, as amended, defines its principal terms. Those who are authorized to exercise original classification authority are identified. Exclusive categories of classifiable information are specified, as are the terms of the duration of classification, as well as classification prohibitions and limitations. Classified information is required to be marked appropriately along with the identity of the original classifier, the agency or office of origin, and a date or event for declassification. Authorized holders of classified information who believe that its protected status is improper are "encouraged and expected" to challenge that status through prescribed arrangements. Mandatory declassification reviews are also authorized to determine if protected records merit continued classification at their present level, a lower level, or at all. Unsuccessful classification challenges and mandatory declassification reviews are subject to review by the Interagency Security Classification Appeals Panel. General restrictions on access to classified information are prescribed, as are distribution controls for classified information. The Information Security Oversight Office (ISOO) within the National Archives and Records Administration (NARA) is mandated to provide central management and oversight of the security classification program. If the director of this entity finds that a violation of the order or its implementing directives has occurred, it must be reported to the head of the agency or to the appropriate senior agency official so that corrective steps, if appropriate, may be taken.

While Congress, thus far, has elected not to create statutorily mandated security classification policy and procedures, the option to do so has been explored in the past, and its legislative authority to do so has been recognized by the Supreme Court. Congress, however, has established protections for certain kinds of information—such as Restricted Data in the Atomic Energy Acts of 1946 and 1954, and intelligence sources and methods in the National Security Act of 1947—which have been realized through security classification arrangements. It has acknowledged properly applied security classification as a basis for withholding records sought pursuant to the Freedom of Information Act. Also, with a view to efficiency and economy, as well as effective records management, committees of Congress, on various occasions, have conducted oversight of security classification policy and practice, and have been assisted by GAO and CRS in this regard.

SENSITIVE BUT UNCLASSIFIED INFORMATION

The widespread existence and use of information control markings other than those prescribed for the security classification of information came to congressional attention in March 1972 when a subcommittee of what is now the House Committee on Government Reform launched the first oversight hearings on the administration and operation of the Freedom of Information Act (FOIA). Enacted in 1966, FOIA had become operative in July 1967. In the early months of 1972, the Nixon Administration was developing new security classification policy and procedure, which would be prescribed in E.O. 11652, issued in early March. Preparatory to this hearing, the panel had surveyed the departments and agencies in August 1971, asking, among other questions, "What legend is used by your agency to identify records which are not classifiable under Executive Order 10501 [the operative order at the time] but which are not to be made available outside the government?" Of 58 information control markings identified in response to this question, the most common were For Official Use Only (11 agencies); Limited Official Use (nine agencies); Official Use Only (eight agencies); Restricted Data (five agencies); Administratively Restricted (four agencies); Formerly Restricted Data (four agencies); and Nodis, or no dissemination (four agencies). Seven other markings were used by two agencies in each case. A CRS review of the agency responses to the control markings question prompted the following observation.

Often no authority is cited for the establishment or origin of these labels; even when some reference is provided it is a handbook, manual, administrative order, or a circular but not statutory authority. Exceptions to this are the Atomic Energy Commission, the Defense Department and the Arms Control and Disarmament Agency. These agencies cite the Atomic Energy Act, N.A.T.O. related laws, and international agreements as a basis for certain additional labels. The Arms Control and Disarmament Agency acknowledged it honored and adopted State and Defense Department labels.

Over three decades later, it appears that approximately the same number of these information control markings are in use; that the majority of them are administratively, not statutorily, prescribed; and that many of them have an inadequate management regime, particularly when compared with the detailed arrangements which govern the management of classified information. A recent press account illustrates another problem. In late January 2005, GCN Update, the online, electronic news service of Government Computer News, reported that "dozens of classified Homeland Security Department documents" had been accidently made available on a public Internet site for several days due to an apparent security glitch at the Department of Energy. Describing the contents of the compromised materials and reactions to the breach, the account stated the "documents were marked 'for official use only,' the lowest secret-level classification." The documents, of course, were not security classified, because the marking cited is not authorized by E.O. 12958. Interestingly, however, in view of the fact that this misinterpretation appeared in a story to which three reporters contributed, perhaps it reflects, to some extent, the current confusion of these information control markings with security classification designations.

Broadly considering the contemporary situation regarding information control markings, a recent information security report by the JASON Program Office of the MITRE Corporation proffered the following assessment.

The status of sensitive information outside of the present classification system is murkier than ever. "Sensitive but unclassified" data is increasingly defined by the eye of the beholder. Lacking in definition, it is correspondingly lacking in policies and procedures for protecting (or not protecting) it, and regarding how and by whom it is generated and used.

A contemporaneous Heritage Foundation report appeared to agree with this appraisal, saying:

The process for classifying secret information in the federal government is disciplined and explicit. The same cannot be said for unclassified but security-related information for which there is no usable definition, no common understanding about how to control it, no agreement on what significance it has for U.S. national security, and no means for adjudicating concerns regarding appropriate levels of protection.

Concerning the current Sensitive but Unclassified (SBU) marking, a 2004 report by the Federal Research Division of the Library of Congress commented that guidelines for its use are needed, and noted that "a uniform legal definition or set of procedures applicable to all Federal government agencies does not now exist." Indeed, the report indicates that SBU has been utilized in different contexts with little precision as to its scope or meaning, and, to add a bit of chaos to an already confusing situation, is "often referred to as Sensitive Homeland Security Information.

Assessments of the variety, management, and impact of information control markings, other than those prescribed for the classification of national security information, have been conducted by CRS, GAO, and the National Security Archive, a private sector research and resource center located at The George Washington University. In March 2006, GAO indicated that, in a recent survey, 26 federal agencies reported using 56 different information control markings to protect sensitive information other than classified national security material. That same month, the National Security Archive offered that, of 37 agencies surveyed, 24 used 28 control markings based on internal policies, procedures, or practices, and eight used 10 markings based on statutory authority. These numbers are important in terms of the variety of such markings. GAO explained this dimension of the management problem.

> [T]here are at least 13 agencies that use the designation For Official Use Only [FOUO], but there are at least five different definitions of FOUO. At least seven agencies or agency components use the term Law Enforcement Sensitive (LES), including the U.S. Marshals Service, the Department of Homeland Security (DHS), the Department of Commerce, and the Office of Personnel Management (OPM). These agencies gave differing definitions for the term. While DHS does not formally define the designation, the Department of Commerce defines it to include information pertaining to the protection of senior government officials, and OPM defines it as unclassified information used by law enforcement personnel that requires protection against unauthorized disclosure to protect the sources and methods of investigative activity, evidence, and the integrity of pretrial investigative reports.

Apart from the numbers, however, is another aspect of the management problem, which GAO described in the following terms.

> There are no governmentwide policies or procedures that describe the basis on which agencies should use most of these sensitive but unclassified designations, explain what the different designations mean across agencies, or ensure that they will be used consistently from one agency to another. In this absence, each agency determines what designations to apply to the sensitive but unclassified information it develops or shares.

These markings also have implications in another regard. The importance of information sharing for combating terrorism and realizing homeland security was emphasized by the National Commission on Terrorist Attacks Upon the United States. That the variously identified and marked forms of sensitive but unclassified (SBU) information could be problematic with regard to information sharing was recognized by Congress when fashioning the Homeland Security Act of 2002. Section 892 of that statute specifically directed the President to prescribe and implement procedures for the sharing of information by relevant federal agencies, including the accommodation of "homeland security information that is sensitive but unclassified." On July 29, 2003, the President assigned this responsibility largely to the Secretary of Homeland Security. Nothing resulted. The importance of information sharing was reinforced two years later in the report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Congress again responded by mandating the creation of an Information Sharing Environment (ISE) when legislating the Intelligence Reform and Terrorism Prevention Act of 2004. Preparatory to implementing the ISE provisions, the President issued a December 16, 2005, memorandum recognizing the need for standardized procedures for SBU information and directing department and agency officials to take certain actions relative to that objective. In May 2006, the newly appointed manager of the ISE agreed with a March GAO assessment that, oftentimes, SBU information, designated as such with some marking, was not being shared due to concerns about the ability of recipients to adequately protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security purposes.

Congressional overseers have probed executive use and management of information control markings other than those prescribed for the classification of national security information, and the extent to which they result in "pseudo-classification" or a form of overclassification. Relevant remedial legislation proposed during the 109th Congress includes two bills (H.R. 2331 and H.R. 5112) containing sections which would require the Archivist of the United States to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified congressional committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established by statute or an executive order relating to the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 5441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 11056 to include (1) provision that information that is three years old and not incorporated in a current, active transportation security directive or security plan shall be determined automatically to be releasable unless, for each specific document, the Secretary makes a written determination that identifies a compelling reason why the information must remain Sensitive Security Information (SSI); (2) common and extensive examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking; and (3) provision that, in all judicial proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a covered person for purposes of access to the SSI at issue in the case unless TSA or DHS demonstrates a compelling reason why the specific individual presents a risk of harm to the nation. A May 25, 2006, statement of administration policy on the bill strongly opposed the section, saying it "would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releaseable in three years, potentially conflict with requirements of the Privacy and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging the designation of SSI materials in the U.S. Courts of Appeals." The statement further indicated that the section would create a "burdensome review process" for the Secretary of Homeland Security and "would result in different statutory requirements being applied to SSI programs administered by the Departments of Homeland Security and Transportation."

It is not anticipated that this memorandum will be updated for reissuance.

TESTIMONY BEFORE THE SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS, AND THE SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS, COMMITTEE ON GOVERNMENTAL REFORM, HOUSE OF REPRESENTATIVES

United States General Accounting Office

CENTRAL INTELLIGENCE AGENCY

OBSERVATIONS ON GAO ACCESS TO INFORMATION ON CIA PROGRAMS AND ACTIVITIES

Statement of Henry L. Hinton, Jr., Managing Director Defense Capabilities and Management

Messrs. Chairmen and Members of the Subcommittees:

We are pleased to be here to discuss the subject of access by the General Accounting Office (GAO) to information from the Central Intelligence Agency (CIA). Specifically, our statement will provide some background on CIA and its oversight mechanisms, our authority to review CIA programs, and the history and status of GAO access to CIA information. As requested, our remarks will focus on our relationship with the CIA and not with other intelligence agencies. Our comments are based upon our review of historic files, our legal analysis, and our experiences dealing with the CIA over the years.

SUMMARY

Oversight of the CIA generally comes from two select committees of Congress and the CIA's Inspector General. We have broad authority to evaluate CIA programs. In reality, however, we face both legal and practical limitations on our ability to review these programs. For example, we have no access to certain CIA "unvouchered" accounts and cannot compel our access to foreign intelligence and counterintelligence information. In addition, as a practical matter, we are limited by the CIA's level of cooperation, which has varied through the years. We have not actively audited the CIA since the early 1960s, when we discontinued such work because the CIA was not providing us with sufficient access to information to perform our mission. The issue has arisen since then from time to time as our work has required some level of access to CIA programs and information. However, given a lack of requests from the Congress for us to do specific work at the CIA and our limited resources, we have made a conscious decision not to further pursue the issue.

Today, our dealings with the CIA are mostly limited to requesting information that relates either to governmentwide reviews or analyses of threats to U.S. national security on which the CIA might have some information. The CIA either provides us with the requested information, provides the information with some restrictions, or does not provide the information at all. In general, we are most successful at getting access to CIA information when we request threat assessments and the CIA does not perceive our audits as oversight of its activities.

BACKGROUND

As you know, the General Accounting Office is the investigative arm of the Congress and is headed by the Comptroller General of the United States—currently David M. Walker. We support the Congress in meeting its constitutional responsibilities and help improve the performance and accountability of the federal government for the American people. We examine the use of public funds, evaluate federal programs and activities, and provide analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. Almost 90 percent of our staff days are in direct support of Congressional requestors, generally on the behalf of committee chairmen or ranking members.

The U.S. Intelligence Community consists of those Executive Branch agencies and organizations that work in concert to carry out our nation's intelligence activities. The CIA is an Intelligence Community agency established under the National Security Act of 1947 to coordinate the intelligence activities of several U.S. departments and agencies in the interest of national security. Among other functions, the CIA collects, produces, and disseminates foreign intelligence and counterintelligence; conducts counterintelligence activities abroad; collects, produces, and disseminates intelligence on foreign aspects of narcotics production and trafficking; conducts special activities approved by the President; and conducts research, development, and procurement of technical systems and devices.

OVERSIGHT OF CIA ACTIVITIES

Currently, two congressional select committees and the CIA's Inspector General oversee the CIA's activities. The Senate Select Committee on Intelligence was established on May 19, 1976, to oversee the activities of the Intelligence Community. Its counterpart in the House of Representatives is the House Permanent Select Committee on Intelligence, established on July 14, 1977. The CIA's Inspector General is nominated by the President and confirmed by the Senate. The Office of the Inspector General was established by statute in 1989 and conducts inspections, investigations, and audits at headquarters and in the field. The Inspector General reports directly to the CIA Director. In addition, the President's Foreign Intelligence Advisory Board assesses the quality, quantity, and adequacy of intelligence activities. Within the Board, there is an intelligence oversight committee that prepares reports on intelligence activities that may be unlawful or otherwise inappropriate. Finally, the Congress can charter commissions to evaluate intelligence agencies such as CIA. One such commission was the Commission on the Roles and Capabilities of the United States Intelligence Community, which issued a report in 1996.

GAG'S AUTHORITY TO REVIEW CIA PROGRAMS

Generally, we have broad authority to evaluate agency programs and investigate matters related to the receipt, disbursement, and use of public money. To carry out our audit responsibilities, we have a statutory right of access to agency records. Federal agencies are required to provide us information about their duties, powers, activities, organization, and financial transactions. This requirement applies to all federal agencies, including the CIA. Our access rights include the authority to file a civil action to compel production of records, unless (a) the records relate to activities the President has designated as foreign intelligence or counterintelligence activities, (b) the records are specifically exempt from disclosure by statute, or (c) the records would be exempt from release under the Freedom of Information Act because they are predecisional memoranda or law enforcement records and the President or Director of the Office of Management and Budget certifies that disclosure of the record could be expected to impair substantially the operations of the government.

The National Security Act of 1947 charges the CIA Director with protecting intelligence sources and methods from unauthorized disclosure. In terms of our statutory access authority, however, the law creates only one specific exemption: the so-called "unvouchered" accounts. The exemption pertains to expenditures of a confidential, extraordinary, or emergency nature that are accounted for solely on the certification of the Director. These transactions are subject to review by the intelligence committees. Amendments to the law require the President to keep the intelligence committees fully and currently informed of the intelligence activities of the United States. The CIA has maintained that the Congress intended the intelligence committees to be the exclusive means of oversight of the CIA, effectively precluding oversight by us.

While we understand the role of the intelligence committees and the need to protect intelligence sources and methods, we also believe that our authorities are broad enough to cover the management and administrative functions that the CIA shares with all federal agencies.

We have summarized the statutes relevant to our relationship with the CIA in an appendix attached to this testimony.

GAO'S ACCESS TO THE CIA HAS BEEN LIMITED

We have not done audit work at the CIA for almost 40 years. Currently, our access to the CIA is limited to requests for information that relates either to governmentwide reviews or programs for which the CIA might have relevant information. In general, we have the most success obtaining access to CIA information when we request threat assessments, and the CIA does not perceive our audits as oversight of its activities.

GAO ACCESS TO CIA HAS VARIED THROUGH THE YEARS

After the enactment of the National Security Act of 1947, we began conducting financial transaction audits of vouchered expenditures of the CIA. This effort continued into the early 1960s. In the late 1950s, we proposed to broaden its work at the CIA to include an examination of the efficiency, economy, and effectiveness of CIA programs. Although the CIA Director agreed to our proposal to expand the scope of our work, he placed a number of conditions on our access to information. Nonetheless, in October 1959, we agreed to conduct program review work with CIA-imposed restrictions on access.

Our attempt to conduct comprehensive program review work continued until May 1961, when the Comptroller General concluded that the CIA was not providing us with sufficient access to the information necessary to conduct comprehensive reviews of the CIA's programs and announced plans to discontinue audit work there. After much discussion and several exchanges of correspondence between GAO, the CIA, and the cognizant congressional committees, the Chairman of the House Armed Services Committee wrote to the Comptroller General in July 1962 agreeing that, absent sufficient GAO access to CIA information, GAO should withdraw from further audit activities at the CIA. Thus, in 1962, we withdrew from all audits of CIA activities.

The issue of our access has arisen periodically in the intervening years as our work has required some level of access to CIA programs and activities. In July 1975, Comptroller General Elmer Staats testified on our relationship with the intelligence community and cited several cases where CIA had not provided us with the requested information. In July 1987, Senator John Glenn introduced a bill (S. 1458) in the 100th Congress to clarify our audit authority to audit CIA programs and activities. In 1994, the CIA Director sought to further limit our audit work of intelligence programs, including those at the Department of Defense. We responded by writing to several key members of the Congress, citing our concerns and seeking assistance. As a result, we and the CIA began negotiations on a written agreement to clarify our access and relationship. Unfortunately, we were unable to reach any agreement with CIA on this matter. Since then, GAO has limited its pursuit of greater access because of limited demand for this work from Congress, particularly from the intelligence committees. Given a lack of Congressional requests and our limited resources, we have made a conscious decision to deal with the CIA on a case-by-case basis.

CURRENT ACCESS FALLS INTO THREE CATEGORIES

Currently, the CIA responds to our requests for information in three ways: it provides the information, it provides the information or a part of it with some restriction, or it does not provide the information at all. Examples of each of these three situations, based on the experiences of our audit staff in selected reviews in recent years, are listed below.

Sometimes the CIA straightforwardly fulfills our requests for briefings or reports related to threat assessments. This is especially true when we ask for threat briefings or the CIA's assessments or opinions on an issue not involving CIA operations.

For our review of the State Department's Anthrax Vaccination Program for the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the CIA's perspective on a recent threat assessment of chemical and biological threats to U.S. interests overseas. The CIA agreed with our request, provided a meeting within 2 weeks, and followed up with a written statement.

While we were reviewing U.S. assistance to the Haitian justice system and national police on behalf of the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the Haitian justice system. The CIA agreed with our request and met with our audit team within 3 weeks of our request.

For our review of chemical and biological terrorist threats for the House Armed Services Committee, and subcommittees of the House Government Reform Committee and the House Veterans Affairs Committee, we requested meetings with CIA analysts on their threat assessments on chemical and biological weapons. The CIA cooperated and gave us access to documents and analysts.

On several of our reviews of counterdrug programs for the House Government Reform Committee and the Senate Foreign Relations Committee we requested CIA assessments on the drug threat and international activities. The CIA has provided us with detailed briefings on drug cultivation, production, and trafficking activities in advance of our field work overseas.

During our reviews of Balkan security issues and the Dayton Peace Accords for the

House Armed Services Committee and the Senate Foreign Relations Committee, we asked the CIA for threat assessments relevant to our review objectives. The CIA provided us with appropriate briefings and agreed to provide one of our staff members with access to regular intelligence reports.

In some instances, the CIA provides information with certain access restrictions or discusses an issue with us without providing detailed data or documentation.

During our evaluation of equal employment opportunity and disciplinary actions for a subcommittee of the House Committee on the Post Office and Civil Service, the CIA provided us with limited access to information. CIA officials allowed us to review their personnel regulations and take notes, but they did not allow us to review personnel folders on individual disciplinary actions. This was in contrast to the National Security Agency and Defense Intelligence Agency, which gave us full access to personnel folders on individual terminations and disciplinary actions.

For our review of the Department of Defense's efforts to address the growing risk to U.S. electronic systems from high-powered radio frequency weapons for the Joint Economic Committee, the CIA limited our access to one meeting. Although the technology associated with such systems was discussed at the meeting, the CIA did not provide any documentation on research being conducted by foreign nations.

On some of our audits related to national security issues, the CIA provides us with limited access to its written threat assessments and analyses, such as National Intelligence Estimates. However, the CIA restricts our access to reading the documents and taking notes at the CIA or other locations. Examples include our readings of National Intelligence Estimates related to our ongoing work evaluating federal programs to combat terrorism.

In other cases, the CIA simply denies us access to the information we requested. The CIA's refusals are not related to the classification level of the material. Many of our staff have the high-level security clearances and accesses needed to review intelligence information. But the CIA considers our requests as having some implication of oversight and denies us access.

For our evaluation of national intelligence estimates regarding missile threats for the House National Security Committee, the CIA refused to meet with us to discuss the general process and criteria for producing such estimates or the specific estimates we were reviewing. In addition, officials from the Departments of Defense, State, and Energy told us that CIA had asked them not to cooperate with us.

During our examination of overseas arrests of terrorists for the House Armed Services Committee and a subcommittee of the House Government Reform Committee, the CIA refused to meet with us to discuss intelligence issues related to such arrests. The CIA's actions were in contrast to those of two other departments that provided us full access to their staff and files.

On our review of classified computer systems in the federal government for a subcommittee of the House Government Reform Committee, we requested basic information on the number and nature of such systems. The CIA did not provide us with the information, claiming that they would not be able to participate in the review because the type of information is under the purview of congressional entities charged with overseeing the Intelligence Community.

For our review of the policies and procedures used by the Executive Office of the President to acquire and safeguard classified intelligence information, done for the House Rules Committee, we asked to review CIA forms documenting that personnel had been granted appropriate clearances. The CIA declined our request, advising us that type of information we were seeking came under the purview of congressional entities charged with overseeing the intelligence community.

CONCLUSION

Our access to CIA information and programs has been limited by both legal and practical factors. Through the years our access has varied and we have not done detailed audit work at CIA since the early 1960s. Today, our access is generally limited to obtaining information on threat assessments when the CIA does not perceives our audits as oversight of its activities. We foresee no major change in our current access without substantial support from Congress—the requestor of the vast majority of our work. Congressional impetus for change would have to include the support of the intelligence committees, who have generally not requested GAG reviews or evaluations of CIA activities. With such support, we could evaluate some of the basic management functions at CIA that we now evaluate throughout the federal government.

This concludes our testimony. We would be happy to answer any questions you may have.

GAO Contacts and Staff Acknowledgment

For future questions about this testimony, please contact Henry L. Hinton, Jr., Managing Director, Defense Capabilities and Management at (202) 512-4300. Individuals making key contributions to this statement include Stephen L. Caldwell, James Reid, and David Hancock.

APPENDIX I: LEGAL FRAMEWORK FOR GAO AND CIA

GAO'S AUDIT AUTHORITY

The following statutory provisions give GAO broad authority to review agency programs and activities:

31 U.S.C. 712: GAO has the responsibility and authority for investigating matters relating to the receipt, disbursement, and use of public money, and for investigating and reporting to either House of Congress or appropriate congressional committees.

1 U.S.C. 717: GAO is authorized to evaluate the results of programs and activities of federal agencies. Reviews are based upon the initiative of the Comptroller General, an order from either House of Congress, or a request from a committee with jurisdiction.

31 U.S.C. 3523: This provision authorizes GAO to audit financial transactions of each agency, except as specifically provided by law.

31 U.S.C. 3524: This section authorizes GAO to audit unvouchered accounts (*i.e.*, those accounted for solely on the certificate of an executive branch official). The President may exempt sensitive foreign intelligence and counterintelligence transactions. CIA expenditures on objects of a confidential, extraordinary, or emergency nature under 50 U.S.C. 403j(b) are also exempt. Transactions in these categories may be reviewed by the intelligence committees.

GAO'S ACCESS-TO-RECORDS AUTHORITY

31 U.S.C. 716: GAO has a broad right of access to agency records. Subsection 716(a) requires agencies to give GAO information it requires about the "duties, powers, activities, organization, and financial transactions of the agency." This provision gives GAO a generally unrestricted right of access to agency records. GAO in turn is required to maintain the same level of confidentiality for the information as is required of the head of the agency from which it is obtained.

Section 716 also gives GAO the authority to enforce its requests for records by filing a civil action in federal district court. Under the enforcement provisions in 31 U.S.C. 716(d)(1), GAO is precluded from bringing a civil action to compel the production of a record if:

1. the record relates to activities the President designates as foreign intelligence or counterintelligence (see Executive Order No. 12333, defining these terms);
2. the record is specifically exempted from disclosure to GAO by statute; or
3. the President or the Director of the Office of Management and Budget certifies to the Comptroller General and Congress that a record could be withheld under the Freedom of Information Act exemptions in 5 U.S.C. 552(b)(5) or (7) (relating to deliberative process and law enforcement information, respectively), and that disclosure of the information reasonably could be expected to impair substantially the operations of the government.

Although these exceptions do not restrict GAO's basic rights of access under 31 U.S.C. 716(a), they do limit GAO's ability to compel the production of particular records through a court action.

RELEVANT CIA LEGISLATION

The CIA has broad authority to protect intelligence-related information but must keep the intelligence committees fully and currently informed of the intelligence activities of the United States.

50 U.S.C. 403-3(c)(6) and 403g: Section 403-3 requires the Director of the CIA to protect "intelligence sources and methods from unauthorized disclosure. . . ." Section 403g exempts the CIA from laws "which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. With the exception of unvouchered expenditures, CIA's disclosure of information to GAO would be an authorized and proper disclosure under 31 U.S.C. 716(a).

50 U.S.C. 403j: The CIA has broad discretion to use appropriated funds for various purposes (e.g., personal services, transportation, printing and binding, and purchases of firearms) without regard to laws and regulations relating to the expenditure of government funds. The statute also authorizes the Director to establish an unvouchered account for objects of a confidential, extraordinary, or emergency nature. We recognize that the CIA's unvouchered account authority constitutes an exception to GAO's audit and access authority, but this account deals with only a portion of CIA's funding activities.

50 U.S.C. 413: This section provides a method for maintaining congressional oversight over intelligence activities within the executive branch. The statute requires the President to ensure that the intelligence committees (the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence are kept fully and currently informed of U.S. intelligence activities.

REPORT LANGUAGE

Section 1 of the Act provides that the Act may be cited as the "Intelligence Community Audit Act of 2006".

Section 2(a) of the Act adds a new Section (3523a) to title 31, United States Code, with respect to the Comptroller General's authority to audit or evaluate activities of the intelligence community. New Section

3523a(b)(1) reaffirms that the Comptroller General possesses, under his existing statutory authority, the authority to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community and to obtain access to records for the purposes of such audits and evaluations. Such work could be done at the request of the congressional intelligence committees or any committee of jurisdiction of the House of Representatives or Senate (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), or at the Comptroller General's initiative, pursuant to the existing authorities referenced in new Section 3523a(b)(1).. New Section 3523a(b)(2) further provides that these audits and evaluations under the Comptroller General's existing authority may include, but are not limited to, matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management. These audits and evaluations would be accompanied by the safeguards that the Government Accountability Office (GAO) has in place to protect classified and other sensitive information, including physical security arrangements, classification and sensitivity reviews, and restricted distribution of certain products.

This reaffirmation is designed to respond to Executive Branch assertions that GAO does not have the authority to review activities of the intelligence community. To the contrary, GAO's current statutory audit and access authorities permit it to evaluate a wide range of activities in the intelligence community. To further ensure that GAO's authorities are appropriately construed in the future, the new Section 3523a(e), which is described below, makes clear that nothing in this or any other provision of law shall be construed as restricting or limiting the Comptroller General's authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.

New Section 3523a(c)(1) provides that Comptroller General audits or evaluations of intelligence sources and methods, or covert actions may be undertaken only upon the request of the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives. This limitation is intended to recognize the heightened sensitivity of audits and evaluations relating to intelligence sources and methods, or covert actions.

The new Section 3523a(c)(2)(A) provides that the results of such audits or evaluations under Section 3523a(c) may be disclosed only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Since the methods GAO uses to communicate the results of its audits or evaluations vary, this provision restricts the dissemination of GAO's findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to only the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Similarly, under new Section 3523a(c)(2)(B), the Comptroller General may only provide information obtained in the course of such an audit or evaluation to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

The new Section 3523a(c)(3)(A) provides that notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to perform audits and evaluations pursuant to Section 3523a(c). The Comptroller General's access extends to any records which belong to, or are in the possession and control of, the element of the intelligence community regardless of who was the original owner of such information. Under new Section 3523a(c)(3)(B), the Comptroller General may enforce the access rights provided under this subsection pursuant to section 716 of title 31. However, before the Comptroller General files a report pursuant to 31 U.S.C. 716(b)(1), the Comptroller General must consult with the original requestor concerning the Comptroller General's intent to file a report.

The new Section 3523a(c)(4) reiterates the Comptroller General's obligations to protect the confidentiality of information and adds special safeguards to protect records and information obtained from elements of the intelligence community for audits and evaluations performed under Section 3523a(c). For example, pursuant to new Section 3523a(c)(4)(B), the Comptroller General is to maintain on site, in facilities furnished by the element of the intelligence community subject to audit or evaluation, all workpapers and records obtained for the audit or evaluation. Under new Section 3523a(c)(4)(C), the Comptroller General is directed, after consulting with the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, to establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General under Section 3523a(c). Under new Section 3523a(c)(4)(D), prior to initiating an audit or evaluation under Section 3523a(c), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element of the intelligence community with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearances.

The new Section 3523a(d) provides that elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

The new Section 3523a(e) makes clear that nothing in this or any other provision of law shall be construed as restricting or limiting the Comptroller General's authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.

S. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Community Audit Act of 2006".

SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUATIONS OF ACTIVITIES OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REAFFIRMATION OF AUTHORITY; AUDITS OF INTELLIGENCE COMMUNITY ACTIVITIES.—Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

"§3523a. Audits of intelligence community; audit requesters

"(a) In this section, the term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(b) Congress finds that—

"(1) the authority of the Comptroller General to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community under sections 712, 717, 3523, and 3524, and to obtain access to records for purposes of such audits and evaluations under section 716, is reaffirmed; and

"(2) such audits and evaluations may be requested by any committee of jurisdiction (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), and may include but are not limited to matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing (including information sharing by and with the Department of Homeland Security), and change management.

"(c)(1) The Comptroller General may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon request of the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives.

"(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the results of such audit or evaluation only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

"(B) The Comptroller General may only provide information obtained in the course of an audit or evaluation under paragraph (1) to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

"(3)(A) Notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to conduct audits and evaluations under paragraph (1).

"(B) If in the conduct of an audit or evaluation under paragraph (1), an agency record is not made available to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of that section.

"(4)(A) The Comptroller General shall maintain the same level of confidentiality for a record made available for conducting an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community element that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such records.

"(B) All workpapers of the Comptroller General and all records and property of any element of the intelligence community that the Comptroller General uses during an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

"(C) After consultation with the Select Committee on Intelligence of the Senate and with the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an audit or evaluation under paragraph (1).

"(D) Before initiating an audit or evaluation under paragraph (1), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records, and information of the element of the intelligence community shall be made available in conducting the audit or evaluation.

"(d) Elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

"(e) Nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

"3523a. Audits of intelligence community; audits and requesters.".

By Mr. OBAMA (for himself and Mrs. CLINTON):

S. 3969. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Poisoning Reduction Act of 2006. I am pleased that Senator CLINTON is joining me in this effort.

Lead is a poison we have known about for a long time. Studies have long linked lead exposure to learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. Lead is particularly damaging to children because their developing brains are more susceptible to harm.

A study released last week found that children with even very low levels of lead exposure have four times the risk of attention-deficit hyperactivity disorder (ADHD) than normal and that childhood lead exposure leads to 290,000 cases of ADHD.

The major source of lead exposure among U.S. children is lead-based paint. In 1978, the Consumer Product Safety Commission recognized this hazard and banned leaded paints. But today, 30 years later, about 24 million older homes, and millions of other buildings, have deteriorating lead paint and elevated levels of lead-contaminated dust.

We know how children are typically exposed. We know what the health effects from exposure are. And we know how to fix the source of the exposure. The one thing we don't know how to do is reverse the brain damage once it has occurred. So, otherwise healthy children wind up facing a lifetime of disadvantage because we have failed to eradicate this insidious problem.

Every day, millions of American parents drop their children off at child care facilities on their way to work. Nearly 12 million children under age 5 spend 40 hours a week in child care. And every day, many of those children in older buildings may be exposed to lead poisoning.

While many child care facilities have taken steps to ensure sources of potential lead exposure are eliminated, too many operate in older buildings that need repair or remodeling, to ensure these sources are contained. These facilities may be in wealthy communities, but more often than not, they are in poor communities where parents have few choices for child care. I'm sure many of these facilities would fix the problem if they only had the resources.

The Lead Poisoning Reduction Act protects our children in two ways.

First, the bill establishes a five-year, $42.6 million grant program to help communities reduce lead exposure in facilities such as day care centers, Head Start centers, and kindergarten classrooms where young children spend a great deal of time. Communities could use the funds for testing, abatement, and communicating the risks of lead to children and parents.

Second, the bill requires the Environmental Protection Agency to establish regulations to eliminate sources of lead exposure in child care facilities, starting with new facilities in 18 months and all facilities in five years.

It's a straightforward fix to a straightforward problem. I hope my colleagues join me in helping to create lead-safe environments in all child care facilities.

Mrs. CLINTON. Mr. President, I join my colleague, Senator OBAMA, in support of the Lead Poisoning Reduction Act of 2006. This legislation would close an important gap in primary prevention strategies by providing critical resources to make all nonhome-based childcare facilities and Head Start Programs lead-safe within 5 years.

Lead is highly toxic and continues to be a serious, persistent, and entirely preventable threat to the health and well-being of our children. Lead poisoning continues to pose an unacceptable environmental health risk to infants, children, and pregnant women in the United States, particularly in minority and low-income communities. A CDC survey conducted between 1999 and 2002, estimated that 310,000 American children under 6 were at risk for exposure to harmful lead levels in United States. Childhood lead poisoning has been linked to impaired growth and function of vital organs and problems with intellectual and behavioral development. A study from the New England Journal of Medicine also found that children suffered up to a 7.4-percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

It is critical that we remove lead hazards where our children live, learn, and play. We especially need to eliminate these risks and hazards that continue to persist in childcare facilities and schools. Nearly 12 million children under age 5 spend 40 hours a week in childcare. Lead paint in older buildings is a primary source of exposure, but significant lead exposure can also come from tap water. The Department of Housing and Urban Development estimates that about 14,200 childcare facilities have considerable lead-based hazards present. In addition, a recent report by the U.S. Government Accountability Office, GAO, identified significant, systemic problems with the way in which the Environmental Protection Agency, EPA, monitors and regulates the levels of lead in our Nation's drinking water, including a complete lack of reliable data on which to make assessments and decisions. The GAO study found that few schools and childcare facilities nationwide have tested their water for lead, and no focal point exists at either the national or State level to collect and analyze test results. Few States have comprehensive programs to detect and remediate lead in drinking water at schools and childcare facilities. Only five States have required general lead testing for schools, and of those, only four require childcare facilities to test for lead when obtaining or renewing their licenses. Almost half the States reported having no lead efforts of any kind. State and local officials need more information on the pervasiveness of lead contamination to know how best to address the issue.

Each year in New York State an additional 10,000 children under the age of 6 years are newly identified as having elevated blood lead levels, and over 200,000 children in New York have had documented lead poisoning between 1992 to 2004. Exposure to lead results in increased expenses each year for New York in the form of special educational and other educational expenses, medical care for lead-poisoned children, and expenditures for delinquent youth and others needing special supervision. It is estimated that these increased expenses, as well as lost earnings, exceed $4 billion annually. New York City and Rochester have been at the forefront of grassroots efforts to combat lead poisoning, and this bill would provide important resources and incentives to implement their model programs nationwide.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MURKOWSKI):

S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the "Fiscal Accountability, Integrity and Responsibility in SCHIP" or FAIR–SCHIP Act. I am pleased to be joined in this effort by Senator JOHNNY ISAKSON, R–GA, Senator SAXBY CHAMBLISS, R–GA, SENATOR RICHARD BURR, R–NC and Senator LISA MURKOWSKI, R–AK. This legislation is a targeted one year approach to addressing a looming problem in the State Children's Health Insurance Program (SCHIP).

According to estimates prepared by the Congressional Research Service, as many as 17 States will run out of SCHIP funds in 2007. Several States will run shortfalls in the hundreds of millions of dollars. These shortfalls will result in States having to limit the coverage available to low-income children. These shortfalls are deep and they will get deeper.

One of my principal objectives in the 110th Congress will be to reauthorize the SCHIP program. There are a number of compelling issues associated with the SCHIP program that will require thoughtful review and discussion by Members of Congress.

Reauthorization will not be easy. Legislating on an issue as complex and sensitive as children's health care is never easy. However, if the Congress does not act to address some of these policies as well as the SCHIP formula, one thing is certain: The current State entitlement is not sufficient, in the long term, to cover the costs of maintaining the current level of coverage provided by the States.

I am aware of legislation introduced in the Senate and the House that would simply appropriate additional funds to cover the SCHIP shortfalls. This is not a viable option.

If the Congress perpetuates a scenario where the SCHIP funding formula is not improved and other programmatic changes are not enacted, yet State SCHIP shortfalls covered year after year, there will be no practical difference between SCHIP, which is a capped allotment, and Medicaid, which is an open ended entitlement.

I do not believe there is majority support for turning the SCHIP program into an entitlement program. I am concerned what going down a path that essentially does treat SCHIP as a de facto entitlement program means for the long standing viability of SCHIP. Therefore, the approach envisioned in FAIR–SCHIP takes a balanced, moderate approach to addressing this issue.

FAIR–SCHIP recognizes that additional resources will be needed if States are to be able to continue to provide the current level of coverage for children.

FAIR–SCHIP also recognizes that funding under the SCHIP programs can be more equitably distributed.

FAIR–SCHIP takes a moderate, balanced approach by appropriating approximately half of the estimated Fiscal Year 07 shortfall.

FAIR–SCHIP also includes a modest redistribution scenario that would occur in the second half of the fiscal year and only affect the 05 allotments of States which have a 200 percent surplus of SCHIP funds, relative to their projected 07 spending.

. FAIR–SCHIP is a fiscally sound, responsible approach to the issue of SCHIP shortfalls that will position the Congress to achieve important programmatic improvements in the 110th Congress, when the SCHIP program will need to be reauthorized. .

I ask unanimous consent that the text of the bill be printed in the RECORD.

I hope my colleagues will support the approach envisioned by FAIR–SCHIP.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiscal Accountability, Integrity; and Responsibility in SCHIP Act of 2006"or the "FAIR-SCHIP Act of 2006".

SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS FOR FISCAL YEAR 2007.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES TO ADDRESS FISCAL YEAR 2007 SHORTFALLS.—

"(1) INITIAL DOWN PAYMENT ON SHORTFALL FOR FISCAL YEAR 2007.—The provisions of subsection (d) shall apply with respect to fiscal year 2007 in the same manner as they apply to fiscal year 2006, except that, for purposes of this paragraph—

"(A) any reference to 'fiscal year 2006', 'December 16, 2005', '2005', '2004', 'September 30, 2006' and 'October 1, 2006' shall be deemed a reference to 'fiscal year 2007', 'December 16 2006', '2006', '2005', 'September 30, 2007' and 'October 1, 2007' respectively;

"(B) there shall be substituted for the dollar amount specified in subsection (d)(1), and shall be treated as the amount appropriated under such subsection, $450,000,000;

"(C) paragraphs (3)(B) and (4) of subsection (d) shall not apply (and paragraph (4) of this subsection shall apply in lieu of paragraph (4) of such subsection);

"(D) if the dollar amount specified in subparagraph (B) is not at least equal to the total of the shortfalls described in subsection (d)(2) (as applied under this paragraph), the amounts under subsection (d)(3) (as applied under this paragraph) shall be ratably reduced.

"(2) FUNDING REMAINDER OF SHORTFALL FOR FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF CERTAIN UNUSED FISCAL YEAR 2005 ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall provide for a redistribution under subsection (f) from amounts made available for redistribution under paragraph (3), to each shortfall State described in subparagraph (B) that is one of the 50 States or District of Columbia, such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State.

"(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of March 31, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

"(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

"(ii) the amount, if any, that is to be redistributed to the State during fiscal year 2007 in accordance with subsection (f) (other than under this paragraph);

"(iii) the amount of the State's allotment for fiscal year 2007; and

"(iv) the amount of any additional allotment to the State under paragraph (1).

"(C) PRORATION RULE.—If the amounts available for redistribution under paragraph (3) are less than the total amounts computed under subparagraph (A), the amount computed under subparagraph (A) for each shortfall State shall be reduced proportionally.

"(3) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST HALF OF FISCAL YEAR 2007.—

"(A) IDENTIFICATION OF STATES.—The Secretary—

"(i), shall identify those States that received an allotment for fiscal year 2005 under subsection (b) which have not expended all of such allotment by March 31, 2007; and

"(ii) for each such State shall determine—

"(I) the portion of such allotment that was not so expended by such date; and

"(II) whether the State is a described in subparagraph (B).

"(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a State for which the Secretary determines, as of March 31, 2007, the total of all available allotments under this title as of such date, is at least equal to 200 percent of the total projected expenditures under this title for the State for fiscal year 2007.

"(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY.—

"(i) APPLICATION TO PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the percentage specified by the Secretary in clause (ii) of the amount described in subparagraph (A)(ii)(I) shall not be available for expenditure on or after April 1, 2007.

"(ii) PERCENTAGE SPECIFIED.—The Secretary shall specify a percentage which—

"(I) does not exceed 75 percent; and

"(II) when applied under clause (i) results in the total of the amounts under such clause equaling the total of the amounts under paragraph (2)(A).

"(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children or child health assistance or other health benefits coverage for pregnant women.

"(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the determinations made under paragraphs (2) and (3) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the percentage specified in paragraph (3)(C)(ii) exceed 75 percent.

"(6) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—

"(A) IN GENERAL.—Notwithstanding subsections (e) and (f), amounts allotted or redistributed to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the State through September 30, 2007, and any amounts of such allotments or redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f). Nothing in the preceding sentence shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (2) and (3) in accordance with paragraph (5).

"(B) REVERSION UPON TERMINATION OF RETROSPECTIVE ADJUSTMENT PERIOD.—Any amounts of such allotments or redistributions that remain unexpended as of September 30, 2007, shall revert to the Treasury on December 31, 2007.".

(b) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "or 2005" and inserting "2005, 2006, or 2007".

By Mr. BINGAMAN:

S. 3975. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the "Community Health Workers Act of 2006," would improve access to health education and outreach services to women in medically underserved areas, including the U.S. border region along New Mexico.

Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the access problem is in part due to a lack of insurance, it is also attributable to non-financial barriers to access. These barriers include a shortage of physicians and other health professionals, and hospitals; inadequate transportation; a shortage of bilingual health information and health providers; and culturally insensitive systems of care.

This legislation would help to address the issue of access by providing $15 million per year for a three year period in grants to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Recognizing factors such as poverty and language and cultural differences that often serve as barriers to health care access in medically underserved populations, community health workers are in a unique position to improve health outcomes and quality of care for groups that have traditionally lacked access to adequate services. They often serve as "community specialists" and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

A shining example of how community health workers serve their communities, a group of so-called "promotoras" in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with FEMA to find, inform and register flood victims for Federal disaster assistance. Their personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA's community outreach efforts. The promotoras of Dona Ana County demonstrate the important role community health workers could play in communities across the nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, a study by Dr. Glenn Flores, "Community-Based Case Management in Insuring Uninsured Latino Children," published in the December 2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to access, including insufficient knowledge about application processes and eligibility criteria, language barriers and family mobility issues, among others. This study confirms that community health workers could be highly effective in reducing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the Children's Health Insurance Program, SCHIP.

According to a 2003 Institute of Medicine, IOM, report entitled, "Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare," community health workers offer promise as a community-based resource to increase racial and ethnic minorities' access to health care and to serve as a liaison between healthcare providers and the communities they serve."

Although the community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that "programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated."

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities.

I ask unanimous consent that the text of the bill and Dr. Flores' study on community-based case management be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Health Workers Act of 2006".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Chronic diseases, defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and over 30 percent are classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved populations.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents with limited access or underutilization of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399P. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

"(a) Grants Authorized.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women in target populations, especially racial and ethnic minority women in medically underserved communities.

"(b) Use of Funds.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

"(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

"(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

"(A) poor nutrition;

"(B) physical inactivity;

"(C) being overweight or obese;

"(D) tobacco use;

"(E) alcohol and substance use;

"(F) injury and violence;

"(G) risky sexual behavior; and

"(H) mental health problems;

"(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

"(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act and Medicaid under title XIX of such Act;

"(5) to promote community wellness and awareness; and

"(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

"(c) Application.—

"(1) In general.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) Contents.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought;

"(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

"(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

"(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

"(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

"(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

"(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

"(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

"(d) Priority.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

"(1) who propose to target geographic areas—

"(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

"(B) with a high percentage of families for whom English is not their primary language; and

"(C) that encompass the United States-Mexico border region;

"(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

"(3) with documented community activity and experience with community health workers.

"(e) Collaboration With Academic Institutions.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

"(f) Quality Assurance and Cost-Effectiveness.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

"(g) Monitoring.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (f).

"(h) Technical Assistance.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

"(i) Report to Congress.—

"(1) In general.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

"(2) Contents.—The report required under paragraph (1) shall include the following:

"(A) A description of the programs for which grant funds were used.

"(B) The number of individuals served.

"(C) An evaluation of—

"(i) the effectiveness of these programs;

"(ii) the cost of these programs; and

"(iii) the impact of the project on the health outcomes of the community residents.

"(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

"(E) Recommendations regarding training to enhance career opportunities for community health workers.

"(j) Definitions.—In this section:

"(1) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

"(A) by serving as a liaison between communities and health care agencies;

"(B) by providing guidance and social assistance to community residents;

"(C) by enhancing community residents' ability to effectively communicate with health care providers;

"(D) by providing culturally and linguistically appropriate health or nutrition education;

"(E) by advocating for individual and community health or nutrition needs; and

"(F) by providing referral and followup services.

"(2) COMMUNITY SETTING.—The term 'community setting' means a home or a community organization located in the neighborhood in which a participant resides.

"(3) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means a community identified by a State—

"(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

"(B) a significant portion of which is a health professional shortage area as designated under section 332.

"(4) SUPPORT.—The term 'support' means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

"(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007, 2008, and 2009.".

A RANDOMIZED, CONTROLLED TRIAL OF THE EFFECTIVENESS OF COMMUNITY-BASED CASE MANAGEMENT IN INSURING UNINSURED LATINO CHILDREN

(By Flores, MD; Milagros Abreu, MD; Christine E. Chaisson, MPH; Alan Meyers, MD, MPH; Ramesh C. Sachdeva, MD, PhD, MBA; Harriet Fernandez, BA; Patricia Francisco, BA; Beatriz Diaz, BA; Ana Milena Diaz, BA; and Iris Santos-Guerrero, BA)

Abstract. Background. Lack of health insurance adversely affects children's health. Eight million U.S. children are uninsured, with Latinos being the racial/ethnic group at greatest risk for being uninsured. A randomized, controlled trial comparing the effectiveness of various public insurance strategies for insuring uninsured children has never been conducted.

Objective. To evaluate whether case managers are more effective than traditional methods in insuring uninsured Latino children.

Design. Randomized, controlled trial conducted from May 2002 to August 2004.

Setting and Participants. A total of 275 uninsured Latino children and their parents were recruited from urban community sites in Boston.

Intervention. Uninsured children were assigned randomly to an intervention group with trained case managers or a control group that received traditional Medicaid and State Children's Health Insurance Program (SCHIP) outreach and enrollment. Case managers provided information on program eligibility, helped families complete insurance applications, acted as a family liaison with Medicaid/SCHIP, and assisted in maintaining coverage.

Main Outcome Measures. Obtaining health insurance, coverage continuity, the time to obtain coverage, and parental satisfaction with the process of obtaining insurance for children were assessed. Subjects were contacted monthly for 1 year to monitor outcomes by a researcher blinded with respect to group assignment.

Results. One hundred thirty-nine subjects were assigned randomly to the intervention group and 136 to the control group. Intervention group children were significantly more likely to obtain health insurance (96% vs 57%) and had less than 8 times the adjusted odds (odds ratio: 7.78; 95% confidence interval: 5.20–11.64) of obtaining insurance. Seventy-eight percent of intervention group children were insured continuously, compared with 30% of control group children. Intervention group children obtained insurance significantly faster (mean: 87.5 vs 134.8 days), and their parents were significantly more satisfied with the process of obtaining insurance.

Conclusions. Community-based case managers are more effective than traditional Medicaid/SCHIP outreach and enrollment in insuring uninsured Latino children. Case management may be a useful mechanism to reduce the number of uninsured children, especially among high-risk populations. Pediatrics 2005; 116:1433-11441; insurance, Latino, Medicaid, medically uninsured, child health services, community health services.

There were 8.4 million children without health insurance coverage in the United States in 2003, equivalent to 11.4% of children 0 to 17 years old. Latino children have the highest risk of being uninsured of any racial/ethnic group of U.S. children, with 21% of Latino children being uninsured, compared with 7% of non-Latino white children, 14% of African American children, and 12% of Asian/Pacific Islander children. Other documented risk factors among children for having no insurance include poverty and noncitizen status of the parent and child.

Compared with children who have health insurance, uninsured children have less access to health care, are less likely to have a regular source of primary care, and use medical and dental care less often. Uninsured children are significantly more likely than insured children to be in poor or fair health; to not have a regular physician or other medical provider, to have made no medical visit in the past year, to be immunized inadequately, to experience adverse hospital outcomes as newborns, and to have higher mortality rates associated with trauma and coarctation of the aorta.

To expand insurance coverage for uninsured children, Congress enacted the State Children's Health Insurance Program (SCHIP) in 1997. This program targets uninsured children <19 years old with family incomes <200% of the federal poverty level who are ineligible for Medicaid and are not covered by private insurance. SCHIP is a matched block grant program that allocates more than $39 billion in federal funds over 10 years. It provides for states to increase coverage of uninsured children by raising the income limits of the Medicaid program so that more children are eligible, by creating a new state insurance program separate from Medicaid, or by implementing both measures. Multiple studies have documented that previously uninsured children experience significant increases in both access to health care and more appropriate use of services after enrollment in SCHIP and Medicaid.

Since the inception of SCHIP enrollment in January 1998, SCHIP has provided coverage to 3.9 million children, and the proportion of uninsured US children has decreased from 15.4 percent to 11.4 percent. In the past 4 years, however, the numbers and proportions of uninsured children essentially have not changed, wavering between 8.4 and 8.6 million and 11.4 percent to 11.9 percent, respectively. It has been estimated that well over one half of uninsured children (~5 million) are eligible for Medicaid or SCHIP, which suggests that more-effective outreach and enrollment strategies are needed. Indeed, recent research indicates that SCHIP may be failing to reach the "hardest-to-reach" subpopulations of uninsured children, such as Latinos and those who have never been insured.

A randomized, controlled trial has never been performed comparing traditional SCHIP and Medicaid outreach and enrollment versus alternative strategies in terms of their effectiveness in insuring uninsured children. Recent research revealed that the parents of uninsured Latino children viewed community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children. The aim of this study, therefore, was to conduct a randomized, controlled trial comparing community-based case management with traditional SCHIP and Medicaid outreach and enrollment with respect to their effectiveness in insuring uninsured Latino children.

METHODS

Study Participants

Enrollment occurred from May 14, 2002, to September 30, 2003. Study participants were uninsured Latino children and their parents from 2 communities in the greater Boston area confirmed in prior research to have large proportions of both uninsured children and Latino children, ie, East Boston, where 37 percent of Latino children were found to be uninsured in prior studies and 39 percent of the population is Latino, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 24 percent of the population is Latino. Eligibility criteria included the following: (1) the child was 0 to 18 years old, (2) the child had no health insurance coverage and had been uninsured for ≥ 3 months (unless the child was an infant who had never been insured), (3) the parent identified her or his uninsured child's ethnicity as Latino, (1) the parent's primary language was English or Spanish, and (5) the parent was willing to be contacted monthly by telephone or through a home visit by research personnel (if no functioning telephone was present in the household). The focus of the intervention was Latino children because they are the racial/ethnic group of US children at greatest risk for being uninsured. When > 1 child in a family was uninsured, the youngest child was enrolled in the study as the "index" child (to ensure consistency), and data were collected only for that child.

Study participants were recruited primarily from the following community sites in East Boston and Jamaica Plain, which were confirmed in prior studies to have many eligible potential participants willing to take part in research: supermarkets, bodegas, self-service laundries, beauty salons, and churches. The remaining participants were recruited through referral by other participants and in response to notices posted at consulates and schools. Community sites for recruitment were selected to obtain samples of parents consisting of both documented and undocumented families in proportions reflecting the population in each community. This sampling method was chosen because traditional census block methods have the potential to undercount undocumented children and their families, given their fear of deportation when a stranger appears at the front door of a dwelling. The primary caretaker (herein referred to as the parent) of each uninsured child enrolled in the study received a $50 participation honorarium at enrollment and a $5 honorarium after each monthly follow-up contact.

Written informed parental consent (in English or Spanish, depending on parental preference) was obtained for all children enrolled. To avoid selection bias against parents with low literacy levels, parents could request that the written informed consent form be read to them by research personnel, in English or Spanish, before they signed the form. The study was approved by the institutional review boards of Boston Medical Center and the Children's Hospital of Wisconsin.

Baseline Assessments

Parents of eligible children completed a brief, verbally administered screening questionnaire (in English or Spanish, according to parental preference) to confirm eligibility, determine relevant baseline characteristics, and record contact information. Data were collected on the ages of the child and parent, the self-identified Latino subgroup, the number of years the parent had lived in the United States, parental English proficiency, the highest level of parental education, the employment status of the parent and spouse (if currently living in the same household), the annual combined family income, and the citizenship status of the parent. Additional information collected included the names of the parent and child, whether there was a functioning telephone in the household, the telephone number, the preferred alternate telephone number of friends or family members (if there was no functioning telephone in the household), and the family's address.

Randomization

Subjects were allocated to the case management intervention group or the control group with a computer-generated, stratified, randomization process. Stratified randomization ensures that compared maneuvers in a randomized trial are distributed suitably among pertinent subgroups. Randomization was stratified by community site, with separate allocation schedules prepared for participants from East Boston and Jamaica Plain. The randomization schedule was prepared with the RANUNI function of SAS software, version 8.2. Sequentially numbered, opaque, sealed envelopes were produced for each community site, to ensure adequate allocation concealment. Potential participants were informed that, depending on the randomization, some parents would get a case manager free of charge, who would help families obtain health insurance for their children, whereas other parents would get no case manager and would just be contacted monthly. Bilingual Latina research assistants who did not participate in any aspect of preparation of randomization schedules opened the envelopes in the presence of enrolled participants, to inform them of their group assignment. Parents of uninsured children allocated to the intervention group immediately were assigned a bilingual, Latina, community-based, case manager (the research assistant who opened the randomization envelope with the parent became the case manager for children assigned to the intervention group).

Study Intervention

Case managers performed the following functions for intervention group children and their families: (1) providing information on the types of insurance programs available and the application processes; (2) providing information and assistance on program eligibility requirements; (3) completing the child's insurance application with the parent and submitting the application for the family; (4) expediting final coverage decisions with early frequent contact with the Division of Medical Assistance (DMA) (the state agency administering Medicaid in Massachusetts) or the Department of Public Health (DPH) (the state agency responsible for the Children's Medical Security Plan [CMSP], which insures nonMedicaid-eligible children in Massachusetts, including noncitizens); (5) acting as a family advocate by being the liaison between the family and DMA or DPH; and (6) rectifying with DMA and DPH situations in which a child was inappropriately deemed ineligible for insurance or had coverage inappropriately discontinued.

All case managers received a 1-day intensive training session on major obstacles to insuring uninsured children reported by Latino parents in 6 focus groups, parents' perspectives on how a case manager would be most useful in assisting with the process of insuring uninsured children, completing the Medical Benefit Request (the single application used to enroll children in MassHealth [Medicaid in Massachusetts] and CMSP), following up on submitted applications, obtaining final coverage decisions, disputing applications that were rejected or deemed ineligible, and the study protocol for subject recruitment, enrollment, consent, and follow-up monitoring. These training sessions were held in collaboration with representatives from DMA and DPH. Case managers also received the following training: a 1-week session on MassHealth eligibility requirements conducted by DMA, a 4–hour session on insurance eligibility rules conducted by a DPH outreach coordinator, a 2–hour session on MassHealth managed care programs and rules, a 1-day session on CMSP conducted by a DPH representative, a 1-day seminar on insurance programs and general assistance for impoverished families conducted by Health Care for All (a nonprofit organization dedicated to improving access to health care for all people in the state of Massachusetts), monthly DMA technical forums on MassHealth, and 1 week of supervised case manager training in the community.

The case managers were bilingual Latina women (of Dominican, Puerto Rican, Mexican, or Colombian ethnicity) between 22 and 36 years old. All had graduated from high school, some had obtained college degrees, and 1 had postgraduate training. None had any prior experience working as case managers insuring uninsured children. They were recruited through job listings posted in the employment offices of local Boston colleges and universities.

Control Group

Control group subjects received no intervention other than the SCHIP standard-of-care outreach and enrollment efforts administered by the MassHealth and CMSP programs. In Massachusetts, DMA has stated that they "have made every effort to implement broad-based outreach activities designed to draw attention of families, teachers, child care workers, health providers, youth and community organizations to enhanced opportunities in the Commonwealth for obtaining health insurance." These efforts include the use of (1) direct mailings, press releases, newspaper inserts, health fairs, and door-to-door canvassing of target neighborhoods; (2) special attempts to reach Latino communities, such as radio advertisements on Spanish-language programs and bilingual flyers; (3) mini-grants to community organizations to provide outreach and assistance with applications; and (4) a toll-free telephone number for applying for health benefits.

Outcome Measures

Using standardized telephone interview methods, a trained bilingual Latina research assistant who was blinded to participant group assignment obtained outcome data from the parents monthly for 11 months, beginning 1 month after the date of study enrollment. The research assistant also made home visits to families that lacked telephones in the household and to those that did not respond to ≥ 10 attempted telephone contacts. To ensure ongoing rigorous blinding, we asked parents not to reveal their group assignment at any time to the outcomes research assistant (and the blinded research assistant reported that no parents revealed their child's group assignment during the study).

The primary outcome measure was the child obtaining health insurance coverage, as determined in an interview with the parent and confirmed, when possible, through inspection of the coverage notification letter received by the family. Three secondary outcomes also were assessed. The number of days from study enrollment to obtaining coverage was determined by using the interval between the date of the participant's study enrollment and the date on which the parent reported being notified officially that the child had obtained coverage. Episodic coverage was defined as obtaining but then losing insurance coverage at any time during the 12–month follow-up period and was determined through parental report and inspection of written notification. Parental satisfaction with the process of obtaining coverage for the child was determined by asking the parent, "How satisfied were you with the process of trying to obtain health insurance coverage for your child?" Parents responded by using a 5–point Likert scale (1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied). Overall parental satisfaction (regardless of whether insurance coverage was obtained) was determined during the final (11th month) follow-up contact. In addition, for the subset of children who obtained insurance, we assessed parental satisfaction during the first monthly follow-up contact after the child obtained coverage. All survey instruments were translated into Spanish and then back-translated by a separate observer, to ensure reliability and validity.

Statistical Analyses

All data analyses were performed as intention-to-treat analyses with SAS software, version 8.2. Prestudy calculations with the χ^2 test of equal proportions indicated that a sample size in each study arm of 90 participants provided 90 percent power to detect a 20 percent difference in the rates of insuring uninsured children (assuming that 10 percent of the control group and a minimum of 30 percent of the intervention group would be insured at the end of the study), allowing for

2-sided $\alpha = .05$ and assuming ≥1 contact during the 12-month follow-up period. The initial combined target recruitment sample of $N = 300$ assumed that up to 40 percent of participants might drop out or be lost to follow-up monitoring; subsequently, recruitment was terminated at a sample size of $N = 275$ when the attrition rate was observed to be ~17 percnt.

The baseline sociodemographic characteristics of the intervention and control groups were compared with χ^2, Fisher's exact, and t tests. All reported P values are 2-tailed, with $P < .05$ considered statistically significant. Analyses of all outcomes, including obtaining insurance, time to insurance, and satisfaction with the process of obtaining insurance, were restricted to subjects who completed ≥1 follow-up visit.

Unadjusted analyses of intergroup differences in obtaining insurance coverage (any, continuous, and sporadic) were performed with the χ^2 test. We then fitted longitudinal regression models adjusting for time and intrasubject correlations by using generalized estimating equations implemented in PROC GENMOD in the SAS software. An independent working correlation model and empirical variance estimator were used for the generalized estimating equation model.

Multivariate analyses were performed to adjust for policy changes in the MassHealth and CMSP programs that occurred during the study. In November 2002, an enrollment cap was imposed on CMSP, which resulted in a waiting list of thousands of uninsured children, and premiums were increased for both CMSP and MassHealth. On February 1, 2003, the CMSP enrollment freeze was lifted, children on the waiting list began to be enrolled in the programs, and the premium increases were reduced (but not to levels before the November 2002 policy change). Study outcomes therefore were adjusted according to when the study participant was recruited, ie, before, during, or after the restrictive policy change (with construction of a 3-level variable for which the reference group was recruitment before the policy change). Because some subjects were not affected by the policy change, a second variable also was constructed, consisting of a dummy indicator for participants affected by the policy change. Both policy change variables were included in the adjusted models. On the basis of significant intergroup differences noted in bivariate analyses (for parental employment status and state insurance policy changes) and factors previously reported to be associated with being uninsured, the final adjusted model included the following covariates: the child's age, the family's poverty status (dichotomized as an annual combined family income that was 0–100% of the federal poverty threshold for the family [individualized for each family according to the number of people in the family unit and the number of related children <18 years old in the household] at the time of the study versus an income that was above the federal poverty threshold), parental citizenship status, parental employment status, and participant recruitment in relation to policy changes in state insurance coverage options available for uninsured children.

Unadjusted analyses of the number of days from study enrollment to obtaining coverage were performed for the subset of subjects who obtained insurance with the *t* test and then for all subjects with the Kaplan-Meier method. An adjusted cumulative incidence curve for the time to obtaining insurance was then plotted. Parental satisfaction with the process of trying to obtain insurance was analyzed by coding the 5-point Likert scale results both as a categorical variable (using the χ^2 test) and as a continuous variable (using the *t* test).

RESULTS

Participants

A total of 275 uninsured Latino children (and their families) who met all enrollment criteria were identified at the 2 study sites; 139 were assigned randomly to receive the community-based case management intervention and 136 were allocated to the control group. Figure 1 summarizes the enrollment, randomization, follow-up, and data analysis for all study participants. At least 1 monthly follow-up contact was made for 97% ($n = 135$) of the intervention group and 90% ($n = 122$) of the control group, and follow-up contact 1 year after study enrollment occurred successfully for 72% ($n = 97$) of the intervention group and 62% ($n = 76$) of the control group. The 18 subjects who were assigned randomly but then were lost to follow-up monitoring or withdrew before any follow-up contacts were more likely than other subjects to have been allocated to the control group (75% in the control group vs 48% in the control group among subjects with ≥1 follow-up contact; $P < .04$), but there were no significant differences between these 2 groups in any other characteristic, including the children's age, number of children in the family, annual combined family income, or parental age, citizenship, and employment status.

There were no baseline differences between the 2 groups in the mean ages of the children or parents; annual combined family income; number of children in the family; parental ethnicity, citizenship, English proficiency, marital status, or education; mean number of subject follow-up contacts; or recruitment site (Table 1). Case management group families, however, were more likely to have ≥1 parent employed full-time, and there was a statistically significant but minor intergroup difference in the proportions of subjects recruited before, during, and after the policy change in state coverage of uninsured children, with a slightly greater proportion of intervention group subjects being recruited before the policy change and slightly greater proportions of control group children being recruited while the restrictive policy change was in effect and after reestablishment of most of the prior policy. There also was a slight but statistically significant difference in the number of subjects lost to follow-up before any follow-up interviews (3% of the intervention group vs 9% of the control group; $P = .04$).

Insurance Coverage of Children

Children who received community-based case management were substantially more likely to obtain health insurance coverage compared with children in the control group (96% vs 57%; $P < .0001$) (Table 2). Intervention group children also were significantly more likely than control group children to be insured continuously throughout the 1-year follow-up period (78% vs 30%; $P < .0001$) and significantly less likely to be insured sporadically (18% vs 27%; $P < .0001$) or uninsured continuously (4% vs 43%; $P < .0001$) during the 1-year follow-up period.

The case management group was almost 8 times more likely than the control group to obtain insurance coverage (odds ratio: 7.78; 95% confidence interval: 5.20–11.64), after multivariate adjustment for potential confounders (the child's age, family income, parental citizenship, parental employment, and the period of policy change in state coverage of uninsured children) (Table 3). The adjusted incidence curve (Fig 2) shows that the marked difference between the groups in obtaining insurance coverage emerged at ~30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and participants enrolled during the state freeze on CMSP had lower adjusted odds of obtaining insurance coverage (Table 3).

Time to Obtaining Insurance Coverage

Among the children who obtained health insurance, case management group children were insured substantially more quickly than control children (Table 2), with a mean of just under 3 months to obtain coverage, compared with a mean of >4.5 months for control children (87.5 ± 68 days for the intervention group vs 134.8 ± 102 days for the control group; $P < .0001$).

Parental Satisfaction With the Process of Obtaining Insurance

Parents of children in the intervention group were substantially more likely than parents of control group children to report being very satisfied with the process of obtaining health insurance for their child (80% vs 29%; $P < .0001$) (Table 2). Conversely, control group parents were considerably more likely than intervention group parents to report being very dissatisfied (14% vs 1%; $P < .0001$) or either dissatisfied or very dissatisfied (27% vs 3%; $P < .0001$) with the process of obtaining the child's insurance. Similar intergroup differences were observed when parental satisfaction was examined with Likert scale scores (where 1 = very satisfied and 5 = very dissatisfied); the mean satisfaction score for intervention group parents was significantly better than that for control group parents (1.3 vs 2.4; $P < .0001$). These significant intergroup satisfaction differences persisted when the analysis was restricted to subjects who had obtained insurance: at the first follow-up contact with parents of children who obtained insurance, 74% of intervention group parents but only 24% of control group parents reported being very satisfied with the process of obtaining coverage for their children ($P < .0001$), and the respective Likert scale satisfaction scores (mean ± SD) were 1.19 ± 0.46 vs 1.56 ± 0.72 ($P < .0001$).

DISCUSSION

Community-based case managers were found to be substantially more effective in obtaining health insurance for uninsured Latino children than traditional Medicaid and SCHIP outreach and enrollment. In addition, compared with control group children, children in the case management group obtained insurance coverage sooner, were more likely to be insured continuously during 1 year of follow-up, and had parents who were much more satisfied with the process of obtaining coverage for their children.

Several characteristics of the case management intervention might account for its greater effectiveness in comparison with traditional Medicaid and SCHIP outreach and enrollment. First, case managers received training and focused their efforts on addressing barriers to insuring uninsured children that had been identified specifically by Latino families in prior research, including lack of knowledge about the application process and eligibility, language barriers, immigration issues, income cutoff values and verification, hassles, pending decisions, family mobility, misinformation from insurance representatives, and system problems. Second, case managers were active agents in the process of obtaining insurance coverage for children, assisting parents with application completion and acting as a family liaison and advocate whenever complications or setbacks occurred; traditional SCHIP and Medicaid outreach and enrollment tended to be much more passive, with outreach being heavily reliant on direct mailings, flyers, radio advertisements, and toll-free telephone numbers, but frequently with little or no assistance with the enrollment process. Third, the case managers were all bilingual, bicultural Latinas, which enhanced the cultural competency of the process and eliminated the often considerable language barriers faced by Latino parents seeking to insure their uninsured children. Therefore, the evidence-based, customized, active, culturally competent features in a community-based setting distinguish this intervention from traditional case management approaches and may account for its effectiveness.

The success of the community-based case management intervention is noteworthy, given a study population characterized by multiple factors known to place children at especially high risk for being uninsured. All intervention group children were Latino, 69 percent lived in poverty, 96 percent lived in families with incomes ≤200 percent of the federal poverty threshold, only 10 percent of parents were U.S. citizens, and one fifth of parents were unemployed. These findings suggest that community-based case management might prove especially useful in regions characterized by large proportions of uninsured children who are Latino, poor, immigrants, and have parents who are unemployed. Additional research is needed to determine whether community-based case managers would be equally effective in insuring uninsured children from other racial/ethnic groups and socioeconomic strata and those with parents who are primarily U.S. citizens and employed.

The effectiveness of community-based case management suggests that it could play an important role in states with large proportions of uninsured Latino children. In Texas, for example, where 21 percent of children (equivalent to 1.4 million children) are uninsured and an estimated 56 percent of uninsured children are Latino, community-based case management potentially could insure >750000 uninsured Latino children, assuming the 96 percent effectiveness of case management observed in this study. The study findings suggest that community-based case management has the potential to be highly effective in reducing the number of uninsured children even in states such as Texas where children from undocumented families are not eligible for insurance programs; community-based case management was found to be more effective than traditional Medicaid and SCHIP outreach and enrollment even after adjustment for parental citizenship, and more than one half of all uninsured U.S. children are eligible for Medicaid or SCHIP. As demonstrated in our study, however, in states with relatively small proportions of uninsured children, such as Massachusetts, case management might prove to be an important means of insuring the hardest-to-reach populations of uninsured children who have continued to be uninsured despite 7 years of SCHIP and Medicaid expansion, such as Latinos, poor children, and those with noncitizen parents. Our study findings may be of particular relevance for states such as Florida, which, like Massachusetts, has a SCHIP program (the Florida KidCare program) that covers both citizen and qualified noncitizen children.

Certain limitations of this study should be noted. The case management intervention was studied only among Latino children; therefore, the results may not pertain to other racial/ethnic groups. The Latino subgroups represented in the study sample were typical of an urban area in the Northeast, and the findings may not be generalizable to populations with greater proportions of Mexican Americans, in other regions of the country, or in rural or suburban areas. Because the study aim was to determine the effectiveness of the case management intervention, a cost analysis was not performed, and the cost-effectiveness of the intervention could not be determined. However, we did evaluate the feasibility of conducting a cost-effectiveness analysis by collecting pilot data on 10 consecutive families enrolled in the study. Pilot data collected included the number of missed school days, the number of missed work days, out-of-pocket expenses incurred during a child's illness, the number of emergency department and clinic visits, hospitalizations, and estimates of the costs of implementing the program, including personnel salaries and time spent implementing the intervention. These pilot data suggest that a formal cost-effectiveness analysis of the intervention is feasible for this population and could be performed in future studies. Future cost-effectiveness analyses of this intervention should consider comprehensive evaluation of direct, indirect, and opportunity costs associated with implementing the case management intervention in other communities and populations.

It can be speculated that insuring children through community-based case managers might have the potential to contribute to the revitalization of impoverished Latino communities. Case management not only could effectively reduce the number of uninsured children in a community but also might serve as a means of enhancing a community's employment opportunities. The case managers could be trained individuals from the community who serve their own community, drawn from welfare-to-work and other local and state employment programs. Part of each case manager's earnings, in turn, might be spent at local businesses, resulting in a "triple effect" of reducing the number of uninsured children, increasing parental employment, and stimulating the local economy. Under this scenario, SCHIP and Medicaid programs could partner with state employment agencies to train and to hire the community case managers. As an intervention that is comprehensive, community-based, and focused on the family, community-based case management shares key features with several established family support programs considered to be effective in improving child health outcomes, such as Head Start and early intervention programs for children with special health care needs.

CONCLUSIONS

This randomized, controlled trial indicates that community-based case managers are significantly more effective than traditional SCHIP/Medicaid outreach and enrollment in insuring uninsured Latino children. Community case management seems to be a useful mechanism for reducing the number of uninsured children, especially among children most at risk for being uninsured.

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS

Characteristic	Case management (n=139)	Control (n=136)	P
Child's age, y, mean ± SD	8.9 ± 5.0	8.9 ± 4.9	.96
Parent's age, y, mean ± SD	36.7 ± 9.1	36.7 ± 8.9	.98
Annual combined family income, median (range)	$13,200 ($0–72,000)	$12,945 ($0–48,000)	.41
Annual combined family income, no. (%)[1]:			.57
0–100% of federal poverty threshold	92 (69)	86 (73)	
101–200% of federal poverty threshold	36 (27	30 (25)	
>200% of federal poverty threshold	5 (4)	2 (2)	
Number of children in family, no. (%):			.64
1	49 (35)	42 (31)	
2	52 (37)	54 (40)	
3	25 (18)	21 (15)	
≥4	13 (9)	18 (13)	
Parent's ethnicity, no. (%):			.51
Colombian	58 (42)	47 (35)	
Dominican	27 (19)	24 (18)	
Salvadoran	29 (21)	32 (24)	
Guatemalan	7 (5)	13 (10)	
Mexican	3 (2)	6 (4)	
Other	15 (11)	14 (10)	
At least 1 parent employed full-time, no. (%)	119 (86)	99 (73)	.01
Parental citizenship, no. (%):			.96
US citizen	14 (10)	15 (11)	
Legal resident	69 (51)	67 (49)	
Undocumented	56 (40)	54 (40)	
Parent limited in English proficiency, no. (%)[2]	127 (91)	126 (93)	.96
Parental marital status, no. (%):			.82
Married	63 (45)	59 (43)	
Separated	19 (14)	15 (11)	
Divorced	9 (6)	9 (7)	
Single	29 (21)	39 (29)	
Common law	16 (12)	12 (9)	
Widowed/other	3 (2)	2 (1)	
Parental educational attainment, no. (%):			.75
None/grade school	43 (31)	38 (28)	

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS—Continued

Characteristic	Case management (n=139)	Control (n=136)	P
6th to 11th grade	24 (17)	20 (15)	
High school graduate	38 (28)	44 (32)	
Some college	11 (8)	15 (11)	
College degree[3]	22 (16)	19 (14)	
Lost/withdrew from study before any follow up contact, no. (%)	4 (3)	12 (9)	04
Follow-up contacts, no., mean ±SD[4]	8.3 ±2.2	7.9 ±2.3	.14
Recruitment site, no. (%):			91
East Boston	101 (73)	98 (72)	
Jamaica Plain	38 (27)	38 (28)	
Participant recruitment in relation to policy change in state coverage of uninsured children, no. (%):			.02
Before policy change	38 (27)	20 (15)	
Restrictive change in effect	14 (10)	22 (17)	
Reestablishment of most of prior policy	87 (63)	94 (70)	

[1] Three parents in the intervention group and 18 in the control group chose not to answer questions on family income.
[2] U.S. Census definition of self-rated English-speaking ability of less than very well (ie, well, not very well, or not at all).
[3] Associate, bachelor's, or postgraduate degree.
[4] Among participants with any follow-up contacts.

TABLE 2.—STUDY OUTCOMES ACCORDING TO GROUP ASSIGNMENT

Outcome	Case management (n = 139)	Control (n = 136)	P
Child obtained health insurance coverage, %	96	57	<.0001
Continuously insured	78	30	<.0001
Sporadically insured[1]	18	27	<.0001
Child continuously uninsured, %	4	43	<.0001
Mean time to obtain insurance, d, mean ± SD	87.5 ± 68	134.8 ± 102.4	<.009
Parental satisfaction with process of obtaining child's insurance, %[2]:			
Very satisfied	80	29	<.0001
Satisfied	12	41	
Uncertain	5	4	
Dissatisfied	2	13	
Very dissatisfied	1	14	
Mean parental satisfaction score for process of obtaining child's insurance (5-point Likert scale), mean ± SD[3,4]	1.33 ± 0.77	2.40 ± 1.40	<.0001

[1] Obtained but then lost health insurance coverage.
[2] Regardless of whether child was insured or continuously uninsured, data were collected at the final 1-year follow-up contact.
[3] By Wilcoxon 2-sample test, Kruskal-Wallis test, and Cochran-Armitage trend test.
[4] Where 1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied.

TABLE 3.—MULTIPLE LOGISTIC-REGRESSION ANALYSIS OF FACTORS ASSOCIATED WITH CHILDREN OBTAINING INSURANCE COVERAGE

Independence variable	Adjusted odds ratio (95% confidence interval) for obtaining insurance coverage
Group assignment:	
Control	Referent
Case management	7.78 (5.20–11.64)
Child's age:	
0–5 y	Referent
6–11 y	0.32 (0.19–0.56)
12–18 y	0.35 (0.019–0.63)
Annual combined family income:	
At or below federal poverty threshold	Referent
Above poverty threshold	1.19 (0.70–2.02)
Parental citizenship:	
Undocumented	Referent
Legal resident	1.42 (0.82–2.44)
U.S. citizen	2.40 (0.08–7.48)
Parental employment:	
Employed	Referent
Unemployed	0.78 (0.45–1.37)
Participant recruitment in relation to policy change in state coverage of uninsured children:	
Before policy change	Referent
Restrictive change in effect	0.46 (0.22–0.99)
Reestablishment of most of prior policy	0.74 (0.45–1.21)

By Mr. DURBIN (for himself and Mr. OBAMA):

2. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, when companies make headlines today it is often for all the wrong reasons: fraud, tax avoidance, profiteering, etc. Yet many of the companies that are currently providing jobs across America are conscientious corporate citizens that strive to treat their workers fairly even as they seek to create good products that consumers want and to maximize profits for their shareholders. I believe that we should reward such companies for providing good jobs to American workers, and create incentives that encourage more companies to do likewise. The Patriot Employers bill does just that.

This legislation, which I am introducing today along with Senator OBAMA, would provide a tax credit to reward the companies that treat American workers best. Companies that provide American jobs, pay decent wages, provide good benefits, and support their employees when they are called to active duty should enjoy more favorable tax treatment than companies that are unwilling to make the same commitment to American workers. The Patriot Employers tax credit would put the tax code on the side of those deserving companies by acknowledging their commitments.

The Patriot Employers legislation would provide a tax credit equal to 1 percent of taxable income to employers that meet the following criteria:

First, invest in American jobs, by maintaining or increase the number of full-time workers in America relative to the number of full-time workers outside of America and also by maintaining their corporate headquarters in America if the company has ever been headquartered in America.

Second, pay decent wages, by paying each worker an hourly wage that would ensure that a full-time worker would earn enough to keep a family of three out of poverty, at least $8.00 per hour.

Third, prepare workers for retirement, either by providing either a defined benefit plan or by providing a defined contribution plan that fully matches at least 5 percent of worker contributions for every employee.

Fourth, provide health insurance, by paying at least 60 percent of each worker's health care premiums.

Fifth, support our troops, by paying the difference between the regular salary and the military salary of all National Guard and Reserve employees who are called for active duty, and also by continuing their health insurance coverage.

In recognition of the different business circumstances that small employers face, companies with fewer than 50 employees could achieve Patriot Employer status by fulfilling a smaller number of these criteria.

There is more to the story of corporate American than the widely-publicized wrong-doing. Patriot Employers should be publicly recognized for doing right by their workers even while they do well for their customers and shareholders. I urge my colleagues to join Senator OBAMA and me in supporting this effort. Our best companies, and our American workers, deserve nothing less.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCED TAXES FOR PATRIOT EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 45N. REDUCTION IN TAX OF PATRIOT EMPLOYERS.

“(a) IN GENERAL.—In the case of any taxable year with respect to which a taxpayer is certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

“(b) PATRIOT EMPLOYER.—For purposes of subsection (a), the term ‘Patriot employer’ means, with respect to any taxable year, any taxpayer which—

“(1) maintains its headquarters in the United States if the taxpayer has ever been headquartered in the United States,

“(2) pays at least 60 percent of each employee’s health care premiums,

“(3) if such taxpayer employs at least 50 employees on average during the taxable year—

“(A) maintains or increases the number of full-time workers in the United States relative to the number of full-time workers outside of United States,

“(B) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of three for the calendar year in which the taxable year begins divided by 2,080,

“(C) provides either—

“(i) a defined contribution plan which for any plan year—

“(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

“(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee’s compensation, or

“(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee’s compensation, and

“(D) provides full differential salary and insurance benefits for all National Guard and Reserve employees who are called for active duty, and

“(4) if such taxpayer employs less than 50 employees on average during the taxable year, either—

“(A) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of 3 for the calendar year in which the taxable year begins divided by 2,080, or

“(B) provides either—

“(i) a defined contribution plan which for any plan year—

“(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

“(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee’s compensation, or

“(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee’s compensation.”.

(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code or 1986 is amended by striking “and” at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting “, and”, and by adding at the end the following:

“(27) the Patriot employer credit determined under section 45N.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. OBAMA. Mr. President, I rise today, with my good friend and colleague, the senior Senator from the great State of Illinois, to introduce the Patriot Employers Act of 2006.

This measure is designed to help businesses and American workers seeking to compete in the global economy. By reducing corporate taxes for those firms that invest in America and American employees, the Patriot Employers Act rewards companies that, among other things, pay decent benefits, provide health coverage and support our troops by paying a full differential salary for deployed National Guard employees.

Too often we hear troubling news reports of American companies outsourcing jobs and exploiting corporate tax loopholes—by setting up incorporated offices, for example, in the Cayman Islands to avoid paying their fair share of taxes. Such companies fail to see that they are connected to the markets in which they operate, and by dodging their financial responsibilities, they are harming the very economy that they, too, will need to rely on in the future.

Recognizing these challenges, this bill says that we are going to align our corporate tax policy with the corporate practices we want to encourage.

The Patriot Employers Act cuts taxes for American companies that: maintain headquarters in the U.S.; pay at least 60 percent of employees’ healthcare premiums; maintain or increase their U.S. workforce relative to their workforce located abroad; pay an hourly rate several dollars above the outdated minimum wage; provide either a defined benefit retirement plan or a defined contribution plan with an employer match; and provide full differential salary and benefits for National Guard employees called into active duty.

It is important that our American firms remain competitive and innovate, in part by investing in the long-term health of those workers and communities in which they operate and impact. Increasing corporate shareholder value and acting in the interests of the public good are not mutually exclusive goals, and this legislation recognizes that point. All of us have a stake in improving returns to all corporate stakeholders, including investors, managers, employees, consumers, and our communities.

To this end, I am proud to be an original cosponsor of this bill and I hope that it will renew attempts by lawmakers—both legislative and otherwise—to engage productively with the business community to address their long-term market concerns while promoting the well-being of American workers. Government does not create jobs; entrepreneurs and businesses do. The future of the American economy requires that American businesses continue to grow and improve their productivity and competitiveness. It requires that American companies have the very best workforce and infrastructure to compete and win in every market they enter.

Ensuring American competitiveness will demand new thinking from leaders in business, labor, education, and government: it will demand new responses and roles, new coalitions and collaborations, among these stakeholders. Long-term American competitiveness will demand bipartisan commitment to strengthening all parts of our economy and improving opportunities for all Americans.

The Patriot Employers Act is an important step in this process. Let’s align business incentives with the investments we need in the future of the American workforce. Let’s begin the conversation about how to ensure American competitiveness for the 21st century and beyond.

I urge quick support for this important legislation.

By Mrs. CLINTON:

S. 3978. A bill to provide consumer protections for lost or stolen check cards and debit cards similar to those provided with respect to credit cards, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

Mrs. CLINTON. Mr. President, today I am introducing the Debit and Check Card Consumer Protection Act of 2006, an important piece of legislation in the battle against consumer fraud. Despite consumers’ best efforts, debit and check card fraud is a serious problem making consumer liability an important issue. Unfortunately, current consumer protection laws do not adequately protect debit and check card holders from fraud.

Over the last decade, debit and check card use has experienced double digit growth and now over 80 percent of American consumer households possess a debit or check card. This growth has outpaced that of credit cards and recent reports indicate that between 2001 and 2003 consumers made 42.5 billion transactions with debit cards, 2.3 billion more transactions than with credit cards.

While debit and check card growth benefits the American economy, consumers continually face greater challenges to prevent and protect themselves from debit and check card fraud. Recent statistics show that in 2005, ATM/debit card fraud in the United States generated losses of $2.75 billion. During the same period, ATM fraud alone affected 3 million U.S. consumers.

Despite these findings, debit and check card consumer liability protections under the law remain substandard as compared to credit cards. Under current law, debit and check card holders are liable for fraudulent transactions dependent upon when they report the fraud. In some cases the consumer can be held accountable for $500 worth of fraudulent transactions. Conversely, credit card holders who face similar consumer challenges are liable for a maximum payment of $50 and are allowed to refuse or "chargeback" a payment when goods or services fail to arrive or they are dissatisfied with a transaction. Debit and check card holders are not provided with similar "chargeback" protections. Fortunately, some debit and check card issuers provide customers with stronger liability protections; however, it is essential that consumers are assured liability protections under the law, not just through a company's policy.

The Debit and Check Card Consumer Protection Act of 2006 remedies these inconsistencies between credit card liability protections and debit and check card liability protections by simply affording the same level of protection to debit and check card users given to credit card users. This legislation is an important step in ensuring consumer protections in an economy increasingly driven by electronic commercial transactions, and I am proud that Consumers Union, one of the largest nonpartisan advocate organizations for consumer rights, has endorsed it.

The time has come to strengthen debit and check card liability protections for the American consumer, and I urge my colleagues to support this simple and commonsense remedy to a growing problem. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 3978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Debit and Check Card Consumer Protection Act of 2006".

SEC. 2. FINDINGS.

Congress finds that—

(1) debit and check card use has experienced double digit growth for longer than a decade, and more than 80 percent of American consumer households now posses a debit or check card;

(2) between 2001 and 2003, consumers made 42,500,000,000 transactions with debit cards, eclipsing credit card transactions by 2,300,000,000;

(3) as of 2003, debit cards accounted for ⅓ of all purchases in stores;

(4) in addition to the rise in debit and check card use, debit and check card fraud increasingly challenges American consumers;

(5) in 2005, debit card and ATM fraud accounted for losses of $2,750,000,000;

(6) despite that growth, statutory debit and check card consumer liability protections remain substandard, as compared to credit cards;

(7) the debit and check card industry has, in some instances, instituted liability protections that often exceed the requirements set forth under the provisions of law; and

(8) the law should be changed to ensure a continued level of liability protection.

SEC. 3. CAP ON DEBIT CARD LIABILITY.

Section 909(a) of the Electronic Funds Transfer Act (15 U.S.C. 1693g(a)) is amended—

(1) by striking "Notwithstanding the foregoing" and all that follows through "whichever is less."; and

(2) by striking "meana" and inserting "means".

SEC. 4. DEBIT CARD ERROR RESOLUTION.

Section 908(f) of the Electronic Funds Transfer Act (15 U.S.C. 1693f(f)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) a charge for goods or services not accepted by the consumer or the designee thereof, or not delivered to the consumer or the designee thereof, in accordance with the agreement made at the time of a transaction;".

SEC. 5: CONSUMER RIGHTS.

Section 908 of the Electronic Funds Transfer Act (15 U.S.C. 1693f) is amended by adding at the end the following:

"(g) Rights of Consumers With Respect to Accepted Cards.—

"(1) In general.—Subject to the limitation contained in paragraph (2), the issuer of an accepted card to a consumer shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the accepted card is used as a method of payment, if—

"(A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card;

"(B) the amount of the initial transaction exceeds $50; and

"(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card shall not be applicable to any transaction in which the person honoring the accepted card—

"(i) is the same person as the card issuer;

"(ii) is controlled by the card issuer;

"(iii) is under direct or indirect common control with the card issuer;

"(iv) is a franchised dealer in the products or services of the card issuer; or

"(v) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the accepted card issued by the card issuer.

"(2) Limitation.—The amount of claims or defenses asserted by the cardholder under this subsection may not exceed the amount paid by the cardholder with respect to the subject transaction at the time at which the cardholder first notifies the card issuer or the person honoring the accepted card of such claim or defense.".

SEC. 6. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue final regulations to carry out the amendments made by this Act, which regulations shall be consistent, to the extent practicable, with regulations issued to carry out similar provisions under the Truth in Lending Act.

By Mr. DODD (for himself, Mr. Frist, Mr. Harkin, Mrs. Clinton, Mr. Reed, and Mr. Durbin):

S. 3980. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, food allergies are an increasing food safety and public health concern in this country, especially among young children. I know first-hand just how frightening food allergies can be in a young person's life. My own family has been personally touched by this troubling condition and we continue to struggle with it each and every day. Sadly, there is no cure for food allergies.

In the past 5 years, the number of Americans with food allergies has nearly doubled from 6 million to almost 12 million. While food allergies were at one time considered relatively infrequent, today they rank 3rd among common chronic diseases in children under 18 years old. Peanuts are among several allergenic foods that can produce life-threatening allergic reactions in susceptible children. Peanut allergies have doubled among school-age children from 1997 to 2002.

Clearly, food allergies are of great concern for school-age children Nationwide, and yet, there are no Federal guidelines concerning the management of life-threatening food allergies in our Nation's schools.

I have heard from parents, teachers and school administrators that students with severe food allergies often face inconsistent food allergy management approaches when they change schools—whether they get promoted or move to a different city. Too often, families are not aware of the food allergy policy at their children's school, or the policy is vastly different from the one they knew at their previous school, and they are left wondering whether their child is safe.

Last year, Connecticut became the first State to enact school-based guidelines concerning food allergies and the prevention of life-threatening incidents in schools. I am very proud of these efforts, and I know that the parents of children who suffer from food allergies in Connecticut have confidence that their children are safe throughout the school day. Other States, such as Massachusetts, have enacted similar guidelines. Tennessee school districts are poised to implement their statewide guidelines in July. But too many States across the country have food allergy management guidelines that are inconsistent from one school district to the next.

In my view, this lack of consistency underscores the need for enactment of uniform, Federal policies that school districts can choose to adopt and implement.

For this reason, my colleague, Senator FRIST, and I introduce the Food Allergy and Anaphylaxis Management Act of 2006 today to address the growing need for uniform and consistent school-based food allergy management policy. I thank Senator FRIST for his hard work and commitment to this important legislation.

The legislation does two things. First, it directs the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop and make available voluntary food allergy management guidelines for preventing exposure to food allergens and assuring a prompt response when a student suffers a potentially fatal anaphylactic reaction.

Second, the bill provides for incentive grants to school districts to assist them with adoption and implementation of the Federal Government's allergy management guidelines in all K-12 public schools.

I wish to acknowledge and offer my sincere appreciation to the members of the Food Allergy and Anaphylaxis Network for their commitment to this legislation and for raising public awareness, providing advocacy, and advancing research on behalf of all individuals who suffer from food allergies.

I hope that my colleagues in the Senate and in the House will consider and pass this important legislation before the end of the year so that the Department of Health and Human Services can begin work on developing national guidelines as soon as possible. Schoolchildren across the country deserve nothing less than a safe and healthy learning environment.

Mr. FRIST. Mr. President, 6 years ago, my great-nephew had some peanut butter. He was 13 months old. For most 13-month-old children, this wouldn't be an issue. But for McClain Portis, it was.

You see, unbeknownst to him or his parents at the time, McClain is allergic to peanuts. When he ate that peanut butter, he had an anaphylactic reaction.

Within 30 seconds, his lips and eyes swelled shut, his face turned bright red, and he developed what is called a full body hive.

But McClain's parents were quick thinkers. They called 911, and he was soon better after a dose of epinephrine. That's what calms the anaphylactic reaction, if administered in time.

But 6 hours later, the epinephrine wore off. McClain had a biphasic reaction and had to return to the pediatrician to receive steroids. His older sister, just 4 years old at the time, asked their mother, "Is my brother going to die?"

McClain is 7 years old now—in first grade. He's an active boy, with many friends. And he enjoys school. But school hasn't been easy—for McClain or his parents.

It's that way for a lot of children with food allergies, especially when they find themselves switching schools.

I recently met another young man from Nashville—Andrew Wright. He's 14 now, and he attends the same high school from which I graduated.

He's endured food allergies nearly his entire life—but somehow the high-spirited teen keeps a positive outlook on life.

For a long time, every year he and his parents had to start from scratch. They had to teach the schools how to recognize and treat an allergic reaction. And they had to teach them about his allergens—sheep's milk, tree nuts, peanuts, and possibly shellfish. That's stressful work—for Andrew, for his parents, and even for the schools.

Andrew and McClain aren't alone in their struggles. Across the country, 3 million children suffer from food allergies.

Milk. Eggs. Fish. Shellfish. Tree nuts. Peanuts. Wheat. Soy.

Foods that most people enjoy. But these 8 foods account for 90 percent of all food allergic reactions.

And for 3 million American children, these foods frequently aren't safe. Their immune system makes a mistake. It treats something in a certain food as if it's dangerous.

The food itself isn't harmful, but the body's reaction is.

Within a few hours—or sometimes, only minutes—of consuming a food allergen, a host of symptoms can burst forth, affecting the eyes, nose, throat, respiratory system, skin, and digestive system. The reaction could be mild—or it could be more severe, like it was for my great-nephew McClain.

Food-allergic reactions are the leading cause of anaphylaxis. If left untreated for too long, anaphylaxis can prove fatal. But it's treatable—with adrenaline, or epinephrine.

In fact, studies have demonstrated an association between a delay in the administration of epinephrine—or non-administration—and anaphylaxis fatalities.

So it makes sense that we'd want schools to keep epinephrine on hand—in case a child experiences a food-allergic reaction leading to anaphylaxis. And it makes sense that we'd want school personnel to know how to recognize and treat food-allergic reactions.

But currently, there are no Federal guidelines concerning the management of life-threatening food allergies in the school setting.

In fact, in a recent survey, three-fourths of elementary school nurses reported developing their own training guidelines for responding to food allergies.

This means that when children change schools—they're promoted, they move, they're redistricted—for whatever reason—they and their parents face different food allergy management approaches. And there's no across-the-board consistency.

That's why Senator DODD and I have introduced the Food Allergy and Anaphylaxis Management Act of 2006.

We believe the Federal Government should establish uniform, voluntary food allergy management guidelines—and schools should be strongly encouraged to adopt and implement such guidelines.

The bill directs the Secretary of Health and Human Services—in consultation with the Secretary of Education—to develop voluntary food allergy management guidelines.

The guidelines would help prevent exposure to food allergens and help ensure a prompt response when a child suffers a potentially fatal anaphylactic reaction. Under the bill, these guidelines must be developed and made available within one year of enactment.

Additionally, the bill provides for school-based allergy management incentive grants to local education agencies. These grants assist with the adoption and implementation of food allergy management guidelines in public schools.

There are 3 million American children who suffer from food allergies. We can't cure them of their allergies. But we can help prevent allergic reactions, and we can help ensure timely treatment of them when they occur.

I urge my colleagues to support this bipartisan measure—so we can help keep America's children healthy.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. Mr. President, I rise today to introduce the Citizen Petition

Fairness and Accuracy Act of 2006. This legislation will help speed the introduction of cost-saving generic drugs by preventing abuses of the Food and Drug Administration citizen petition process.

Consumers continue to suffer all across our country from the high—and ever rising—cost of prescription drugs. A recent independent study found that prescription drug spending has more than quadrupled since 1990, and now accounts for 11 percent of all health care spending. At the same time, the pharmaceutical industry is one of the most profitable industries in the world, returning more than 15 percent on their investments.

One key method to bring prescription drug prices down is to promote the introduction of generic alternatives to expensive brand name drugs. Consumers realize substantial savings once generic drugs enter the market. Generic drugs cost on average of 63 percent less than their brand-name equivalents. One study estimates that every 1 percent increase in the use of generic drugs could save $4 billion in health care costs.

This is why I have been so active in the last year in pursuing legislation designed to combat practices which impede the introduction of generic drugs—including S. 3582, the Preserve Access to Generics Act, which would forbid payments from brand name drug manufacturers to generic manufacturers to keep generic drugs off the markets, and S. 2300, the Lower Priced Drugs Act, legislation I co-sponsored to combat other conduct which impedes the marketing of generic drugs. The legislation I introduce today targets yet another practice by brand name drug companies to impede or block the marketing of generic drugs—abuse of the FDA citizen petition process.

FDA rules permit any person to file a so-called "citizen petition" to raise concerns about the safety or efficacy of a generic drug that a manufacturer is seeking FDA approval to bring to market. While this citizen petition process was put in place for a laudable purpose, unfortunately in recent years it has been abused by frivolous petitions submitted by brand name drug manufacturers (or individuals acting at their behest) whose only purpose is to delay the introduction of generic competition. The FDA has a policy of not granting any new generic manufacturer's drug application until after it has considered and evaluated any citizen petitions regarding that drug. The process of resolving a citizen petition (even if ultimately found to be groundless) can delay the approval by months or years. Indeed, brand name drug manufacturers often wait to file citizen petitions until just before the FDA is about to grant the application to market the new generic drug, solely for the purpose of delaying the introduction of the generic competitor for the maximum amount of time possible. This gaming of the system should not be tolerated.

In recent years, FDA officials have expressed serious concerns about the abuse of the citizen petition process. Last year, FDA Chief Counsel Sheldon Bradshaw noted that "[t]he citizen petition process is in some cases being abused. Sometimes, stakeholders try to use this mechanism to unnecessarily delay approval of a competitor's products." He added that he found it "particularly troublesome" that he had "seen several examples of citizen petitions that appear designed not to raise timely concerns with respect to the legality or scientific soundness of approving a drug application, but rather to delay approval by compelling the agency to take the time to consider the arguments raised in the petition, regardless of their merits, and regardless of whether the petitioner could have made those very arguments months and months before."

And a simple look at the statistics gives credence to these concerns. Of the 21 citizen petitions for which the FDA has reached a decision since 2003, 20 or 95 percent of them have been found to be without merit. Of these, ten were identified as "eleventh hour petitions", defined as those filed less than 6 months prior to the estimated entry date of the generic drug. None of these ten "eleventh hour petitions" were found to have merit, but each caused unnecessary delays in the marketing of the generic drug by months or over a year, causing consumers to spend millions and millions more for their prescription drugs than they would have spent without these abusive filings.

Despite the expense these frivolous citizen petitions cause consumers and the FDA, under current law the government has absolutely no ability to sanction or penalize those who abuse the citizen petition process, or who file citizen petitions simply to keep competition off the market. Our legislation will correct this obvious shortcoming and give the Department of Health and Human Services—the FDA's parent agency—the power to sanction those who abuse the process.

Our bill will, for the first time, require all those who file citizen petitions to affirm certain basic facts about the truthfulness and good faith of the petition, similar to what is required of every litigant who makes a filing in court. The party filing the citizen petition will be required to affirm that the petition is well grounded in fact and warranted by law; is not submitted for an improper purpose, such as to harass or cause unnecessary delay in approval of competing drugs; and does not contain any materially false, misleading or fraudulent statement. The Secretary of the Department of Health and Human Services is empowered to investigate a citizen petition to determine if it has violated any of these principles, was submitted for an improper purpose, or contained false or misleading statements. Further, the Secretary is authorized to penalize anyone found to have submitted an abusive citizen petition. Possible sanctions include a fine up to one million dollars, a suspension or permanent revocation of the right of the violator to file future citizens' petition, and a dismissal of the petition at issue. HHS is also authorized to refer the matter to the Federal Trade Commission so that the FTC can undertake its own investigation as to the competitive consequences of the frivolous petition and take any action it finds appropriate. Finally, the bill directs the HHS that all citizen petitions be adjudicated within six months of filing, which will put an end to excessive delays in bringing needed generic drugs to market because of the filings of these petitions.

While our bill will not have any effect on any person filing a truly meritorious citizen petition, this legislation will serve as a strong deterrent to attempts by brand name drug manufacturers or any other party that seeks to abuse the citizen petition process to thwart competition. It will thereby remove one significant obstacle exploiting by brand name drug companies to prevent or delay the introduction of generic drugs. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Citizen Petition Fairness and Accuracy Act of 2006".

SEC. 2. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended by adding at the end the following:

"(G)(i) Notwithstanding any other provision of law, any petition submitted under section 10.30 or section 10.35 of title 21, Code of Federal Regulations (or any successor regulation), shall include a statement that to the petitioner's best knowledge and belief, the petition—

"(I) includes all information and views on which the petitioner relies, including all representative data and information known to the petitioner that is favorable or unfavorable to the petition;

"(II) is well grounded in fact and is warranted by law;

"(III) is not submitted for an improper purpose, such as to harass or cause unnecessary delay (including unnecessary delay of competition or agency action); and

"(IV) does not contain a materially false, misleading, or fraudulent statement.

"(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (vi), or on its own initiative, any petition submitted under such section 10.30 or section 10.35 (or any successor regulation), that—

"(I) does not comply with the requirements of clause (i);

"(II) may have been submitted for an improper purpose as described in clause (i)(III); or

"(III) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV).

"(iii) If the Secretary finds that the petitioner has knowingly and willingly submitted the petition for an improper purpose as described in clause (i)(III), or which contains a materially false, misleading, or fraudulent statement as described in clause (i)(IV), the Secretary may—

"(I) impose a civil penalty of not more than $1,000,000, plus attorneys fees and costs of reviewing the petition and any related proceedings;

"(II) suspend the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation), for a period of not more than 10 years;

"(III) revoke permanently the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation); or

"(IV) dismiss the petition at issue in its entirety.

"(iv) If the Secretary takes an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, the Secretary shall refer that petition to the Federal Trade Commission for further action as the Federal Trade Commission finds appropriate.

"(v) In determining whether to take an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, and in determining the amount of any civil penalty or the length of any suspension imposed under that clause, the Secretary shall consider the specific circumstances of the situation, such as the gravity and seriousness of the violation involved, the amount of resources expended in reviewing the petition at issue, the effect on marketing of competing drugs of the pendency of the improperly submitted petition, including whether the timing of the submission of the petition appears to have been calculated to cause delay in the marketing of any drug awaiting approval, and whether the petitioner has a history of submitting petitions in violation of this subparagraph.

"(vi)(I) Any person aggrieved by a petition filed under such section 10.30 or section 10.35 (or any successor regulation), including a person filing an application under subsection (b)(2) or (j) of this section to which such petition relates, may request that the Secretary initiate an investigation described under clause (ii) for an enforcement action described under clause (iii).

"(II) The aggrieved person shall specify the basis for its belief that the petition at issue is false, misleading, fraudulent, or submitted for an improper purpose. The aggrieved person shall certify that the request is submitted in good faith, is well grounded in fact, and not submitted for any improper purpose. Any aggrieved person who knowingly and intentionally violates the preceding sentence shall be subject to the civil penalty described under clause (iii)(I).

"(vii) The Secretary shall take final agency action with respect to a petition filed under such section 10.30 or section 10.35 (or any successor regulation) within 6 months of receipt of such petition. The Secretary shall not extend such 6-month review period, even with consent of the petitioner, for any reason, including based upon the submission of comments relating to a petition or supplemental information supplied by the petitioner. If the Secretary has not taken final agency action on a petition by the date that is 6 months after the date of receipt of the petition, such petition shall be deemed to have been denied on such date.

"(viii) The Secretary may promulgate regulations to carry out this subparagraph, including to determine whether petitions filed under such section 10.30 or section 10.35 (or any successor regulation) merit enforcement action by the Secretary under this subparagraph.".

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3984. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HARKIN. Mr. President, more than 41 million Americans suffer from a moderate or serious mental disorder each year. Unfortunately, because of the lingering stigma attached to mental illness, and lack of coverage under health insurance, these disorders often go untreated. I am particularly concerned that we are neglecting the mental health of our returning war veterans.

Earlier this year, I introduced a bill directing the Department of Veterans Affairs to create a program to address the shocking rate of suicide among veterans returning from combat in Iraq and Afghanistan. That bill, the Joshua Omvig Suicide Prevention Act of 2006, was named in honor of a young hero from Grundy Center who killed himself soon after returning from a tour of duty in Iraq.

But we also need a broader strategy for addressing the mental health needs of service members exposed to the stress and trauma of war.

And that is why I introduced legislation today directing the Department of Veterans Affairs to develop a comprehensive plan to improve the diagnosis and treatment of Post Traumatic Stress Disorder, PTSD, in our veterans. My bill would require the VA to create a curriculum and required protocols for training VA staff to better screen PTSD. It also would require the VA to commit additional staff and resources to this challenge.

During my years in the Navy, I learned one of the most important lessons of my entire life: Never leave a buddy behind. That's true on the battlefield—and it's also true after our service members return home.

Often, the physical wounds of combat are repaired, but the mental damage—the psychological scars of combat—can haunt a person for a lifetime.

One study shows that about 17 percent of active-duty service members who served in Iraq screened positive for anxiety, depression, or PTSD. This number is comparable to rates of PTSD experienced by Vietnam War veterans. But, in the decades since, scientists have learned that quick intervention is critical to ensuring that an acute stress reaction does not become a chronic mental illness.

This is exactly the aim of my bill: to improve early detection and intervention . . . to save lives . . . and to prevent long-term mental illness. The Federal Government has a moral contract with those who have fought for our country and sacrificed so much. This bill is about making good on that contract.

By Mr. OBAMA:

S. 3988. A bill to amend title 10 and 38, United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

Mr. OBAMA. Mr. President, I rise today to introduce legislation that is significant both in the problems it seeks to address and the man it seeks to honor.

Since the day he arrived in Congress more than two decades ago, LANE EVANS has been a tireless advocate for the men and women with whom he served. When Vietnam vets started falling ill from Agent Orange, he led the effort to get them compensation. LANE was one of the first in Congress to speak out about the health problems facing Persian Gulf war veterans. He's worked to help veterans suffering from Post-Traumatic Stress Disorder, and he's also helped make sure thousands of homeless veterans in our country have a place to sleep.

LANE EVANS has fought these battles for more than 20 years, and even in the face of his own debilitating disease, he kept fighting. Today, veterans across America have LANE EVANS to thank for reminding this country of its duty to take care of those who have risked their lives to defend ours.

I am very proud today to introduce the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2006. This bill honors a legislator who leaves behind an enduring legacy of service to our veterans. The legislation also is an important step towards caring for our men and women who are currently fighting for us.

Today, nearly 1.5 million American troops have been deployed overseas as part of the global war on terror. These brave men and women who protected us are beginning to return home. Six hundred thousand people who served in Iraq and Afghanistan are now veterans, and at least 184,400 have already received treatment at the VA. That number is increasing every day. Many of these fighting men and women are coming home with major injuries. As a country, we are only beginning to understand the true costs of the global war on terror.

For instance, last week, the Government Accountability Office reported that VA has faced $3 billion in budget shortfalls since 2005 because it underestimated the costs of caring for Iraq and Afghanistan veterans. The VA wasn't getting the information it needed from the Pentagon and was relying on outdated data and incorrect forecasting models. We cannot let these kind of bureaucratic blunders get in the way of the care and support we owe our servicemembers.

To avoid these costly shortfalls in the future, we have to do a better job keeping track of veterans. That's why the first thing the Lane Evans Act does is to establish a system to track global war on terror veterans. The VA established a similar data system following the Persian Gulf War. That effort has been invaluable in budget planning as well as in monitoring emerging health trends and diseases linked to the gulf war. The Gulf War Veterans Information System also has been important to medical research and improved care for veterans. The sooner we begin keeping accurate track of our fighting men and women in Iraq, Afghanistan and beyond, the better and more efficiently we will be able to care for them.

The Lane Evans Act also tackles Post-Traumatic Stress Disorder. Mental health patients account for about a third of the new veterans seeking care at the VA. The VA's National Center for PTSD reports that "the wars in Afghanistan and Iraq are the most sustained combat operations since the Vietnam War, and initial signs imply that these ongoing wars are likely to produce a new generation of veterans with chronic mental health problems."

This bill addresses PTSD in 2 ways. First, it extends the window during which new veterans can automatically get care for mental health from 2 years to 5 years. Right now, any servicemember discharged from the military has up to 2 years to walk into the VA and get care, no questions asked. After that, vets have to prove that they are disabled because of a service-connected injury, or they have to prove their income is below threshold levels. Unfortunately, it can take years for symptoms of PTSD to manifest themselves. The time it takes to prove service-connection for mental health illness is valuable time lost during which veterans are not receiving critically needed treatment. The Lane Evans Act allows veterans to walk into a VA any time 5 years after discharge and get assessed for mental health care. This both extends the window and shortens the wait for vets to get care.

Second, the legislation makes face-to-face physical and mental health screening mandatory 30 to 90 days after a soldier is deployed in a war zone. This will ensure that our fighting force is ready for battle, and that we can identify and treat those at risk for PTSD. By making the exams mandatory, we can help eliminate the stigma associated with mental health screening and treatment.

Another problem veterans face is that the VA and DoD do not effectively share medical and military records. Older veterans often have to wait years for their benefits as the Department of Defense recovers aging and lost paper records. Under the Lane Evans Act, the Department of Defense would provide each separating service member at the time of discharge with a secure full electronic copy of all military and medical records to help them apply for healthcare and benefits. DoD possesses the technology to do this now. The information could be useful to VA to quickly and accurately document receipt of vaccinations or deployment to a war zone. The electronic data will also be helpful in future generations when family members of veterans seek information about military service, awards, and wartime deployment that goes well beyond the existing single-sheet DD-214 discharge certificate, which is all veterans currently receive.

Finally, the legislation improves the transition assistance that guardsmen and reservists receive when they return from deployment. A 2005 GAG report found that because demobilization for guardsmen and reservists is accelerated, reserve units get abbreviated and perfunctory transition assistance including limited employment training. VA should provide equal briefings and transition services for all service members regarding VA healthcare, disability compensation, and other benefits, regardless of their duty status.

Lane Evans dedicated his life to serving this country and dedicated his time in Congress to serving veterans. The legislation I am introducing today, honors both the man and his mission, and will continue his legacy to the next generation of American veterans.

By Mr. BIDEN:

S. 3989. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BIDEN. Mr. President, I rise today to introduce the Homeland Security Trust Fund Act of 2006. And, I do so because it is my sincere belief, that in order to better prevent attacks here at home, we must dramatically reorder the priorities of the Federal Government.

This legislation, which I unsuccessfully attempted to attach to the port security legislation 2 weeks ago, will reorder our priorities by creating a homeland security trust fund that will set aside $53.3 billion to invest in our homeland security over the next 5 years. Through this trust fund we will allocate an additional $10 billion per year over the next 5 years to enhance the safety of our communities.

Everyone in this body knows that we are not yet safe enough. Independent experts, law enforcement personnel, and first responders have warned us that we have not done enough to prevent an attack and we are ill-equipped to respond to one. Hurricane Katrina, which happened just over a year ago, demonstrated this unfortunate truth and showed us the devastating consequences of our failure to act responsibly here in Washington. And, last December, the 9/11 Commission issued their report card on the administration's and Congresses' progress in implementing their recommendations. The result was a report card riddled with D's and F's.

And, to add to this, the FBI reported earlier this summer that violent crime and murders are on the rise for the first time in a decade. Given all of this, it is hard to argue that we are as safe as we should be.

To turn this around, we have to get serious about our security. If we establish the right priorities, we can do the job. We can fund local law enforcement, which the President has attempted to slash by over $2 billion for fiscal year 2007. We can give the FBI an additional 1,000 agents to allow them to implement reforms without abandoning local crime. We can secure the soft targets in our critical infrastructure, to ensure that our chemical plants and electricity grids are protected from attacks. We can immediately re-allocate spectrum from the television networks and give it to our first responders so they can talk during an emergency.

I know what many of my colleagues here will argue. They will argue that it is simply too expensive to do everything. This argument is complete malarkey. This is all about priorities. And, quite frankly this Congress and this administration have had the wrong priorities for the past 5 years.

For example, this year the tax cut for Americans that make over $1 million is nearly $60 billion. Let me repeat that, just one year of the Bush tax cut for Americans making over $1 million is nearly $60 billion. In contrast, we dedicate roughly one-half of that approximately $32 billion—to fund the operations of the Department of Homeland Security. We have invested twice as much for a tax cut for millionaires—less than 1 percent of the population—than we do for the Department intended to help secure the entire nation.

For a Nation that is repeatedly warned about the grave threats we face, how can this be the right priority? The Homeland Security Trust Fund Act of 2006 would change this by taking less than 1 year of the tax cut for millionaires—$53.3 billion—and investing it in homeland security over the next 5 years. By investing this over the next 5 years at just over $10 billion per year, we could implement all the 9/11 Commission recommendations and do those commonsense things that we know will make us safer.

For example, under this amendment, we could hire 50,000 additional police officers and help local agencies create locally based counter-terrorism units. We could hire an additional 1,000 FBI agents to help ensure that FBI is able to implement critical reforms without abandoning its traditional crime fighting functions. We could also invest in security upgrades within our critical infrastructure and nearly double the funding for state homeland security grants. And, the list goes on.

We continually authorize funding for critical homeland security programs, but a look back at our recent appropriations bills tells us that the funding rarely matches the authorization. Just this July we passed the Department of Homeland Security Appropriations Budget. In that legislation, the Senate allocated only $210 million for port security grants—which is just over one-half of the amounts authorized in the bipartisan port security legislation that passed the Senate 2 weeks ago.

Yet, another example of this problem is our shameful record on providing funding for rail security. For the last two Congresses, the Senate has passed bipartisan rail security legislation sponsored by myself, Senator McCAIN and others. This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. Notwithstanding, we have only allocated $150 million per year for rail and transit security with less than $15 million allocated for intercity passenger rail security.

So, while it is critical that we have acknowledged the need for increased rail security funding by passing authorizations, unless we invest the money, it doesn't really mean much. Unfortunately, this is an example that is repeated over and over.

We know that the murder rate is up and that there is an officer shortage in communities throughout the Nation. Yet, we provide $0 funding for the COPS hiring program and we've slashed funding for the Justice Assistance Grant.

We know that our first responders can't talk because they don't have enough interoperable equipment. Yet, we have not forced the networks to turn over critical spectrum, and we vote down funding to help local agencies purchase equipment every year.

We know that only 5 percent of cargo containers are screened, yet we do not invest in the personnel and equipment to upgrade our systems.

We know that our critical infrastructure is vulnerable. Yet, we allow industry to decide what is best and provide scant resources to harden soft targets.

The 9/11 Commission's report card issued last December stated bluntly that "it is time we stop talking about setting priorities and actually set some."

This legislation will set some priorities. First, we provide the funding necessary to implement the recommendations of the 9/11 Commission. Next, we take the commonsense steps to make our Nation safer. We make sure that law enforcement and first responders have the personnel, equipment, training they need, and are sufficiently coordinated to do the job by providing $1.15 billion per year for COPS grants; $160 million per year to hire 1,000 FBI agents; $200 million to hire and equip 1,000 rail police. $900 million for the Justice Assistance Grants; $1 billion per year for interoperable communications; $1 billion for Fire Act and SAFER grants.

In addition, we could invest in new screening technologies to protect the American people by providing $100 million to improve airline screening checkpoints and $100 million for research and development on improving screening technologies. We also set aside funding to soften hard targets by setting aside $500 million per year for general infrastructure grants; $500 million per year for port security grants, and $200 million per year to harden our rail infrastructure. And the list goes on.

I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to the richest Americans who don't need it, we should take some of it and dedicate it towards the security of all Americans. Our Nation's most fortunate are just as patriotic as the middle class. They are just as willing to sacrifice for the good of our Nation. The problem is that no one has asked them to sacrifice.

The Homeland Security Trust Fund Act of 2006 will ask them to sacrifice for the good of the Nation, and I'm convinced that they will gladly help us out. And to those who say this won't work, I would remind them that the 1994 Crime Bill established the Violent Crime Reduction Trust Fund, specifically designated for public safety, that put more than 100,000 cops on the street, funded prevention programs and more prison beds to lock up violent offenders. It worked; violent crime went down every year for 8 years from the historic highs to the lowest levels in a generation.

Our Nation is at its best when we all pull together and sacrifice. Our Nation's most fortunate citizens are just as patriotic as those in the middle class, and I am confident that they will be willing to forgo 1 year of their tax cut for the greater good of securing the homeland. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sacrifice, that money the government raises for security actually gets spent on security.

This legislation is about re-ordering our homeland security priorities. I realize that it will not be enacted this year, but I will introduce this legislation again in the next Congress and I will push for its prompt passage and I hope to gain the support of my colleagues in this effort.

By Mr. BUNNING:

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

Mr. BUNNING. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Fair Currency Practices Act of 2006".

SEC. 2. FINDINGS.

(a) Congress makes the following findings:

(1) Since the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5302(3)) was enacted, the global economy has changed dramatically, with increased capital account openness, a sharp increase in the flow of funds internationally, and an ever growing number of emerging market economies becoming systemically important to the global flow of goods, services, and capital. In addition, practices such as the maintenance of multiple currency regimes have become rare.

(2) Exchange rates among major trading nations are occasionally manipulated or fundamentally misaligned due to direct or indirect governmental intervention in the exchange market.

(3) A major focus of national economic policy should be a market-driven exchange rate for the United States dollar at a level consistent with a sustainable balance in the United States current account.

(4) While some degree of surpluses and deficits in payments balances may be expected, particularly in response to increasing economic globalization, large and growing imbalances raise concerns of possible disruption to financial markets. In part, such imbalances often reflect exchange rate policies that foster fundamental misalignment of currencies.

(5) Currencies in fundamental misalignment can seriously impair the ability of international markets to adjust appropriately to global capital and trade flows, threatening trade flows and causing economic harm to the United States.

(6) The effects of a fundamentally misaligned currency may be so harmful that it

is essential to correct the fundamental misalignment without regard to the purpose of any policy that contributed to the misalignment.

(7) In the interests of facilitating the exchange of goods, services, and capital among countries, sustaining sound economic growth, and fostering financial and economic stability, Article IV of the International Monetary Fund's Articles of Agreement obligates each member of the International Monetary Fund to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

(8) The failure of a government to acknowledge a fundamental misalignment of its currency or to take steps to correct such a fundamental misalignment, either through inaction or mere token action, is a form of exchange rate manipulation and is inconsistent with that government's obligations under Article IV of the International Monetary Fund's Articles of Agreement.

TITLE I—INTERNATIONAL MONETARY AND FINANCIAL POLICY

SEC. 101. AMENDMENTS TO DEFINITIONS.

Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

“(3) FUNDAMENTAL MISALIGNMENT.—The term ‘fundamental misalignment’ means a material sustained disparity between the observed levels of an effective exchange rate for a currency and the corresponding levels of an effective exchange rate for that currency that would be consistent with fundamental macroeconomic conditions based on a generally accepted economic rationale.

“(4) EFFECTIVE EXCHANGE RATE.—The term ‘effective exchange rate’ means a weighted average of bilateral exchange rates, expressed in either nominal or real terms.

“(5) GENERALLY ACCEPTED ECONOMIC RATIONALE.—The term ‘generally accepted economic rationale’ means an explanation drawn on widely recognized macroeconomic theory for which there is a significant degree of empirical support.”.

SEC. 102. BILATERAL NEGOTIATIONS.

(a) IN GENERAL.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended to read as follows:

“(b) BILATERAL NEGOTIATIONS.—

“(1) IN GENERAL.—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries—

“(A) manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade; or

“(B) have a currency that is in fundamental misalignment.

“(2) AFFIRMATIVE DETERMINATION.—If the Secretary considers that such manipulation or fundamental misalignment is occurring with respect to countries that—

“(A) have material global current account surpluses; or

“(B) have significant bilateral trade surpluses with the United States,

the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

“(3) EXCEPTION.—The Secretary shall not be required to initiate negotiations if the Secretary determines that such negotiations would have a serious detrimental impact on vital national economic and security interests. The Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives of the Secretary's determination.”.

SEC. 103. REPORTING REQUIREMENTS.

Section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305) is amended to read as follows:

“SEC. 3005. REPORTING REQUIREMENTS.

“(a) REPORTS REQUIRED.—

“(1) IN GENERAL.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before October 15 of each year, a written report on international economic policy and currency exchange rates.

“(2) INTERIM REPORT.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before April 15 of each year, a written report on interim developments with respect to international economic policy and currency exchange rates.

“(b) CONTENTS OF REPORTS.—Each report submitted under subsection (a) shall contain—

“(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies and United States trading partners;

“(2) a review of the economic and financial policies of major economies and United States trading partners and an evaluation of the impact that such policies have on currency exchange rates;

“(3) a description of any currency intervention by the United States or other major economies or United States trading partners, or other actions undertaken to adjust the actual exchange rate of the dollar;

“(4) an evaluation of the factors that underlie conditions in the currency markets, including—

“(A) monetary and financial conditions;

“(B) foreign exchange reserve accumulation;

“(C) macroeconomic trends;

“(D) trends in current and financial account balances;

“(E) the size and composition of, and changes in, international capital flows;

“(F) the impact of the external sector on economic changes;

“(G) the size and growth of external indebtedness;

“(H) trends in the net level of international investment; and

“(I) capital controls, trade, and exchange restrictions;

“(5) a list of currencies of the major economies or economic areas that are manipulated or in fundamental misalignment and a description of any economic models or methodologies used to establish the list;

“(6) a description of any reason or circumstance that accounts for why each currency identified under paragraph (5) is manipulated or in fundamental misalignment based on a generally accepted economic rationale;

“(7) a list of each currency identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

“(8) the results of any prior consultations conducted or other steps taken; and

“(9)(A) a list of each occasion during the reporting period when the issue of exchange-rate misalignment was raised in a countervailing duty proceeding under subtitle A of title VII of the Tariff Act of 1930 or in an investigation under section 421 of the Trade Act of 1974;

“(B) a summary in each such instance of whether or not exchange-rate misalignment was found and the reasoning and data underlying that finding; and

“(C) a discussion regarding each affirmative finding of exchange-rate misalignment to consider the circumstances underlying that exchange-rate misalignment and what action appropriately has been or might be taken by the Secretary apart from and in addition to import relief to correct the exchange-rate misalignment.

“(c) DEVELOPMENT OF REPORTS.—The Secretary shall consult with the Chairman of the Board with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report after taking into account all comments received.”.

SEC. 104. INTERNATIONAL FINANCIAL INSTITUTION GOVERNANCE ARRANGEMENTS.

(a) INITIAL REVIEW.—Notwithstanding any other provision of law, before the United States approves a proposed change in the governance arrangement of any international financial institution, as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)), the Secretary of the Treasury shall determine whether any member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, has a currency that is manipulated or in fundamental misalignment, and if so, whether the manipulation or fundamental misalignment causes or contributes to a material adverse impact on the economy of the United States. The determination shall be reported to Congress.

(b) SUBSEQUENT ACTION.—The United States shall oppose any proposed change in the governance arrangement of any international financial institution (as defined in subsection (a)), if the Secretary renders an affirmative determination pursuant to subsection (a).

(c) FURTHER ACTION.—The United States shall continue to oppose any proposed change in the governance arrangement of an international financial institution, pursuant to subsection (b), until the Secretary determines and reports to Congress that the currency of each member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, is neither manipulated nor in fundamental misalignment.

SEC. 105. NONMARKET ECONOMY STATUS.

(a) IN GENERAL.—Paragraph (18)(B)(vi) of section 771 of the Tariff Act of 1930 (19 U.S.C.

1677(18)(B)(vi)) is amended by inserting before the end period the following: ", including whether the currency of the foreign country has been identified pursuant to section 3005(b)(7) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)(7)) in any written report required by such section 3005(b)(7) during the 24-month period immediately preceding the month during which the administering authority seeks to revoke a determination that such foreign country is a nonmarket economy country".

(b) TERMINATION.—The amendment made by this section shall apply during the 10-year period beginning on the date of the enactment of this Act.

TITLE II—SUBSIDIES AND PRODUCT-SPECIFIC SAFEGUARD MECHANISM

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The economy and national security of the United States are critically dependent upon a vibrant manufacturing and agricultural base.

(2) The good health of United States manufacturing and agriculture requires, among other things, unfettered access to open markets abroad and fairly traded raw materials and products in accord with the international legal principles and agreements of the World Trade Organization and the International Monetary Fund.

(3) The International Monetary Fund, the G-8, and other international organizations have repeatedly noted that exchange-rate misalignment can cause imbalances in the international trading system that could ultimately undercut the stability of the system, but have taken no action to address such misalignments and imbalances.

(4) Since 1994, the People's Republic of China and other countries have aggressively intervened in currency markets and taken measures that have significantly misaligned the values of their currencies against the United States dollar and other currencies.

(5) This policy by the People's Republic of China, for example, has resulted in substantial undervaluation of the renminbi, by up to 40 percent or more.

(6) Evidence of this undervaluation can be found in the large and growing annual trade surpluses of the People's Republic of China; substantially expanding foreign direct investment in China; and the rapidly increasing aggregate amount of foreign currency reserves that are held by the People's Republic of China.

(7) Undervaluation by the People's Republic of China and by other countries acts as both a subsidy for their exports and as a nontariff barrier against imports into their territories, to the serious detriment of United States manufacturing and agriculture.

(8)(A) As members of both the World Trade Organization and the International Monetary Fund, the People's Republic of China and other countries have assumed a series of international legal obligations to eliminate all subsidies for exports and to facilitate international trade by fostering a monetary system that does not tend to produce erratic disruptions, that does not prevent effective balance-of-payments adjustment, and that does not gain unfair competitive advantage.

(B) These obligations are most prominently set forth in Articles VI, XV, and XVI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)), in the Agreement on Subsidies and Countervailing Measures (as defined in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and in Articles IV and VIII of the International Monetary Fund's Articles of Agreement.

(9) Under the foregoing circumstances, it is consistent with the international legal obligations of the People's Republic of China and similarly situated countries and with the corresponding international legal rights of the United States to amend relevant United States trade laws to make explicit that exchange-rate misalignment is actionable as a countervailable export subsidy.

SEC. 202. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT AS A COUNTERVAILABLE SUBSIDY UNDER TITLE VII OF THE TARIFF ACT OF 1930.

(a) AMENDMENTS TO DEFINITION OF COUNTERVAILABLE SUBSIDY.—

(1) FINANCIAL CONTRIBUTION.—Section 771(5)(D) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is amended—

(A) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively;

(B) by striking "The term" and inserting "(i) The term"; and

(C) by adding at the end the following:

"(ii) Exchange-rate misalignment (as defined in paragraph (5C)) constitutes a financial contribution within the meaning of subclauses I and III of clause (i).".

(2) BENEFIT CONFERRED.—Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended—

(A) in clause (iii), by striking ", and" and inserting a comma;

(B) in clause (iv), by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new clause:

"(v) in the case of exchange-rate misalignment (as defined in paragraph (5C)), if the price of exported goods in United States dollars is less than what the price of such goods would be without the exchange-rate misalignment.".

(3) SPECIFICITY.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end before the period the following: ", such as exchange-rate misalignment (as defined in paragraph (5C))".

(b) DEFINITION OF EXCHANGE-RATE MISALIGNMENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by inserting after paragraph (5B) the following new paragraph:

"(5C) EXCHANGE-RATE MISALIGNMENT.—

"(A) IN GENERAL.—For purposes of paragraphs (5) and (5A), the term 'exchange-rate misalignment' means a significant undervaluation of a foreign currency as a result of protracted large-scale intervention by or at the direction of a governmental authority in exchange markets. Such undervaluation shall be found when the observed exchange rate for a foreign currency is significantly below the exchange rate that could reasonably be expected for that foreign currency absent the intervention.

"(B) FACTORS.—In determining whether exchange-rate misalignment is occurring and a benefit thereby is conferred, the administering authority in each case—

"(i) shall consider the exporting country's—

"(I) bilateral balance-of-trade surplus or deficit with the United States;

"(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

"(III) foreign direct investment in its territory;

"(IV) currency-specific and aggregate amounts of foreign currency reserves; and

"(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

"(ii) may consider such other economic factors as are relevant; and

"(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the exporting country, unless such trade data are not available or are demonstrably inaccurate, in which case the exporting country's trade data may be relied upon if shown to be sufficiently accurate and trustworthy.

"(C) COMPUTATION.—In calculating the extent of exchange-rate misalignment, the administering authority shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.

"(D) TYPE OF ECONOMY.—An authority found to be engaged in exchange-rate misalignment may have either a market economy or a nonmarket economy or a combination thereof.".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to a countervailing duty proceeding initiated under subtitle A of title VII of the Tariff Act of 1930 before, on, or after the date of enactment of this Act.

SEC. 203. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT BY THE PEOPLE'S REPUBLIC OF CHINA AS A CONDITION TO BE CONSIDERED WITH RESPECT TO MARKET DISRUPTION UNDER CHAPTER 2 OF TITLE IV OF THE TRADE ACT OF 1974.

(a) MARKET DISRUPTION.—

(1) IN GENERAL.—Section 421(c) of the Trade Act of 1974 (19 U.S.C. 2451(c)) is amended by adding at the end the following new paragraphs:

"(3) For purposes of this section, the term 'under such conditions' includes exchange-rate misalignment (as defined in paragraph (4)).".

"(4)(A) For purposes of this section, the term 'exchange-rate misalignment' means a significant undervaluation of the renminbi as a result of protracted large-scale intervention by or at the direction of the Government of the People's Republic of China in exchange markets. Such undervaluation shall be found when the observed exchange rate for the renminbi is significantly below the exchange rate that could reasonably be expected for the renminbi absent the intervention.

"(B) In determining whether exchange-rate misalignment is occurring, the Commission in each case—

"(i) shall consider the People's Republic of China's—

"(I) bilateral balance-of-trade surplus or deficit with the United States;

"(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

"(III) foreign-direct investment in its territory;

"(IV) currency-specific and aggregate amounts of foreign currency reserves; and

"(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

"(ii) may consider such other economic factors as are relevant; and

"(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the People's Republic of China, unless such trade data are not available or are demonstrably inaccurate, in which case the trade data of the People's Republic of China may be relied upon if shown to be sufficiently accurate and trustworthy.

"(C) In calculating the extent of exchange-rate misalignment, the Commission shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.".

(b) CRITICAL CIRCUMSTANCES.—Section 421(i)(1) of the Trade Act of 1974 (19 U.S.C. 2451(i)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) if the petition alleges and reasonably documents that exchange-rate misalignment is occurring, such exchange-rate misalignment shall be considered as a factor weighing in favor of affirmative findings in subparagraphs (A) and (B).".

(c) STANDARD FOR PRESIDENTIAL ACTION.—Section 421(k)(2) of the Trade Act of 1974 (19 U.S.C. 2451(k)(2)) is amended by adding at the end the following new sentence: "If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of providing import relief in accordance with subsection (a).".

(d) MODIFICATIONS OF RELIEF.—Section 421(n)(2) of the Trade Act of 1974 (19 U.S.C. 2451(n)(2)) is amended by adding at the end the following new sentence: "If the Commission affirmatively determines that exchange-rate misalignment is occurring, the Commission and the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that continuation of relief is necessary to prevent or remedy the market disruption at issue.".

(e) EXTENSION OF ACTION.—Section 421(o) of the Trade Act of 1974 (19 U.S.C. 2451(o)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the Commission shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue."; and

(2) in paragraph (4), by adding at the end the following new sentence: "If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue.".

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to an investigation initiated under chapter 2 of title IV of the Trade Act of 1974 before, on, or after the date of the enactment of this Act.

SEC. 204. PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA.

(a) COPY OF PETITION, REQUEST, OR RESOLUTION TO BE TRANSMITTED TO THE SECRETARY OF DEFENSE.—Section 421(b)(4) of the Trade Act of 1974 (19 U.S.C. 2451(b)(4)) is amended by inserting ", the Secretary of Defense" after ", the Trade Representative".

(b) DETERMINATION OF SECRETARY OF DEFENSE.—Section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) is amended by adding at the end the following new paragraph:

"(6) Not later than 15 days after the date on which an investigation is initiated under this subsection, the Secretary of Defense shall submit to the Commission a report in writing which contains the determination of the Secretary as to whether or not the articles of the People's Republic of China that are the subject of the investigation are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States.".

(c) PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES.—

(1) PROHIBITION.—If the United States International Trade Commission makes an affirmative determination under section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)), or a determination which the President or the United States Trade Representative may consider as affirmative under section 421(e) of such Act (19 U.S.C. 2451(e)), with respect to articles of the People's Republic of China that the Secretary of Defense has determined are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States, the Secretary of Defense may not procure, directly or indirectly, such articles of the People's Republic of China.

(2) WAIVER.—The President may waive the application of the prohibition contained in paragraph (1) on a case-by-case basis if the President determines and certifies to Congress that it is in the national security interests of the United States to do so.

SEC. 205. APPLICATION TO GOODS FROM CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3438), the amendments made by sections 105 and 202 of this Act shall apply to goods from Canada and Mexico.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 589—COMMENDING NEW YORK STATE SENATOR JOHN J. MARCHI ON HIS 50 YEARS IN THE NEW YORK STATE SENATE AND ON BECOMING THE LONGEST SERVING STATE LEGISLATOR IN THE UNITED STATES

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 589

Whereas New York State Senator John J. Marchi has been recognized by the National Conference of State Legislatures as the longest serving state legislator in the United States;

Whereas State Senator Marchi was born on May 20, 1921, in Staten Island and attended local primary and secondary schools in New York, then Manhattan College, from which he graduated with first honors in 1942, St. John's University School of Law, from which he received a law degree, and Brooklyn Law School, from which he received an advanced degree in law;

Whereas, during World War II, State Senator Marchi served in the United States Coast Guard and saw combat in the Atlantic and Pacific theaters and in the China Sea, and subsequently served in the United States Naval Reserve until 1982;

Whereas, in 1956, State Senator Marchi was elected to the New York State Senate and has served the citizens of Senate District 24 for 50 years, making him the longest serving state legislator in the United States;

Whereas State Senator Marchi served as a delegate to the New York Constitutional Convention in 1967;

Whereas State Senator Marchi is a recognized leader of the New York State Senate and was named Assistant Majority Leader on Conference Operations in January 2005, Assistant Majority Whip in 2003, Chairman of the Senate Committee on Corporations, Authorities and Commissions in 1995, and Vice President Pro Tempore in 1989;

Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

Whereas State Senator Marchi is a tireless leader and advocate for New York City, has served on the City of New York Committee in the New York State Senate, and was named Chairman of the Temporary State Commission on New York City School Governance in 1989, a panel of civic, governmental, business, and educational leaders that conducted a 2-year examination of the control of the city schools and, in 1991, gave the State legislature a package of proposals intended to improve the administration of, and public participation in, the New York City school system;

Whereas State Senator Marchi is widely recognized as one of the city and State leaders who helped write the laws that saved New York City from financial collapse in the mid-1970s;

Whereas State Senator Marchi sponsored the bill, now law, that modernized New York State's financial reporting and bookkeeping practices so that the legislature and the public could see more clearly the State government's actual fiscal condition;

Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2002 of the Fresh Kills Landfill, Staten Island's worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

Whereas State Senator Marchi has been a member of the Executive Committee and Board of Governors of the Council of State Governments since 1965, is a former Chairman of the Committee, and was designated the first permanent member of the Committee in 1982;

Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

Whereas, following the September 11, 2001 attacks, the New York Senate Majority Leader appointed State Senator Marchi to head the New York Senate Task Force on World Trade Center Recovery, which was to help oversee the reconstruction of Ground Zero;

Whereas, on June 2, 1968, State Senator Marchi received from the President and Prime Minister of Italy the highest award that country bestows on a nonresident, the award of Commander of the Order of Merit of the Republic of Italy, and in 1992, the Senator received another of Italy's most prestigious honors, the Filippo Mazzei Award, in recognition of his public service and for helping to strengthen relations between the United States and Italy;

Whereas State Senator Marchi is the recipient of the Mills G. Skinner Award of the National Urban League, an organization devoted to empowering African Americans to enter the economic and social mainstream;

Whereas, in 1976, the New York State Veterans of Foreign Wars conferred upon the Senator the Silver Commendation Medal for "legislative service to veterans and all New Yorkers"; and

Whereas, in 1971, State Senator Marchi was awarded the degree of Doctor of Laws, honoris causa, from St. John's University and, in 1973, received the same degree from Manhattan College, and in 1974, was awarded the degree of Doctor of Laws from Wagner College: Now, therefore, be it

Resolved, That the Senate commends New York State Senator John J. Marchi for his 50-year tenure in the New York State Senate, on becoming the longest serving state legislator in the United States, and on his lifelong commitment to the citizens of Staten Island and New York.

SENATE RESOLUTION 590—DESIGNATING THE SECOND SUNDAY IN DECEMBER 2006, AS "NATIONAL CHILDREN'S MEMORIAL DAY" IN CONJUNCTION WITH THE COMPASSIONATE FRIENDS WORLDWIDE CANDLE LIGHTING

Mr. VITTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 590

Whereas approximately 200,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from a myriad of causes;

Whereas stillbirth, miscarriage, and the death of an infant, child, teenager, or young adult are considered some of the greatest tragedies that a parent or family could ever endure;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one;

Whereas the mission of The Compassionate Friends is to assist families working towards the positive resolution of grief following the death of a child of any age and to provide information to help others be supportive; and

Whereas the work of local chapters of The Compassionate Friends provides a caring environment in which bereaved parents, grandparents, and siblings can work through their grief with the help of others: Now, therefore, be it

Resolved, That the Senate—

(1) designates the second Sunday in December 2006, as "National Children's Memorial Day" in conjunction with The Compassionate Friends Worldwide Candle Lighting;

(2) supports the efforts of The Compassionate Friends to assist and comfort families grieving the loss of a child; and

(3) calls upon the people of the United States to observe National Children's Memorial Day with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5092. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5093. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed to the bill S. 403, supra; which was ordered to lie on the table.

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5090 proposed by Mr. Bennett (for Mr. Frist) to the bill S. 403, supra; which was ordered to lie on the table.

SA 5095. Mr. ROCKEFELLER (for himself, Mrs. Clinton, Mr. Wyden, Ms. Mikulski, Mr. Feingold, Mr. Levin, and Mrs. Feinstein) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes.

SA 5096. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5097. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5098. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5099. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5100. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5101. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5102. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5103. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5104. Mr. BYRD (for himself, Mr. Obama, Mrs. Clinton, and Mr. Levin) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes.

SA 5105. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5092. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 12, line 2, strike "45 days" and insert "47 days".

SA 5093. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike "47 days" and insert "46 days".

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5090 proposed by Mr. Bennett (for Mr. Frist) to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike "46 days" and insert "43 days".

SA 5095. Mr. ROCKEFELLER (for himself, Mrs. Clinton, Mr. Wyden, Ms. Mikulski, Mr. Feingold, Mr. Levin, and Mrs. Feinstein) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:

At the end, add the following:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY PROGRAMS.

(a) Director of Central Intelligence Agency Reports on Detention and Interrogation Program.—

(1) Quarterly reports required.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program of the Central Intelligence Agency during the preceding three months.

(2) Elements.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently

informed about the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of any detention facility operated or used by the Central Intelligence Agency.

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) where each detainee was apprehended;

(iii) the suspected activities on the basis of which each detainee is being held; and

(iv) where each detainee is being held.

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detainees who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) For each detainee who was transferred to the custody of the Department of Defense for prosecution before a military commission, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(B) For each detainee who was transferred to the custody of the Department of Defense for any other purpose, the name of the detainee and the purpose of the transfer.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;

(ii) the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three months—

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the efforts made by the United States Government to obtain that information;

(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee;

(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee;

(iv) the current status of the detainee;

(v) the status of any parliamentary, judicial, or other investigation about the rendition or other transfer; and

(vi) any other information about potential risks to United States interests resulting from the rendition or other transfer.

(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORTS.—

(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation and rendition programs of the Central Intelligence Agency during the preceding year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:

(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(B) Any violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else associated with the detention, interrogation, and rendition programs of the Central Intelligence Agency in the conduct of such programs.

(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.

(3) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) or any other law.

(d) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques for use by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(1) an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations; and

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.

(f) AVAILABILITY OF REPORTS.—Each report under this section shall be fully accessible by each member of the congressional intelligence committees.

(g) DEFINITIONS.—In this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) LAW.—The term "law" includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.

SA 5096. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 2, lines 24 and 25, strike "save the life of the minor because her life" and insert "save the life or health of the minor because her life or health".

SA 5097. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 7, line 22, strike ", and, before" and all that follows through page 8, line 2, and insert a semicolon.

SA 5098. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 8, line 15, ", but an exception" and all that follows through line 21 and insert the following "; or".

SA 5099. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 6, strike line 11 and all that follows through page 11, line 15, and insert the following:

SEC. 3. CLERICAL AMENDMENT.

The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

"117A. Transportation of minors in circumvention of certain laws relating to abortion .... 2431".

SEC. 4. SEVERABILITY AND EFFECTIVE DATE.

SA 5100. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 11, strike line 15 and all that follows through page 12, line 3, and insert the following:

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.

SA 5101. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike sections 3, 4, and 5 of the amendment.

SA 5102. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

In the amendment, on page 8, line 3, strike beginning with "of" through line 21 and insert "or health of the minor;".

SA 5103. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

In the amendment, on page 7, line 22, strike beginning with ", and," through page 8, line 2, and insert a semicolon.

SA 5104. Mr. BYRD (for himself, Mr. OBAMA, Mrs. CLINTON, and Mr. LEVIN) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:

On page 5, line 19, add at the end the following: "The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date.".

SA 5105. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary to provide fencing and install additional physical barriers, roads, lighting, cameras, and sensors in a location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.".

SA 5106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of the amendment add the following: "operational control shall also include the implementation of those measures described in the Comprehensive Immigration Reform Act of 2006, as passed by the Senate on May 25, 2006, that the Secretary determines to be necessary and appropriate to achieve or maintain operational control over the international land and maritime borders of the United States.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 28, 2006, at 9:30 a.m., in open session to receive testimony on military voting and the Federal Voting Assistance Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, September 28, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on "America's Public Debt: How Do We Keep It From Rising?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 28, 2006 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, September 28, 2006 at 10 a.m. on "New Aircraft in the National Airspace System."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Thursday, September 28, 2006 at 10 a.m. for a hearing entitled, "Securing the National Capital Region: An Examination of the NCR's Strategic Plan."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that on Thursday, September 28, at 9:30 a.m. the Subcommittee on Superfund and Waste Management be authorized to hold a legislative hearing to consider S. 3871, a bill directing the EPA to establish a hazardous waste electronic manifest system.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN POLICY

Mr. FRIST. Mr. President, we have had a long and full day today. I have some remarks to make on a couple of bills, and then we will close down, with a brief statement on what I see unfolding over the next couple days.

Mr. President, the Senate has before it two very important bills dealing with critical foreign policy issues facing our Nation.

One of them is the Iran Freedom Support Act, H.R. 6198. This is a bipartisan bill which passed the House earlier today by voice vote. In other words, it was a noncontroversial bill in the House. It was cosponsored there by Congressman TOM LANTOS, the ranking Democrat on the Committee on International Relations, as well as by Congressman GARY ACKERMAN, the ranking Democrat on the Subcommittee on Middle East and Central Asia. The Iran Freedom Support Act is also strongly supported by the Bush administration.

Enactment of this bill is time-sensitive because it will extend for another 5 years the provisions of the Iran and Libya Sanctions Act, or better known here on the floor as ILSA. ILSA has been an important element of the U.S. sanctions regime against Iran for the past 10 years, and ILSA will expire tomorrow unless Congress acts to extend it.

Iran is continuing to defy the will of the international community by persisting with its efforts to produce nuclear weapons in violation of international nonproliferation norms. I could not think of a worse time than now to allow ILSA to lapse; the signal this would send to Iran of U.S. irresolution and weakness would be terrible.

Just today, President Ahmadi-Nejad publicly declared that Iran will not suspend its nuclear enrichment program, despite being called to do so by the United Nations Security Council. The U.N. is now poised to impose multilateral sanctions on Iran if it continues to defy Security Council mandates. But if we allow ILSA to lapse, the Congress will be relaxing U.S. sanctions on Iran at the very same time the rest of the world is thinking about tightening sanctions.

This is not the kind of leadership I was elected to the Senate to provide, and I think every Senator will have to lower their head in shame if the Senate fails to act tomorrow to extend ILSA.

H.R. 6198 has been cleared on our side of the aisle. We are ready to pass it. We are ready to pass it tonight. I will not ask unanimous consent to pass it tonight, however, because I understand it has not been cleared on the Democratic side of the aisle. I hope that does change overnight, but whether it changes or not, I wish to serve notice to all Senators that tomorrow I will ask unanimous consent to pass H.R. 6198, and I hope there will be no Member of this body who steps forward at that time to reward Iran's intransigence by blocking passage of this bipartisan legislation.

The second very important bill affecting our foreign policy that is today pending before the Senate is the United States-India Peaceful Atomic Energy Cooperation Act, S. 3709. This bill was reported by the Committee on Foreign Relations on July 20 and has been pending before us since that time. It is strongly supported by Chairman LUGAR and the ranking Democrat of that committee, Senator BIDEN. Together they have developed a managers' amendment that they both support and that they would like the Senate to approve. The House companion measure has already passed that body by a wide margin.

Enactment of this legislation is essential in order to begin a new era in relations between our Nation and India, the world's largest democracy. This legislation will enable us to commence cooperation with India in the area of civil nuclear energy, something that is today contrary to U.S. law. We need to be able to do this to fulfill commitments President Bush made to Prime Minister Singh of India on July 18 of last year. If we are unable to fulfill those commitments, the disappointment in India will be such that United States-India relations could be set back by many years, and the promise of a new era in relations that was born on July 18 of last year will be lost.

Like the Iran bill, the India legislation has been cleared on our side of the aisle. Republican Members of the Senate are ready to approve the managers' amendment to S. 3709 tonight, in its current form, with no further debate or amendment.

Regrettably, the same is not true on the other side of the aisle. Senate Democrats are not ready tonight to pass the managers' amendment to this legislation in its current form.

This is regrettable because if the Democrats would permit us to pass the bill tonight, we could send it to conference over the recess, where the differences between the House bill could be resolved, and we could be assured of sending this bill to the President before we adjourn.

I understand that the reason they are not prepared to pass the legislation is because they have a large number of amendments they wish to offer. Some of these Democrat amendments are so-called killer amendments which, if adopted, would simply make this legislation unacceptable to the Indian government. Others of the Democrat amendments are not necessarily designed to kill the legislation, but their sheer volume will slow down this whole process considerably and could, as a practical matter, make it impossible for the Senate to consider this legislation this year.

I have worked with my colleague, Senator REID, to come up with some sort of unanimous-consent agreement that would enable us to consider this legislation in a reasonable period of time. We have not yet succeeded, but I will keep trying. We need to bring this matter to a resolution before we recess.

MEASURE PLACED ON CALENDAR—H.R. 5132

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for its second reading?

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5132) to direct the Secretary of Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the battles of the River Raisin during the War of 1812.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURES READ FIRST TIME

S. 3982, S. 3983, S. 3992, S. 3993

Mr. FRIST. Mr. President, I understand there are four bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 3982) to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

A bill (S. 3983) to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs and to indemnify manufacturers and health care professionals for the administration of medical products needed for biodefense.

A bill (S. 3992) to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

A bill (S. 3993) to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

Mr. FRIST. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar, en bloc.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS 109–13 AND 109–14

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following agreements transmitted to the Senate on September 28, 2006, by the President of the United States:

Mutual legal assistance agreement with the European Union. Treaty Document 109–13.

Extradition agreement with the European Union. Treaty Document 109–14.

I further ask that the agreements be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

MUTUAL LEGAL ASSISTANCE AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–13)

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement on Mutual Legal Assistance between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 25 bilateral instruments that subsequently were signed between the United States and each European Union Member State in order to implement the Agreement with the EU, and an explanatory note that is an integral part of the Agreement. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement and bilateral instruments.

A parallel agreement with the European Union on extradition, together with bilateral instruments, will be transmitted to the Senate separately. These two agreements are the first law enforcement agreements concluded between the United States and the European Union. Together they serve to modernize and expand in important respects the law enforcement relationships between the United States and the 25 EU Member States, as well as formalize and strengthen the institutional framework for law enforcement relations between the United States and the European Union itself.

The U.S.-EU Mutual Legal Assistance Agreement contains several innovations that should prove of value to U.S. prosecutors and investigators, including in counterterrorism cases. The Agreement creates an improved mechanism for obtaining bank information from an EU Member State, elaborates legal frameworks for the use of new techniques such as joint investigative teams, and establishes a comprehensive and uniform framework for limitations on the use of personal and other data. The Agreement includes a non-derogation provision making clear that it is without prejudice to the ability of the United States or an EU Member State to refuse assistance where doing so would prejudice its sovereignty, security, public, or other essential interests.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 28, 2006.*

EXTRADITION AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–14)

To the Senate of the United States:

With a view to receiving the advice and consent of Senate to ratification, I transmit herewith the Agreement on Extradition between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 22 bilateral instruments that subsequently were signed between the United States and European Union Member States in order to implement the Agreement with the EU, and an explanatory note that is an integral part of the Agreement. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement and bilateral instruments. The bilateral instruments with three EU Member States, Estonia, Latvia, and Malta, take the form of comprehensive new extradition treaties, and therefore will be submitted individually.

A parallel agreement with the European Union on mutual legal assistance, together with bilateral instruments, will be transmitted to the Senate separately. These two agreements are the first law enforcement agreements concluded between the United States and the European Union. Together they serve to modernize and expand in important respects the law enforcement relationships between the United States and the 25 EU Member States, as well as formalize and strengthen the institutional framework for law enforcement relations between the United States and the European Union itself.

The U.S.-EU Extradition Agreement contains several provisions that should improve the scope and operation of bilateral extradition treaties in force between the United States and each EU Member State. For example, it requires replacing outdated lists of extraditable offenses included in 10 older bilateral treaties with the modern "dual criminality" approach, thereby enabling coverage of such newer offenses as money laundering. Another important provision ensures that a U.S. extradition request is not disfavored by an EU Member State that receives a competing request for the person from another Member State pursuant to the newly created European Arrest Warrant. Finally, the Extradition Agreement simplifies procedural requirements for preparing and transmitting extradition documents, easing and speeding the current process.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 28, 2006.*

ORDERS FOR FRIDAY, SEPTEMBER 29, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business, with the time equally divided between the two leaders or their designees until 10 a.m.; further, that at 10 a.m., the Senate proceed to a vote on the adoption of the conference report to accompany H.R. 5631, the Department of Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today we had a very busy day. We passed the Military Commissions Act, the Terrorist Tribunal Act, and also invoked cloture on the border fence bill, another very important piece of legislation. This evening, we reached agreement to consider the Department of Defense appropriations bill conference report, and tomorrow morning at 10 o'clock the Senate will vote on that conference report, and then we will resume the postcloture debate on the border fence bill.

I remind my colleagues to be prepared for a busy day tomorrow, with votes throughout the day. Given the cloture vote this evening of 71 to 28, I hope we can expedite the border fence bill and finish it at an early hour tomorrow.

This is a very important bill that focuses on border security and border security first, recognizing we have a lot more to do in the future, but it does give us that opportunity to address the fact that we have millions of people coming across the U.S. border every year illegally, and we need to start the enforcement of that border and that border security by a physical structure, UAVs, with cameras and sensors, specifically 700 miles of fence along that border.

Following that, we will have the cloture vote on the message on the Child Custody Act, a very important bill that addresses one of our major initiatives here; that is, to secure America's values and look at the issue of a young girl being taken for an abortion across State lines without parental permission. It is common sense. We passed it on the floor of the Senate not too long ago, and this is an amended version that came over from the House, and now is the time for us to pass it once again.

Beyond that, we have a number of other outstanding items that will need to be addressed before the recess. As we speak, issues surrounding our ports, again another part of that major thematic for this month of securing our homeland as we work on border security and funding the war on terror and giving our Government, our military, and our CIA the tools that we need to carry out this war on terror for our ports.

Our port security has to be addressed. It is being addressed in conference. Conferees were appointed by the House earlier tonight and that conference met tonight, so I am very hopeful that we will be able to address port security over the next 24, 36 hours.

In addition, we have nominations of the various judges that we need to consider before we leave. We have a treaty, U.S.-U.K. extradition that we need to address before we leave. There are other cleared items, including a large energy package. All of these are being held up tonight by the other side of the aisle, but I am very hopeful that we will be able to address these issues over the course of the next day or so.

If we are unable to complete all of our work tomorrow, Senators can expect a Saturday session. It is clear, as I set out really 2 weeks ago, that we have a large agenda. We are moving along very, very well, making real progress, as shown by the six votes that we had over the course of the day. But we have a lot more to do, and we will stay until we finish that work either late tomorrow or into Saturday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:42 p.m., adjourned until Friday, September 29, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 2006:

DEPARTMENT OF THE TREASURY

MICHELE A. DAVIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ANTONIO FRATTO.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

ERIC D. EBERHARD, OF WASHINGTON, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2012, VICE MALCOLM B. BOWEKATY, TERM EXPIRING.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DANA GIOIA, OF CALIFORNIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WILLIAM R. BROWNFIELD, OF TEXAS
KATHERINE H. CANAVAN, OF CALIFORNIA
CHRISTOPHER ROBERT HILL, OF RHODE ISLAND
CAMERON R. HUME, OF CONNECTICUT
GEORGE MCDADE STAPLES, OF KENTUCKY

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH JAMIESON AGNEW, OF VIRGINIA
EDWARD M. ALFORD, OF VIRGINIA
PETER K. AUGUSTINE, OF TEXAS
CLYDE BISHOP, OF PENNSYLVANIA
MICHELE THOREN BOND, OF NEW JERSEY
GAYLEATHA BEATRICE BROWN, OF THE DISTRICT OF COLUMBIA
DAVID M. BUSS, OF TEXAS
MARTHA LARZELERE CAMPBELL, OF NEW HAMPSHIRE
JUDITH ANN CHAMMAS, OF VIRGINIA
THOMAS MORE COUNTRYMAN, OF WASHINGTON
BARBARA CECELIA CUMMINGS, OF ILLINOIS
ELIZABETH LINK DIBBLE, OF VIRGINIA
ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA
LARRY MILES DINGER, OF VIRGINIA
JANICE J. FEDAK, OF PENNSYLVANIA
GERALD MICHAEL FEIERSTEIN, OF VIRGINIA
JEFFREY DAVID FELTMAN, OF CALIFORNIA
ALBERTO M. FERNANDEZ, OF VIRGINIA
JUDITH G. GARBER, OF CALIFORNIA
ROBERT F. GODEC, JR., OF VIRGINIA
LLEWELLYN H. HEDGBETH, OF CALIFORNIA
JAMES THOMAS HEG, OF WASHINGTON
PAUL WAYNE JONES, OF NEW YORK
SANDRA LYNN KAISER, OF WASHINGTON
HANS GEORGE KLEMM, OF INDIANA
THOMAS CHARLES KRAJESKI, OF VIRGINIA
CHARLENE RAE LAMB, OF FLORIDA
ÁN THANH LE, OF THE DISTRICT OF COLUMBIA
JEFFREY DAVID LEVINE, OF CALIFORNIA
PATRICK JOSEPH LINEHAN, OF CONNECTICUT
MARY BLAND MARSHALL, OF VIRGINIA
TERENCE PATRICK MCCULLEY, OF OREGON
KEVIN CORT MILAS, OF CALIFORNIA
PATRICK S. MOON, OF MARYLAND
JAMES ROBERT MOORE, OF FLORIDA
DAN W. MOZENA, OF MARYLAND
ADRIENNE S. O'NEAL, OF MARYLAND
PHYLLIS MARIE POWERS, OF TEXAS
CHRISTOPHER R. RICHE, OF VIRGINIA
THOMAS BOLLING ROBERTSON, OF VIRGINIA
JOSIE SHUMAKE, OF MISSISSIPPI
MADELYN ELIZABETH SPIRNAK, OF THE DISTRICT OF COLUMBIA
STEVEN C. TAYLOR, OF ALASKA
LINDA THOMAS-GREENFIELD, OF LOUISIANA
THOMAS JOSEPH TIERNAN, OF ILLINOIS
MARK A. TOKOLA, OF WASHINGTON
PAUL A. TRIVELLI, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE, AS INDICATED: CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CYNTHIA HELEN AKUETTEH, OF MARYLAND
RAYMOND R. BACA, OF FLORIDA
CHRISTOPHER J. BEEDE, OF VIRGINIA
JENNIFER V. BONNER, OF VIRGINIA
MICHAEL J. BOYLE, OF WYOMING
ROBERTO GONZALES BRADY, OF CALIFORNIA
ANN KATHLEEN BREITER, OF CALIFORNIA
PETER MEIER BRENNAN, OF OREGON
FLETCHER MARTIN BURTON, OF TENNESSEE
DUANE CLEMENS BUTCHER, JR., OF CALIFORNIA
LAWRENCE N. CORWIN, OF TEXAS
CHRISTOPHER RICHARD DAVIS, OF VIRGINIA
KIMBERLY J. DEBLAUW, OF MISSOURI
D. PURNELL DELLY, OF VIRGINIA
MARC LANGLEY DESJARDINS, OF VIRGINIA
EVELYN ALEENE EARLY, OF TEXAS
JOSEPH ADAM ERELI, OF THE DISTRICT OF COLUMBIA
JOHN D. FEELEY, OF NEW YORK
ZANDRA I. FLEMISTER, OF MARYLAND
PAUL A. FOLMSBEE, OF TEXAS
ALFRED F. FONTENEAU, OF TEXAS
THOMAS R. GENTON, OF NEW JERSEY
TATIANA CATHERINE GFOELLER-VOLKOFF, OF THE DISTRICT OF COLUMBIA
DAVID R. GILMOUR, OF TEXAS
BRIAN L. GOLDBECK, OF NEVADA
DOUGLAS C. GREENE, OF VIRGINIA
DOUGLAS M. GRIFFITHS, OF TEXAS
KENNETH E. GROSS, JR., OF VIRGINIA
SHEILA S. GWALTNEY, OF CALIFORNIA
RICHARD DALE HAYNES, OF VIRGINIA
CHRISTOPHER J. HOH, OF PENNSYLVANIA
MARTIN P. HOHE, OF FLORIDA
MARY VIRGINIA JEFFERS, OF MARYLAND
SYLVIA DOLORES JOHNSON, OF SOUTH CAROLINA
MARK RAYMOND KENNON, OF VIRGINIA
JAMES ALCORN KNIGHT, OF NEW YORK
LEONARD JAMES KORYCKI, OF WASHINGTON
BARBARA ANNE LEAF, OF VIRGINIA
MICHELLE RABAYDA LOGSDON, OF FLORIDA
SHARON E. LUDAN, OF VIRGINIA
ROBERT SANFORD LUKE, OF FLORIDA
DEBORAH RUTH MALAC, OF VIRGINIA
THEODORE ALBERT MANN, OF NEW YORK
DUNDAS C. MCCULLOUGH, OF VIRGINIA
RAYMOND GERARD MCGRATH, OF VIRGINIA
KENNETH ALAN MESSNER, OF OREGON
ANTHONY C. NEWTON, OF VIRGINIA
HARRY JOHN O'HARA, OF TEXAS
JOHN OLSON, OF CALIFORNIA
ANDREW W. OLTYAN, OF TEXAS
ANDREW A. PASSEN, OF PENNSYLVANIA
MARK A. PEKALA, OF THE DISTRICT OF COLUMBIA
MICHAEL P. PELLETIER, OF MAINE
MARJORIE R. PHILLIPS, OF VIRGINIA
GEOFFREY R. PYATT, OF CALIFORNIA
PAMELA G. QUANRUD, OF VIRGINIA
ERIC SETH RUBIN, OF NEW YORK
DANIEL H. RUBINSTEIN, OF CALIFORNIA
ROBERT JOEL SILVERMAN, OF CALIFORNIA
ROBIN ANGELA SMITH, OF THE DISTRICT OF COLUMBIA
MICHAEL A. SPANGLER, OF MARYLAND
ANDREW WALTER STEINFELD, OF NEW JERSEY
KARL STOLTZ, OF VIRGINIA
MARK CHARLES STORELLA, OF NEW HAMPSHIRE
PAUL RANDALL SUTPHIN, OF VIRGINIA
MARY THOMPSON-JONES, OF VIRGINIA
MICHAEL EMBACH THURSTON, OF WASHINGTON
WILLIAM WEINSTEIN, OF CALIFORNIA
ROBERT EARL WHITEHEAD, OF CALIFORNIA
REBECCA RUTH WINCHESTER, OF VIRGINIA
DEAN B. WOODEN, OF THE DISTRICT OF COLUMBIA
STEVEN EDWARD ZATE, OF FLORIDA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

WAYNE B. ASHBERRY, OF VIRGINIA
CYNTHIA ANNE BORYS, OF MARYLAND
DAN BLANE CHRISTENSON, OF WASHINGTON
EDUARDO R. GAARDER, OF VIRGINIA
JERRY DUANE HELMICK, OF FLORIDA
KENNETH J. HOEFT, OF MICHIGAN
RAYMOND W. HORNING, OF MISSOURI
TODD M. KEIL, OF WISCONSIN
STEPHEN J. KLEIN, OF VIRGINIA
BRIAN R. MAJEWSKI, OF VIRGINIA
GEORGES F. MCCORMICK, OF CALIFORNIA
EARL R. MILLER, OF VIRGINIA
PETER J. MOLBERG, OF MISSOURI
EDGAR P. MORENO, OF FLORIDA
JAMES C. NORTON, OF MICHIGAN
THOMAS J. QUINZIO, OF VIRGINIA
DOUGLAS P. QUIRAM, OF CALIFORNIA
NANCY C. ROLPH-O'DONNELL, OF VIRGINIA
LARRY DEAN SALMON, OF MISSOURI
ANNE M. SALOOM, OF VIRGINIA
GENTRY O. SMITH, OF VIRGINIA
STEPHEN F. SMITH, OF VIRGINIA
WILLIAM J. SWIFT, OF WISCONSIN
JOHN L. WHITNEY, OF TENNESSEE
DAVID M. YEUTTER, OF CALIFORNIA

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C., SECTION 53 IN THE GRADE INDICATED:

To be rear admiral

REAR ADM. (SELECT) CYNTHIA A. COOGAN, 3506

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL IN THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

THOMAS C. HANKINS, 6209

HOUSE OF REPRESENTATIVES—*Thursday, September 28, 2006*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

My brothers and sisters, let the words spoken through the prophet Ezekiel stir in your hearts so that the impending days may lead to an even deeper trust in the Lord:

"The nations shall know that I am the Lord, says the Lord God, when in their sight I prove my holiness through you. I will sprinkle clear water upon you to cleanse you from all your impurities and from all your idols I will cleanse you. I will give you a new heart and place a new spirit within you, taking from your bodies your stony hearts and giving you natural hearts."

Lord God of prophets and politicians, through the campaigns surface out fiction and malicious thoughts that Your people may be led to America's common concerns and the truth upon which to build anew. Deepen convictions in all contestants that their hearts may be naturally transformed by the response of the people and Your holy inspirations. We pray for civility in debates and peaceful resolve across the Nation, both now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Massachusetts (Mr. MCGOVERN) come forward and lead the House in the Pledge of Allegiance.

Mr. MCGOVERN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2250. An act to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2491. An act to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 1-minutes on each side.

NIE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I have deep concerns over the recent politicizing of the intelligence reports while our country is in the midst of a global war on terror. This is irresponsible when it comes to classified intelligence. Politics should be the last thing involved in the intelligence community. It is not surprising to see a leak come right out before the elections and Democrats using it as a campaign tool.

The New York Times story was based upon selective information and that was distorted and inaccurate when taken out of its full context. Information is classified for a reason, but it is too late, and the damage is done.

Just after the President declassified the information to show that progress in the war on terror was being made through our intelligence service, Al Jazeera's Web site immediately posted a link to the document for their audience, which may include terrorists to review. Now they know sensitive aspects of our intelligence community's assessment of the war on terror.

Releasing this intelligence compromises our success in the war on terror and the safety of our troops. If this inspires one terrorist, and it most certainly will, the cost is far too high.

IRAN

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Iran should not have nuclear weapons; and, along with the United States as a signatory to the Nuclear Nonproliferation Treaty, should work with the community of nations to abolish all nuclear weapons, as is the express intent of the NPT.

However, this administration is trying to create an international crisis by inflating Iran's nuclear development into another Iraq WMD hoax. There they go again.

Today, the House will consider a bill which will give the administration a pass on covert activities it has already undertaken in Iran to attempt to destabilize the government. Additionally, today's bill will enable another Rendon type propaganda machine to feed the U.S. media a steady stream of lies, all to set the stage for a war against Iran.

Think about it; this, without a single hearing on Iran in this Congress. Think about it; this, while the State Department and DOD is ducking even classified briefings.

There is a Chinese proverb that says: Fool me once, shame on you. Fool me twice, shame on me. Will Congress be fooled again into supporting still another war against still another nation, which is not an imminent threat and which has no intention nor capability of attacking the United States?

HIGHLAND FALLS-FORT MONTGOMERY CENTRAL SCHOOL DISTRICT

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Madam Speaker, I rise to urge this House to correct a broken impact aid formula that unfairly limits the Federal funding received by local school districts in military communities.

A significant portion of the students I represent in Highland Falls-Fort Montgomery Central School District are children of military families living at West Point. Impact Aid funding complications have Highland Falls struggling to preserve its full curriculum for students. The Impact Aid funding shortfall leaves the local community surrounding West Point facing major property tax increases.

This is not the way the Federal Government should be treating the families of Highland Falls and West Point. Impact aid schools need and deserve consistent Federal support. They are not getting that through the current Impact Aid formula.

I urge this House to pass the Impact Aid Update Act, a bill I introduced to correct the outdated cap that is restricting Impact Aid funding to Highland Falls-Fort Montgomery Central School District and other Impact Aid schools.

I also call on this House to pass H.R. 390, a bill I am cosponsoring to improve the Impact Aid program. This Congress needs to permanently fix Impact Aid funding formulas so that local school districts like Highland Falls throughout the country have the full resources they need to teach our children.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

VICTIM-ACTIVATED LANDMINE ABOLITION ACT

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Madam Speaker, yesterday, Congressman PHIL ENGLISH and I introduced H.R. 6178, the Victim-Activated Landmine Abolition Act.

Our Nation is the global leader in funding for landmine clearance, mine risk education, and mine survivors. The U.S. was the first nation to call for a comprehensive ban on antipersonnel landmines in 1994, and we have not exported them since 1992, produced them since 1997, or used them since 1991.

In Iraq, Afghanistan, and elsewhere, victim-activated landmines have killed and maimed U.S. and coalition troops. They indiscriminately threaten lives in more than 80 countries, and they do not distinguish between an enemy combatant and a U.S. soldier, child, farmer, or refugee.

Today, the U.S. has acquired reliable technology that enables all such weapons to be equipped with man-in-the-loop targeting and triggering capabilities.

We no longer need to procure or design landmines that are victim-activated. Let the U.S. set the example for other countries in banning the procurement of victim-activated landmines and weapons. I encourage my colleagues to join me as a cosponsor of H.R. 6178.

BROOKLYN ALLYSON—DAUGHTER OF TEXAS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, I have news, good news. A child is born, a girl.

Brooklyn Allyson Reaves arrived in the summer heat of Austin, Texas, August 18, 2006, at 7 pounds, 13 ounces. Her parents, Kim and Derek Reaves, and her brother, Barrett Houston, are all proud of this new family member.

Brooklyn is in the sunrise of her life. May her days be long, may she see good days of happiness and health, days of doing service for others, days filled with a passion for liberty and righteous justice, days with a love for her heritage and her country, and days with a commitment to her Maker; so that when she reaches the sunset of life, she will have been a good citizen, a good patriot, and a good servant of her Lord.

Every time a child is born, the Almighty is making a bet on the future of humanity. Kids are our greatest of all national resources.

So, Madam Speaker, the angels in heaven may be singing with joy at the arrival of Brooklyn, but they cannot be as happy or as proud as I am, because Brooklyn is my new granddaughter.

And that's just the way it is.

SHOCKED AT HOW AWFUL IRAQ IS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, the Iraq war has gone from shock and awe to shocked at how awful it is.

On the heels of the public disclosure of the NIE estimates, today's Washington Post reports that the Baghdad Police College was so poorly constructed it might need to be demolished.

Special Inspector for Iraq Reconstruction said, "This is the most essential civil security project in the country. It is a failure. The Baghdad Police Academy is a disaster."

There are foundation problems, tile floors are warped beyond repair, faucets leak, toilet waste flooding all over the second and third floors.

The Parsons Corporation did such a bad job with the $75 million in U.S. taxpayer money it was awarded to build the new facility, the whole facility may need to be torn down. The Persons Corporation received a $1 billion contract.

$12 billion gone, wasted, unaccounted for in Iraq. But what is $12.5 billion among friends? That wasted money follows a long line of other costly mistakes, including this Congress's refusal to hold anybody accountable.

□ 1015

HUGO CHAVEZ AND THE AMERICAN CONSUMER

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Madam Speaker, Hugo Chavez, dictator of Venezuela, gave a speech at the United Nations last week in which he lambasted the United States and denigrated President Bush. Chavez is little more than a comical autocrat on an anti-American public relations tour, but it is interesting that the American public has channeled their wrath into their consumer purchasing, moving to boycott Citgo, the Venezuelan national gas company.

Indeed, on Wednesday, 7-Eleven reacted to growing bad publicity by announcing it would not renew a 20-year contract with Citgo. That is about 2,100 gas stations off the books for Citgo. The rest will be targets of an angry American public's spontaneous boycott of Venezuelan oil.

All of us are working here in Congress to promote America's oil independence. All of us should do what 7-Eleven is doing by boycotting Citgo gas stations.

DEFENSE AUTHORIZATION BILL AIMS TO BAN INTERNET GAMING

(Ms. BERKLEY asked and was given permission to address the House for 1 minute.)

Ms. BERKLEY. Madam Speaker, Congress is waiting for the Republican leadership to bring the Department of Defense authorization bill to the floor for a vote.

So what's holding it up? Believe it or not, the Republican leadership wants to add a provision to the defense bill.

To help the troops? No.

To add to their salaries? No.

To help us buy equipment for them so they will have state of the art equipment? No.

It's a provision to ban Internet gaming. And if you guessed that, you are absolutely right. A ban on Internet gaming in the defense bill. How ridiculous is that? At a time when we have brave American men and women fighting and dying in Iraq and Afghanistan, the Republican leadership is more worried about Americans playing poker on-line than in protecting our troops in the field.

The Republicans talk about patriotism and supporting our fighting men and women, but when it comes to voting for our Nation's Defense Department, they are more interested in banning Internet gaming than they are in providing what our troops need in the field of battle.

This is a disgrace. Americans should be outraged and we should demand that we pass this Department of Defense authorization without any other additions that have nothing to do with defending our brave men and women.

MATERIAL SUPPORT BILL

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, Saturday's New York Times ran an editorial headlined Punishing Refugees Twice, which describes a very real problem that deserves our attention. The PATRIOT Act and the REAL ID Act are important laws to keep out of the U.S. those who provide aid to terrorists. However, an excessively broad interpretation of the law has tied our hands when it comes to admitting harmless refugees into America. No distinction is made for people who have been coerced under duress to provide material support, including under threat of rape or death or at gunpoint.

In addition, the definitions make no exceptions for people or groups that our government supports or that support our government, such as those resisting ethnic cleansing by the dictatorship in Burma, or anti-Castro groups in Cuba, or the Montagnards.

H.R. 5918 would fix this problem by allowing us greater ability to distinguish between our friends and our enemies. The many terrorism-related bars on entry would all remain in place.

I urge consideration and support of this bill.

IRAQ MAKING OVERALL TERRORISM PROBLEM WORSE—TIME FOR NEW DIRECTION

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, for 6 months now, President Bush has known that the Iraq war is making our efforts to fight global terrorism more difficult, yet he refuses to change the course. A top secret National Intelligence Estimate concluding that the Iraq war has made the overall terrorism problem worse should have set alarms off in the Bush administration. The document shows that the President's stay-the-course strategy in Iraq is only undermining our prospects for winning the global war against terror.

The Bush administration knew that this was a possibility before it even went into Iraq. Another intelligence estimate that came out in January 2003 stated that the approaching war had the potential to increase support for political Islam worldwide and could increase support for some terrorist objectives. Yet the administration set aside these concerns and chose to attack instead.

Today, our Nation is suffering the consequences. As the intelligence report states, radical Islam has metastasized. It's time for us to stop the growth of Islamic fanaticism by showing the world that we have no plans of occupying Iraq indefinitely.

RECAPPING REPUBLICAN SUCCESSES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, as this legislative session draws to a close, it is appropriate to look back at House Republican successes and the accomplishments that have been achieved for the American people.

During the past few months, House Republicans have worked tirelessly to strengthen the economy, protect family values, address the energy crisis, secure our borders, and increase national security.

With the tax reconciliation bill, families are keeping $31 billion of their own money, as clearly promoted by the Lexington County Chronicle. We approved a border security package to secure our borders and restrict the flow of illegal aliens into our country. Just yesterday, we passed the Military Commissions Act providing for the prosecution of suspected terrorists to help us secure victory in the global war on terrorism.

As we leave Washington and prepare to face the voters in November, we will be judged by our merits. I am proud House Republicans have a positive record of achievement on which to stand.

In conclusion, God bless our troops and we will never forget September 11.

ON THE VIETNAM DEMOCRACY MOVEMENT

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today in support of the Vietnamese people who continue to work every day for a free and democratic Vietnam.

In April, 118 Vietnamese citizens signed the Manifesto on Democracy and Freedom for Vietnam. Making this public statement put these Vietnamese citizens and their families at great risk. The signers of the manifesto are part of a movement called the 8406 Democracy Movement, which refers to the date on which they signed the manifesto, the 8th of April of 2006.

On June 10, I personally spoke with the leaders of the 8406 Democracy Movement, Father Ly and Do Nam Hai, and it is clear to me from my conversations with them that the government of Vietnam continues to violate religious, property and labor rights as well as the right to a free and independent media. These violations are unacceptable.

I urge President Bush to convey the following message to the government of Vietnam during his travel there in November for the Asia-Pacific Economic Corporation Conference.

The U.S. supports the people of the 8406 Democracy Movement who are working toward a free and democratic Vietnam and strongly objects to any mistreatment of them.

THE GENTLEMAN FROM ILLINOIS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. As this session of Congress draws to a close, so draws to a close, also, the storied career of the Lion of the Right, HENRY HYDE of Illinois. As the chairman of several major committees at the center of repeated national controversies, HENRY HYDE, as Members on both sides of the aisle know, has been a paragon of dignity and civility and commitment to principle. I would add he has been a lion of the right to life and this Chamber will miss his roar.

I will offer legislation today to name the Rayburn International Relations Committee room after this storied legislator, and I urge my colleagues to support this measure.

When I think of HENRY HYDE's career, I think of Ulysess by Alfred Lord Tennyson who wrote:

> "Tho' much is taken, much abides; and tho' we are not now that strength which in old days moved heaven and earth, that which we are, we are; one equal temper of heroic hearts, made weak by time and fate but strong in will to strive, to seek, to find, and not to yield."

Let us honor this rare leader and may God bless the golden years of the gentleman from Illinois.

SENIORS ONCE AGAIN VICTIMS OF GOP'S COZY RELATIONSHIP WITH DRUG COMPANIES

(Mr. CARDOZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDOZA. Madam Speaker, American seniors are facing their first full week of the donut hole. This gap in prescription drug coverage for thousands of seniors is the direct result of the Republicans' dedication to increasing drug company profits.

As a clear giveaway to the big pharmaceutical companies, the Republican prescription drug benefit does not require that the Federal Government use its huge purchasing power to bargain for lower cost drugs. On three occasions since 2003, House Republicans had the opportunity to support Democratic amendments to reduce drug prices through bulk purchasing. Passage of our amendments would have provided Congress with the money to fill the gap in coverage and eliminate the donut hole.

But, no. This would have eaten into drug company profits and threatened the friendship that exists between the Republicans and the drug companies.

Mr. Speaker, we can still correct this injustice visited upon our seniors before we recess. Today, we should give the Secretary of Health and Human Services the power to bargain those prices down and permanently close the donut hole.

America needs a new direction.

IN HONOR OF SMEAD MANUFACTURING ON THE OCCASION OF ITS 100TH ANNIVERSARY

(Mr. KLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINE. Madam Speaker, there has been much celebration this year in the little town of Hastings, Minnesota. I rise today to recognize a small business icon in the State, a document management company with a rich heritage of innovation and quality.

This year, Smead Manufacturing celebrates its 100th anniversary. A cornerstone of the Hastings community, Smead is the world's leading provider of filing and organizational products.

For 100 years, Smead has been committed to one purpose, keeping business organized. For the last 51 years, Smead has been a woman-owned company which now employs more than 2,700 workers in 15 plants. I have enjoyed the opportunity to visit the Hastings facility and meet many of the dedicated employees. On the occasion of this milestone achievement, I want to thank the men and women of Smead Manufacturing for their service to the community and the State of Minnesota. I commend the employees and leaders of this great institution and wish them much continued success.

TIME FOR A CHANGE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, this Republican Congress has failed the American people. Nobody can deny that this is the most do-nothing Congress in our history. On every front, from Iraq to Social Security, Republicans have sided with the lobbyists' special interest agenda instead of working for the American people. Time and time again, they have said "no" to the needs and concerns of the American people.

"No" to increasing the minimum wage.

"No" to balancing the budget.

"No" to fully implementing the 9/11 Commission's recommendations.

"No" to filling the donut hole for millions of American seniors struggling with their drugs.

"No" to tough penalties on big oil companies that price gouge.

"No" to finding a new strategy for Iraq.

Republican inaction on issues of critical concern to the American people has led to rising drug costs, higher energy prices than a year ago, and billions of taxpayer money being wasted in Iraq on no-bid contracts for administration cronies like Halliburton.

The American people are fed up with a Congress that refuses to do its job. It's time for a change.

□ 1030

THE NEED FOR ENERGY INDEPENDENCE

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, as my friend Mr. ENGEL from New York knows, gas prices are coming down. I am glad about it. A friend of mine, a son, actually filled up last weekend for $1.89 a gallon.

But Mr. ENGEL and I know that the pressure upon the gas supply brought about by new drivers in India and China and all over the world means increased demand with a very limited supply of oil. We have got to wean ourselves off of Middle East oil and foreign oil as much as possible.

Mr. ENGEL and I have introduced H.R. 4409, which moves us toward alternative fuels. Ethanol, hydrogen, biomass, technologies that are already out there. We just need to invest more money and accelerate our commitment towards fuel independence.

Imagine driving through a rural area, cornfields on both sides of you, with assurance that that is your next tank of gas. Would that not be great?

This is something that we can work on as Democrats and Republicans. Mr. ENGEL and I have put the bill forward. We are glad to have a lot of Democrats and a lot of Republicans on it. I hope we can get it to the floor for a vote because I think it is extremely important.

THE WORLD IS LESS SAFE

(Mr. COSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COSTA. Madam Speaker, America is less safe today than before 9/11 attacks. That is according to the National Intelligence Estimate that was leaked out over the weekend. According to the report, the war in Iraq is actually fueling terror worldwide, undermining our efforts to fight terrorism, and making Americans less safe at home and abroad.

This is the second report that questioned our efforts in Iraq, by the GAO. The GAO report asked three specific questions that, unfortunately, this do-nothing Congress should be asking if we had not abdicated our role.

First, what are the key political, economic, and security conditions that must be achieved for U.S. forces to begin to withdraw? Americans want to know.

Two, why have security conditions continued to deteriorate in Iraq even though Iraq has reached political milestones and increased the number of trained and equipped security forces? The American people want to know.

And, three, if existing U.S. political, economic, and security measures are not reducing the violence in Iraq, what measures, if any, does the administration propose to end the violence? The American people want to know.

It is time that we make Americans safer and fully implement the 9/11 recommendations. It is time for a new direction.

FAILURES OF THE CONGRESS UNDER REPUBLICAN LEADERSHIP

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Madam Speaker, we are in the final hours of this Congress. How will historians judge our work? Very harshly.

There has probably not been a more incompetent or corrupt Congress in modern times than this one. Don't take my word for it. Look at the book called "The Broken Branch," by Norm Orenstein and Thomas Mann. It chronicles the failures of this institution under its recent Republican leadership.

Another objective measure is the lack of workdays in this body. Norm Orenstein pointed out only yesterday that we will have worked only 60 real days this entire year. Sixty days, 2 months of work, and yet we draw 12 months of pay.

Where are the hearings? Where are the debates? Where is the action on American priorities? Where is the immigration bill? Nowhere. Where is the defense bill? And we are in the middle of two wars. Crucial, vital pieces of legislation for America, and this leadership says it simply does not have the time.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1045 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1045

Resolved, That it shall be in order at any time through the legislative day of September 29, 2006, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 1045 provides that suspensions will be in order at any time through the legislative day of September 29, 2006. Further, it provides that the Speaker or his designee will consult with the minority leader or her designee on any suspension considered under the rule.

This is the last week before Congress will recess until November so that Members can return home and spend their time meeting and working with those that they represent. Currently, there are several necessary and noncontroversial bills that are waiting consideration by the House of Representatives. It is important that the House be able to consider these bills before adjourning.

The suspension authority provided in this resolution will ensure that Congress can complete some additional key work by allowing for consideration of a number of important bills through the legislative day of September 29, 2006.

I encourage my colleagues on both sides of the aisle to support this rule.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman for yielding, and I yield myself such time as I may consume.

Madam Speaker, at the end of the week, this Congress will adjourn so that its Members can go home to campaign for their seats. I like to think of a campaign as a long job interview. Everyone in the body will have to convince his or her constituents that they are the best person for the job, that they have spent their time here in Washington doing whatever they can to better the lives of the people back home in their districts.

Madam Speaker, this Republican Congress has not made that task easy. It isn't just what the Congress has done with its time that is so disappointing, for example, yesterday's passage of a military detainee bill that undermines some of our most cherished and fundamental principles. It is also what the Congress has not done. All the challenges it has not addressed. The responsibilities it has not lived up to. It is all going to leave voters wondering what we have been doing these last 2 years.

The American people do not need us to tell them why their country is headed in the wrong direction. Every day that Congress fails to implement the critical recommendations of the 9/11 Commission, they feel less safe. Every day they struggle to get by on real wages that continue to decline, they feel less secure. And every day that seniors and those with disabilities cannot afford their prescription drugs, that students and their families lie awake worrying about how they are going to be able to afford college tuition payments, and that tens of millions of commuters break the bank trying to afford their drive to work in the morning, every day these problems remain unresolved, and people ask themselves why this Congress doesn't seem to care about what really matters to them.

They need it to take their troubles and concerns seriously and for us to spend our time passing meaningful bills that will actually help them live their lives and provide for their families.

So today, my fellow Democrats and I are offering one last opportunity to our Republican colleagues to make the 109th Congress really mean something. This rule will give us the ability to consider numerous important suspension bills today and tomorrow. In that short amount of time, we can pass legislation that will go a long way towards giving our constituents and fellow citizens the help they need.to live in safety and security, to achieve their goals and ensure a brighter future for their children.

I want to briefly mention five goals that we should all pledge to reach before we adjourn. Since 9/11, this administration and Republican Congress have tried to convince us that we are in a war for civilization. They used the urgency of that supposed fight to justify reductions in our fundamental liberties and wars that have cost our citizens dearly.

And yet they have largely failed to implement the overwhelming majority of the 41 security recommendations made by the 9/11 Commission, recommendations designed to prevent another attack here at home. And as was made clear by the response to Hurricane Katrina, this government is not prepared to respond to disasters. Nor has it adequately addressed weaknesses in our security system that could be exploited at any time, weaknesses in our energy infrastructure, at our ports, and in our intelligence community.

And that is why I call on this Congress to immediately pass legislation putting the commonsense recommendations of the 9/11 Commission into law. We have no reason for inaction, and the American people won't accept any more excuses.

Threats to the security of our citizens do not come from the outside alone, Madam Speaker. They are threats to that security right here at home. Working families cannot hope to feel secure if they are living paycheck to paycheck and deeply in debt. And if those paychecks are not enough to live on, they do not have much cause for hope left. The real wages of America's workers have fallen for years, squeezing the middle class and making it harder for our 7 million minimum wage workers to even get by. One way to alleviate that pressure would be to increase our minimum wage.

The majority leader bragged a few weeks ago that he has spent his entire career in Congress voting against minimum wage increases. And he isn't alone. Under Republican control, Congress has refused to raise the minimum wage for 9 years, not even to adjust it for an increased cost of living. On the other hand, that cost-of-living adjustment has been made to the congressional salaries numerous times.

Well, enough is enough. My Democrat colleagues and I pledge here and now we will not support another congressional pay raise until we give America's minimum wage workers a raise as well. There is an easy way to do it. We can immediately pass Representative GEORGE MILLER's Fair Minimum Wage Act or a similar amendment that Representative HOYER authored to the Labor, Health and Human Services bill. Doing so would have an immediate and profound effect on millions of lives.

Madam Speaker, the deeply flawed Medicare part D legislation rammed through Congress last year has already come home to roost. Millions of Americans face prescription drug premiums they cannot afford, a reality that weighs especially heavy on the elderly and the disabled.

This Congress should immediately give the Secretary of Health and Human Services the authority to negotiate for lower prescription drug prices. This would immediately help countless men and women get the lifesaving prescription drugs that they need.

Nor should we focus only on the present. If we hope to secure a strong future for our country, we must make access to higher education a right instead of a privilege. In our increasingly competitive global economy, knowledge is power like never before, and a good education is more priceless than ever. And what a shame it is that so many of our soldiers serving us now have joined the Guard and Reserve simply to be able to get an education.

During this Congress, Republicans responded to this challenge by cutting $12 billion in Federal student aid intended for our Nation's college students. It was a shortsighted and harmful decision, and it should be immediately reversed.

I hope all my colleagues on the other side of the aisle will join the Democrats in restoring higher-education funding and expanding the size and availability of Pell Grants. We can do it by passing an improved Labor-HHS bill, and Democrats have the legislation to get it done.

Finally, Madam Speaker, while energy costs have compounded the daily troubles of so many ordinary people, Congress has handed out huge tax breaks to the Nation's largest oil companies and done it while they have made some of the greatest profits ever earned by American corporations. Since Republicans passed an energy bill in 2001, authored in secret by the administration and those same companies, it has been clear whom the Republicans stand with on this issue. But the Democrats always fault for an energy agenda that works for all Americans, not just for the oil industry. We should immediately begin rolling back tax breaks for big oil and using the savings to invest in alternative fuels that would give us true national energy independence and real relief at the pump and force them to pay the royalties they owe this government for their use of public lands.

Madam Speaker, today and tomorrow we will be presenting bills that will accomplish all these goals. I ask my friends on the other side of the aisle to think about the questions they will be asked when they go home in October. I ask them to think about how they are going to respond to a constituent who asks what they have done to lower tuition prices, to make our ports and mass transit systems more safe, to get prescription drugs into the hands of those who need it, and to increase the quality of life for minimum wage earners. I ask them to no longer ignore these critical questions and these critical needs of our citizens.

In 2 days, with just a few simple bills, this Congress can improve the lives of tens of millions of people. The only real question left to ask is, why would we let such a precious opportunity pass us by?

Madam Speaker, I reserve the balance of my time.

□ 1045

Mr. HASTINGS of Washington. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Madam Speaker, first let me thank the gentlewoman from New York, the ranking member of the Rules Committee, Ms. SLAUGHTER, for yielding me time. Let me associate myself with her comments.

Normally a rule that would allow us to consider suspension bills today would not be controversial. Suspension bills, after all, are usually bills that if they do not pass unanimously, they pass pretty much close to unanimously. They are naming of post offices, there are things that quite frankly are nice but they are not crucial for this Nation.

And, you know, I come to the floor today, along with others, to object to this because this Congress is about to recess and it has not done the people's business. This Republican Congress has failed to make college education more affordable. This Republican Congress has failed on retirement security. This Republican Congress has failed on energy. It has failed on health care. It has failed on jobs and wages. And it has failed on Iraq and national security.

I mean, we are about to recess, and this Congress has not increased the Federal minimum wage. It is stuck at $5.15 an hour. I mean, Congress has not raised the minimum wage in 9 years. During that same period of time, Congress voted themselves a $31,600 pay raise. We do not have the time to increase the Federal minimum wage, but we have time to increase our salaries by $31,600? Please, give me a break. Where are our priorities?

We have the time right now to raise the Federal minimum wage. I think that is more important than naming a post office before we recess before the elections.

On the issue of energy, I mean where is our energy policy? Where is our commitment to renewable and safe and clean alternative sources of energy?

I mean, there is nothing. We have seen gas prices go way up. And, guess what? They are mysteriously coming down before the election. But I am going to make a bet with you that right after the election they will go back up again. You know, these oil executives, they are smart. They know where their bread is buttered. They do not want accountability. They do not want a Congress that is going to hold their feet to the fire when it comes to price gouging the American people.

On the issue of Iraq, a National Intelligence Estimate tells us that this war in Iraq has created more terrorists rather than decreased the number of terrorists. And yet what do we have going on here in this Congress? Nothing. There is no accountability with regard to this administration's policy.

President Bush tells us to stay the course, which is code for stay forever. This war began in 2003. And whether you supported it or opposed it, I think everybody can agree it has not unfolded as advertised. I mean, we are now a referee in a civil war.

We have spent hundreds of billions of dollars not on schools, not on senior citizens and retirement security, not on economic development, not on infrastructure, not even on reducing our enormous debt, we have spent it in a mistaken war in Iraq that gets worse and worse every day, and yet this Congress, this Congress refuses to hold the administration accountable, refuses to do the oversight necessary to try to take this failed policy and bring it to an end.

I mean, we have lots and lots to do before we recess. We have important matters that every single person in this country cares about, whether they are a Democrat or a Republican. Instead, we are told, no, we do not have the time, we are going to come here and we are going to spend more of our time doing suspension bills.

I mean, there is a reason why this Congress only has a 25 percent approval rating by the American people. People get it. People know that this is a do-nothing Congress. People are frustrated that this Congress has become a place where trivial issues get debated passionately and important ones not at all.

People understand that there is something wrong when Congress cannot find the time to increase the Federal minimum wage and when they try to do it they play politics with it by attaching it to a tax cut to wealthy people.

There is something wrong when Congress cannot increase the national minimum wage, but we have time to vote ourselves a pay raise. There is a disconnect. I think the people are way ahead of us here in Washington. People understand that this Congress has failed them time and time and time again.

It is time for a new direction. It is time for a change, and it is time to get this Congress to behave in a mature, responsible fashion. And that means dealing with issues like the affordability of a college education. It means dealing with issues that people care about.

With that, Madam Speaker, I urge my colleagues to vote against this rule.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, there have been several references today and in the past few days about the issue of the minimum wage. I think that we need to set the record straight as exactly what this House has done regarding that issue, because the issue has been around some time.

Before we went on our district work period in August, the week before we left at the end of July, this House did pass, did pass and sent over to the Senate, an increase in the minimum wage.

Yes, it was attached to other bills, or other issues. That is not anything that is unusual in this body. That goes on all of the time. But what were those other issues? Those other issues provided tax relief for certain Americans. One of that was sales tax deductibility, for example, for States that do not have an income tax. My State happens to be one of those. Broad support in both Houses of the Congress.

The other was the, not the elimination, but capping of the death tax. That has support in both Houses. It unfortunately does not have the required filibuster-proof support in the other body. But that was part of that tax bill.

There is also a provision for research and development tax credits to keep our economy moving. That has broad support in both Houses. That was part of that tax bill. And then there were some other provisions in that also.

Attached to that, yes, was the minimum wage. I voted for that. I have to say, Madam Speaker, I am not one that is generally in favor of the minimum wage. But I felt coupling that together with these other important measures to keep our economy going, to take care of those taxpayers in States that do not enjoy broad parity with other States, I thought it was important.

So if the issue then is to pass a minimum wage, it seems to me the message ought to be sent to the other body, because that bill is still waiting over there. All they have to do in the final days of this session is to stop the filibuster and pass that bill over there, and we will have the minimum wage increase that we keep hearing over and over and over.

So, Madam Speaker, I just wanted to set the record straight that this House has acted on that, and I think in a very responsible way.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, let me just point out that the minimum wage bill passed here was buried in a bill that gave billions in tax breaks to the Nation's wealthiest.

Madam Speaker, I yield 6 minutes to the gentleman from Mississippi (Mr. THOMPSON), the ranking member on Homeland Security.

Mr. THOMPSON of Mississippi. Madam Speaker, homeland security is not a red or blue State issue. It is a red, white and blue issue. It is an American issue. When al Qaeda struck us 5 years ago, it did not distinguish its victims. The terrorists did not care if you were from a red or blue State.

Party distinctions mattered little to terrorists. Mother nature, too, had little use for arbitrary partisan labels as we learned with Hurricane Katrina and Rita. Those terrible storms inflicted suffering on all the people of the gulf coast.

The American people expect that homeland security is one of our top national priorities, and the 9/11 Commission, the bipartisan panel we created, said it must be a priority. Congress told that panel to get to the bottom of what happened on 9/11 and give us a road map to guard against future attacks.

They did their part, Madam Speaker. This do-nothing, do-over Congress, squandered time and resources and is now trying to pass off do-little rhetoric as real action.

Where has all of that gotten us? Where in the world has Congress been for 5 years? That is the question that the 9/11 Commission chair and vice-chair asked a few weeks ago on the fifth anniversary of the attacks, as this Congress chose to spend the week leading up to the 9/11 anniversary on a horse slaughter bill, and little else.

Mr. Kean and Mr. Hamilton lamented the lack of urgency across the board. Democrats agree with Mr. Kean and Mr. Hamilton, the adoption of the 9/11 Commission recommendations should be a no-brainer. And unless this Congress acts immediately, it will add do-not-care to its do-nothing label.

When we adjourn in a few days, Madam Speaker, this Congress will have failed, for example, to enact risk-based first responder funding. As a result, Washington and New York, areas we know the terrorists still want to attack, will still be vulnerable.

Congress has done even worse on interoperable communications. Just this week the Republicans have refused to include funding and resources in FEMA provisions attached to the Homeland Security appropriations bill.

The House leadership can spend a day talking about protecting the lives of horses on the floor, but can't find the time to debate legislation that will protect the lives of our first responders. I don't know about you, Madam Speaker, but as a former volunteer firefighter, I would trade a horse any day for interoperable communications.

Madam Speaker, Democrats stand united in calling for the enactment of the 9/11 Commission recommendations. We insist, no, demand that Congress act immediately to provide first responders with the equipment, training and resources they need.

We call for stronger transportation and critical infrastructure security planning and support. It saddens me that the House in discussing the port security bill with the Senate refuses to provide funding for protecting subways, trains and buses across our Nation.

Did we not learn anything from the attacks in London, Madrid and Mumbai? Democrats want to secure our border, and we want to do it right.

Five years ago the President announced that he was creating an Office of Homeland Security to provide a robust and effective border security program. Half a decade later, Southwest Governors were forced to declare border emergencies, and the National Guard was sent to the U.S.-Mexican border to assist with the growing border crisis.

Yet despite the urgency of the situation, Madam Speaker, this Congress refuses to allow us to vote on a complete overhaul of our immigration system, adequate funding for border personnel, equipment and resources for border personnel, a system for addressing what to do with 12 million people without documentation in this country.

Instead, Madam Speaker, the House leadership chose to vote and revote on a fence without setting aside enough money to build it. Democrats also believe we must strengthen the relationship between the intelligence community and State and local law enforcement.

Today, as ranking member of Homeland Security, I am releasing a report entitled, "LEAP", Law Enforcement Assistance and Partnership strategy, that lays out a strategy for doing this.

Democrats absolutely believe we need clear and robust Congressional oversight of homeland security efforts. Too much money has been wasted in our current efforts with few checks in place.

Lastly, Democrats have and will continue to ensure that the war on terrorism does not cost us our privacy and civil liberties. As the Gilmore Commission told us a few years ago, counterterrorism initiatives must not undermine our unalienable rights. These rights are essential to the strength and security of our Nation, life, liberty and the pursuit of happiness.

Madam Speaker, I agree with the Gilmore Commission that there is probably nothing more strategic that our Nation must do than ensure our civil liberties.

Madam Speaker, it is time for this Congress to stand up and do something. This Congress cannot continue to be the Congress that left security behind.

Mr. HASTINGS of Washington. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 6 minutes to the gentleman from Maryland (Mr. HOYER).

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Mr. HOYER. Madam Speaker, I thank the gentlewoman from New York for yielding and I thank her for her leadership on the Rules Committee in one of probably the most frustrating jobs on this Hill, because we have not had open debate.

Dana Milbank wrote about that this morning. Dana Milbank quoted DAVID DREIER. DAVID DREIER criticized Democrats yesterday for not having alternatives. DAVID DREIER's Rules Committee prevented the Democrats from offering any amendments to yesterday's commission bill. How ironic.

Mr. Speaker, I adopt the comments made by the distinguished gentleman from Mississippi who was right on point, in my opinion. I truly hope the American people are watching today because, if they do, they will see why this Republican Congress is the do-less-than-the-do-nothing Congress of 1948, which is failing to address the priorities of the American people. That is what the gentleman from Mississippi was talking about.

Let us look at the facts. This do-less-than-the-do-nothing Republican Congress is projected to be in session just 93 days prior to leaving for the elections. The do-nothing Congress met 111 days. That is 17 fewer days in session than the do-nothing Congress of 1948, which was famously derided by President Truman. Now, if we had done a lot of work in those 93 days one could say, well, we did not need to meet as much because we did a lot of substantive work. Let us look at the record.

Today on this House floor, we have the time to consider a bill recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War. That was a critical juncture in our history and deserves recognition. Yet, we have still failed to enact a budget. We do not have a budget. Now Mr. and Mrs. America probably know that the budget year begins just 4 days from today, but we have not enacted a budget for the American people.

Today on this House floor, we have time to consider a bill congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia. I think they are world champions.

They are deserving of recognition. I do not resent the fact that we are doing that. God bless them. Congratulations. Yet, this Republican-controlled Congress has failed to enact the recommendations, as was pointed out by the gentleman from Mississippi, of the 9/11 Commission.

One of our most important responsibilities is keeping America and Americans safe. That is what the 9/11 Commission was about. Republicans and Democrats came together. Governor Kean, former Republican governor of New Jersey, and Lee Hamilton, distinguished former Member of this body, a Democrat, came together and made recommendations, said we can make America safer, but they have given us Fs and Ds on our performance.

Today on this House floor, we have time to consider 12 post office renamings. I am sure that every American is concerned about the name of their post office. Me, too. Yet we have failed to enact a long overdue increase in the Federal minimum wage which has not been raised since 1997. People in America, the richest Nation on the face of the earth, 6.6 million working 40 hours a week and living in poverty, but we can rename 12 post offices.

We failed to enact real immigration reform to keep our borders safe, failed to address the fact that 46 million Americans have no health insurance. Yet we rename 12 post offices. And we have failed to enact legislation that moves us toward energy independence, a security issue, an economic issue and an environmental issue.

The truth is, Madam Speaker, this Republican Congress is failing the American people, and the fact that the Republican majority is here today asking us to consider noncontroversial bills while key priorities go unaddressed is the clearest evidence of that failure.

I go around this country and Americans tell me they want a change. They want to move in a new direction.

As Tom Mann, a congressional scholar at the Brookings Institution, and Norm Ornstein, one of the most respected congressional scholars in America who works at the American Enterprise Institute, wrote yesterday in the Los Angeles Times, "This Congress hit the ground stumbling and has not lifted itself into an upright position. The output of the 109th Congress," they went on to say, "is pathetic measured against its predecessors." Republican and Democrat.

Mr. Speaker, this Republican rule is nothing less than a mission of failure and ineffectiveness. Even our Republican colleagues have a hard time denying that. Let me quote JACK KINGSTON from Georgia, who has been such a prominent part of the Republican leadership, who said it best earlier this week. I quote Republican JACK KINGSTON, part of the Republican leadership, "It is disappointing where we are, and I think Republicans need to be up front about this. We have not accomplished what we need to accomplish." If I were in church, the people would say "Amen."

It is time, Madam Speaker, for a new direction in America.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will be asking Members to vote "no" on the previous question so that I can amend the rule to provide that the House will immediately consider five important legislative initiatives that will actually do something to help American workers and their families.

Madam Speaker, I ask unanimous consent to insert the text of my amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Madam Speaker, my amendment would provide for immediate consideration of five bills. The first one would implement the recommendation of the 9/11 Commission, something the House should have done years ago.

The next bill would provide for an increase in the minimum wage to $7.25 per hour. It has been more than 9 years since hardworking Americans have seen a change in the minimum wage, and this increase is long overdue.

The amendment would also allow the House to immediately consider a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and persons with disabilities. Last week, megastores like Wal-Mart and Target announced that they were cutting prescription drug prices due in part to their ability to negotiate with drug companies. Why should the government not be allowed to negotiate as well?

Under my amendment, we will also take up a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell grants.

And finally, a "no" vote on the previous question will provide for immediate consideration of the bill to roll back the massive tax breaks for large oil companies and to invest those savings in alternative fuels to achieve energy independence.

Madam Speaker, these are all measures that will actually do something to help improve the quality of life for all Americans, and will make them safer as well. That is what we were sent here to do.

So vote "no" on the previous question so that we can consider these important bills today and show the people of this great Nation that they come first.

Madam Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I just want to touch on a couple of issues that were brought up here, and hopefully set the record straight as to what has happened.

There has been talk about Medicare. I just remind my colleagues that the Medicare legislation that had the prescription drug benefit was passed by a prior Congress. To be sure, it was put in place and implemented during this Congress, and that was done because we were really blazing new ground with that Medicare prescription drug reform and the Medicare reform in general. I might add, too, Madam Speaker, for 40 years when the other side controlled this body, there was no prescription drug benefits available at all for anybody on Medicare. So this was new ground, and we put into place, I think, some very innovative reforms that, frankly, have proven to have been very well accepted by people across the country.

I think the most important part of this Medicare reform was that we made it voluntary. It was not a mandatory program. To suggest that people once they turned 65 cannot make decisions, I think, is wholly underestimating senior citizens. In my district, for example, when the Medicare plan was fully put in place there were 30 plans to choose from in my district. Seniors had a number of choices. I had a forum where a number of seniors came up, asked questions and then made their decisions before the sign-up time. They will have another opportunity to sign up, again, of course in November.

While this program is only in place now for less than a year being implemented, by and large, across the country, it is being well accepted because it provides the coverage that was not available before, and I think that point needs to be emphasized.

I might add that when we reformed this program there was a lot of criticism about the cost of this program. Sure, anytime you have a Federal program, it is going to cost some money, but their substitute plan cost infinitely more than what our plan was that we put into place.

So I just wanted to set that record straight, and I think it is important.

Secondly, I want to talk a bit about border security and the overall war on terror. I just remind ourselves, earlier this month, we passed the 5-year time period when we were brutally attacked by terrorists on 9/11/2001, and let us remind ourselves, we have not been attacked in this country since that time. Other countries have faced international terrorism in London, in Spain, and in Indonesia comes to mind right off the top. Same people are behind this as international terrorist group.

So what we have done is to try to secure our country, and since we are involved in this war on terror, I think it is clearly in our best interests to try to engage them on their turf. We have been successful thus far, but as President Bush has said, this is going to be a long, long process, but keep in mind, there is no question that the ultimate target in this international war on terrorism is our way of life.

In response to that, we have secured our border. There is absolutely no question about that. In some cases, it was passed with bipartisan support, and in some cases, it was not, but the record, Madam Speaker, I think needs to be said, and that is that we are doing things to secure our border and make America safe.

The fact that we have not been attacked I think is credit to those that do that work to secure us on the homeland security, on the border, the first responders. They have all responded. Our intelligence community is much, much more robust than it was before and that has added to our security.

So, Madam Speaker, there has been a lot that has been accomplished in this Congress, and I think that we can go into this break before the elections with a very high head.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 1045 PROVIDING FOR MOTIONS TO SUSPEND THE RULES

At the end of the resolution add the following new Sections:

Sec. 2. Notwithstanding any other provisions in this resolution and without intervention of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bills listed in Sec. 3:

Sec. 3. The bills referred to in Sec. 2. are as follows:

(1) a bill to implement the recommendations of the 9/11 Commission.

(2) a bill to increase the minimum wage to $7.25 per hour.

(3) a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.

(4) a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell Grants.

(5) a bill to roll back tax breaks for large petroleum companies and to invest those savings in alternative fuels to achieve energy independence.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. HASTINGS of Washington. Madam Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PUTNAM. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1046 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1046

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 28, 2006, providing for consideration or disposition of any of the following measures:

(1) A bill to authorize trial by military commission for violations of the law of war, and for other purposes.

(2) A bill to update the Foreign Intelligence Surveillance Act of 1978.

(3) A conference report to accompany the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

SEC. 2. House Resolutions 654 and 767 are laid upon the table.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 1046 is a same-day rule that allows the consideration today of certain legislation that may be reported from the Rules Committee.

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Specifically, it allows for the consideration or disposition of a bill to authorize the trial by military commission for violations of the laws of war, a bill to update the Foreign Intelligence Surveillance Act of 1978, and the Homeland Security appropriations conference report for fiscal year 2007: Three very significant pieces of legislation that need to move through this body before we break for the October District Work Period.

It is imperative that we pass this same-day rule. This resolution lays the foundation so that the House can complete its business and send outstanding legislation to the Senate and to the President's desk. We are working to move this process along toward the adjournment of the 109th Congress.

The House Committee on Rules will meet later today to provide the rules for possible consideration of these items, such as the Homeland Security appropriations bill, the legislation to deal with these violations of the laws of war, modernizing our approach to dealing with terrorists and those who plot to blow up airliners over the Atlantic, who fly planes into the symbols of our military power, the symbols of our economic power, those who would blow up our embassies, those who would target innocent civilians in a way that is unprecedented in the history of modern warfare, as well as legislation to update and modernize the Foreign Intelligence Surveillance Act of 1978.

Obviously, you can tell by the title of the act, the Foreign Intelligence Surveillance Act of 1978, that it is badly in need of reauthorization. Clearly, technology changes, the sophistication of communications, and the diversity of the threats that face this Nation all beg for us to act and modernize that legislation so that law enforcement and intelligence agencies have the tools they need to prevent future attacks on American soil and to protect our forces and our civilians abroad.

I am pleased this same-day rule will facilitate the timely deliberation, discussion, debate of these important issues. I urge my colleagues to support this. This is a procedural motion that allows us to move forward with the meat and potatoes that are important for the safety and security of this country, those legislative items that will be considered later in the day.

So this is an important procedural obstacle that we need to clear out of the way to allow for consideration of these items so that we can move forward to the remaining agenda items for this Congress.

Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Madam Speaker, Democrats and Republicans agree in the primacy of national security issues. But Democrats also recognize that middle-class Americans are worried about several other things as well, all of which affect a different type of security: Their economic security. And Democrats are prepared to remain here until the full scope of problems facing our constituents is addressed.

H. Res. 1046 is a martial law rule suspending the rules of the House. It would allow the majority to bring several bills to the floor the same day the Rules Committee meets to report those bills. Two of the three items allowed to come immediately to the floor were made public late last night. The third bill may be passed by the Senate today.

What this means is that, yet again, it will be almost impossible for Members to read the bills before being asked to vote on them. This abbreviated approach to legislating is not new. However, the 109th Congress seems likely to have taken this to a new level. We are on track to set a record for the fewest days spent voting in our lifetimes.

This is beyond being unreasonable to the American people. They sent us all here to do a job, to vote, and to do our part to fix the problems they face each and every day. They pay the price for our inaction at the pharmacy, at school, and in their paychecks. So it is worth taking a look at what remains undone when Congress works so little.

We still need to fully implement the 9/11 Commission recommendations here. We have not passed a comprehensive national energy policy that puts us on the path to energy independence by focusing on alternative and renewable sources of energy. We should allow the Federal Government to negotiate lower prescription drug prices for seniors and people with disabilities. We should restore the massive cuts to Federal student financial aid that Congress made earlier this year. And we have not had a clean vote to raise the minimum wage.

Democrats want to address each of these issues before we go home for the elections, but the majority has made it clear, through this rule, that the House leadership will not consider these priorities before leaving town.

This martial law rule would allow us to consider a conference report for homeland security funding. But even after this agreement passes, massive holes will remain in our homeland. The majority has not taken action to make sure that first responders can talk to each other, a key problem on September 11, 2001. According to legislation passed by this majority, the issue will not be fixed until 2009. That is unacceptable.

According to the 9/11 Commission, the Federal Government still does not have a consolidated terror watch list at our airports, and without proper funding, TSA cannot implement the full range of security measures necessary to protect us.

Finally, we do not have 100 percent screening of cargo coming into our ports. These holes are the reason that the 9/11 Commission gave Congress failing grades late last year.

The majority has defeated multiple Democratic attempts at fixing these problems. Democrats want to fix these holes before we leave town.

Let us consider another of the issues that I mentioned. The need to create a forward-thinking energy policy that places us on the path to energy independence. Energy touches the core of our national security during a time of global upheaval, so it affects the economic security of every person across this country and it affects the ability of businesses to compete. We cannot afford to be dependent on volatile regions of the world, and it is impractical and unwise to believe we can drill our way out of this problem.

It is long past due for the Federal Government to make an unprecedented commitment towards energy independence. We need to drive the development and deployment of renewable and alternative sources of energy. We also need to encourage the use of energy efficient technologies to help our families and businesses reduce their energy consumption.

Achieving energy independence will not happen overnight. It will require a long-term sustained effort of government, businesses, and families. But America has always been up to challenges like this, and Democrats want that effort to start now, before we go home for the elections.

Another issue we failed to address is the need for the Federal Government to negotiate lower prescription drug prices for seniors. Almost eight out of every 10 seniors who signed up for the new Medicare prescription drug benefit in California have a plan with a so-called donut hole. This means that almost 300,000 seniors and disabled workers will see a gap in coverage. Even though these individuals will receive no help with their prescriptions, they are required to keep paying premiums to the Federal Government.

And those drug prices are higher than they need to be. Congress already allows the Veterans Administration to negotiate prices directly with the drug companies. As a result, veterans get the prescriptions they need for less. It is a great program. But when Congress passed the Medicare prescription drug bill, it specifically prohibited the Federal Government from doing the same price negotiation for seniors. That is wrong, and Democrats will fight to fix this problem before we leave town.

Madam Speaker, also as a result of working only 88 days thus far, we have also neglected to fix the misguided cuts in student aid that Congress approved earlier this year. In February of this year, the majority voted for the largest cut in student aid in history: $12 billion. Congress took this vote despite the fact that parents and students all across the country are struggling to access this doorway to opportunity.

With the cost of college skyrocketing, the average college student is now more than $17,000 in debt. Many are paying above-market interest rates in order to finance their education. Madam Speaker, a college education should be an opportunity, not a burden. Democrats are committed to reversing these terrible cuts before we leave town so that every student has the opportunity to succeed.

In closing, Madam Speaker, Democrats are interested in addressing the full range of problems that worry the American people. As I have mentioned, we should start by allowing the Federal Government to negotiate prescription drug prices, we should also reverse the cuts to student aid, and we are prepared to stay at work until we do so.

Madam Speaker, I reserve the balance of my time.

Mr. PUTNAM. Madam Speaker, I appreciate my friend's comments on the prescription drug debate, the energy debate, and the student loan debate. I would remind my friend that we are here to facilitate action on the Homeland Security appropriations bill, the Foreign Intelligence Surveillance Act modernization, and the military tribunals bill, and with her help we can move this procedure along and continue to act on behalf of the American people to make them safer.

Madam Speaker, we need to get the boots on the ground to secure our borders, the money for 1,200 new Border Patrol agents, new Customs officials, and the modernization and authorization for our intelligence and law enforcement officials to utilize the best technology and the best communications to prevent and disrupt any potential plans to attack our homeland. Those are the items that are embodied in this bill that we are considering at this time, and, as I said, with her assistance we can move forward and then be able to again address the other issues that she mentioned, on top of the work that we have already done in passing three major energy bills in the past 18 months that deal not only with fossil fuels and the need to reduce our dependence on foreign oil, that deal with the expansion of refining capacity in this country, which was largely blocked by the other side of the aisle, an energy policy that provides prizes in the form of monetary grants to those innovative individuals around America who find the next big thing, who can innovate on a hydrogen type of fuel cell or the hybrid and continuing to build on that, building on the tax incentives that we passed through this body that encourage people to purchase hybrid vehicles, looking at renewables, solar, and wind.

All of those things, Madam Speaker, are part of the energy bills that we have passed in this House, and now we need to pass these items of important national security. That is what this bill does.

Madam Speaker, I continue to reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 5½ minutes to the gentleman from California (Mr. GEORGE MILLER), my good friend.

Mr. GEORGE MILLER of California. I thank the gentlewoman from California for yielding.

Madam Speaker, here we are, close to adjournment, maybe 48 hours from now the Congress will go home for the elections, and we will leave millions of Americans who work at the minimum wage, who are stuck at a poverty wage, because of the failure of this Congress to address that issue.

What that means is that for those millions of Americans who go to work every day, all year long, at the end of the year they will end up poor. They end up with the inability to provide for their families, to provide for their health care, to provide for their transportation and the education of their families.

Why is that so? Because for 10 years, the Republicans in the Congress have successfully fought any increase in the minimum wage, and they have done it proudly. They believe that these people aren't entitled to any more money than the minimum wage that they are receiving today. Now, that minimum wage has less purchasing power than at any time in the 50 years we have had the minimum wage. These people are falling behind every day, every month.

We just saw yesterday in the newspapers that health care costs went up 7 percent. We know what has happened to families with energy costs. We know what has happened with utility costs. We know what has happened with educational costs and with the price of groceries. All of these things have gone up in these people's lives, but what hasn't gone up is the wages they work at.

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The Republican Party is apparently perfectly content, even though we have the votes to pass the minimum wage, we have the votes in the Senate to pass the minimum wage, they are completely content to go home without an increase in the minimum wage.

It is shameful, it is sinful, the treatment of these people and the families in which they reside. The Republicans cannot see their way clear to put a clean vote on the minimum wage up or down on the floor of the Congress so that we can increase the financial capabilities of these families.

When you have the testimony of people like the Wal-Mart Corporation, which prides itself in presenting to America everyday low prices, theoretically, the least expensive place you can shop for the goods that they carry, they are now asking for an increase in the minimum wage because they say that the people who are coming to their stores simply don't have sufficient moneys to provide for the necessities of life. They don't have the money to buy the necessities they need, even in their stores. That is an indication of how important an increase in the minimum wage is.

The other terrible tragedy is that the Republicans refuse to roll back the raid on student aid that they engaged in earlier this year, when they took $12 billion out of the student aid accounts. They didn't recycle that money for the well-being of students to lessen the financial burden of families who are trying to put their children through school. They didn't do any of that. They took that $12 billion and they put it over here to pay for the tax cuts to the wealthiest people in this Nation.

That is the investment they made. They took $12 billion that the Congress and the government has been using to finance student aid programs, and they moved it into tax cuts for the wealthiest people in the country. They do that at a time when the basic Pell Grant for the most needy students, it only covers 30 percent of college costs today. When it was enacted, it covered 70 percent, and it has fallen behind.

The President had pledged to raise the Pell Grant to $5,100. Five years later, that hasn't been done. The President has broken his promise. We have been asking that we increase the Pell Grant to $5,100 to make it easier for students, and to take that $12 billion they took out of the student aid account and recycle it into the loan programs for students so that we can continue to try to help students meet the cost of debt.

Congresswoman MATSUI talked about the average student today graduating with debt of some $17,500. We are now seeing a significant number of students who are perfectly qualified to go to college, to take advantage of college education, and they are not doing so, or they are postponing it because they are worried about whether or not they will be able to manage the debt when they graduate or whether they will be able to assemble the resources to go to college on a current basis.

That is a tragedy for this country. At a time when we talk about the competitiveness of this Nation, at a time when we talk about the need to have an educated population, to deal with innovation, to deal with discovery, to deal with the future economy, we are foreclosing the higher educational opportunity for hundreds of thousands of students because of the debt, because of the cost.

Because of the actions of the Republicans in this session of the Congress and the refusal to roll it back, students will now be paying 6.8 percent on their loans instead of 3.4 percent. Parents will be paying 8.5 percent instead of 4.25 percent.

This is a tragedy. This is the tragedy of the Republicans' failure to address the needs of middle-income Americans who are struggling to educate their kids, to pay their energy bills, and minimum wage families who are simply struggling to survive in America today. It is a tragedy and a blight on this session of the Republican leadership in this Congress.

Mr. PUTNAM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think the gentleman protests too much because he failed to acknowledge that he had an opportunity to vote on the minimum wage on this floor in this body. He had an opportunity to vote to extend tax credits for research and development, something that is certainly important to California, his home State, the birthplace of the silicone revolution and which allows us to keep on the cutting edge of the economy.

The research and development tax credits allow us to compete in the global marketplace so that companies can be global headhunters and bring in the best talent from around the world, create jobs and build businesses here in this country. Not only did he vote against the minimum wage for the lowest end of the workforce spectrum, but he voted against extending those same incentives to invest in laboratories, to invest in innovation, to invest in intellectual capital in this country at the high end of the workforce spectrum as well.

He also denied the opportunity for 10 States in this country to be able to extend the sales tax deductibility, the same type of State and local deductibility that other states enjoy on a regular basis in this country. And he denied hundreds of thousands of small businesses around this country and family farms the opportunity to keep what they have built, to allow their business to pass from one generation to another.

He has had the opportunity to vote on a minimum wage, and he chose to vote against it. I think he protests too much about the success of the agenda that this House has put forward.

When it comes to education, we have increased student loan limits from $3,500 for first-year students to $3,500 and to $4,500 for second-year students. There are now 1 million more students today receiving Pell grants than there were 5 years ago. That is substantial progress in higher education, investing in the future, investing in the intellectual capital of this country. That is the real story.

And what is it that prevents him from talking about the actual issue at hand? Why can't we hear from the other side as much eloquence about the need to modernize the Foreign Intelligence Surveillance Act? Why don't we hear the same eloquence about the need to complete our work on the Homeland Security appropriations bill, which will continue the work of securing our border, add 1,200 new Border Patrol agents, add new Customs agents, continue to make our ports safer, continue to build on the good work that goes on throughout this country by hard-working men and women who are doing their best to prevent future terrorist attacks?

Why can't he talk with the same eloquence, the same emotion, the same passion, about the need to pass meaningful legislation on tribunals to deal with those terrorists who have already been captured trying to do great harm to this country? Those are the issues before this House, and that is the debate that is missing from the other side.

Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, to correct the record, there has been no clean vote to raise the minimum wage, and it is that important.

Madam Speaker, I yield 3½ minutes to my good friend, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. "Whatever you do for the least of your brothers, you do unto me." That is what someone who was fairly important in the history of the world told us a long time ago.

But what has the Congress done for the least of our brothers and sisters? It is an indication of the values of those on the majority side of the aisle when they brag about the fact that they held the minimum wage increase hostage to their determination to give away $289 billion to the wealthiest 7,500 people in this country every year. Their deal was "we ain't going to do nothing for the little people of this economy unless you first provide even more money in the pockets of the very wealthiest people in this country."

I defy you to show me two farms in any congressional district in the country that would pay the estate tax under the alternative that the Democrats proposed. You may not remember what the numbers were, but I do.

Mr. PUTNAM. Madam Speaker, will the gentleman yield?

Mr. OBEY. No. You have plenty of time.

Mr. PUTNAM. The gentleman asked me a question. I'm happy to answer. I'll provide him a list of farms in Central Florida.

Mr. OBEY. Regular order. If you are going to manage a bill, you need to understand the rules of this House.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Wisconsin controls the time.

Mr. PUTNAM. Would the gentleman yield?

Mr. OBEY. No, I would not. I told you I would not. You have got half-an-hour. I have 3 minutes. Why should I yield to you?

Mr. PUTNAM. Will the gentleman yield?

Mr. OBEY. No, I will not.

The SPEAKER pro tempore. The gentleman from Wisconsin controls the time.

Mr. OBEY. You can answer on your time. I am answering you on my time. You answer on your time. Now, I would appreciate no further interference from the gentleman.

The gentleman wants to brag about the prescription drug proposal in the homeland security bill. The majority party nailed into that prescription drug bill last year a prohibition against the Federal Government negotiating for lower prices. So where did the seniors have to go? Wal-Mart finally announced they are going to provide lower drug prices.

I suggested in the conference in the Homeland Security bill that we add language to that bill which says notwithstanding any other provision of law, the Secretary of Health and Human Services shall enter into a contract immediately with Wal-Mart to negotiate on behalf of the United States Government with drug manufacturers and suppliers regarding prices to be charged for prescription drugs under Medicare Part D.

It is a sorry day when the majority party stands shoulder-to-shoulder with the pharmaceutical industry against the recipients under Medicare Part D, labeled "part dumb" by a lot of the seniors in my district. And it is a sorry day, it is a sorry day, when we have to rely on Wal-Mart in order to do what the public representatives of this Congress ought to do, which is to allow our own government to negotiate for lower prices, rather than relying on this Rube Goldberg monument that makes people go to Canada in order to get some mercy in terms of drug prices.

They want to freeze the minimum wage. They freeze the minimum wage. It doesn't surprise me. The minimum wage is frozen almost as cold as their hearts.

Mr. PUTNAM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman has been on this floor a number of years longer than I have, and certainly he understands the rules. But he also understands it is normal procedure that when one Member asks a question of another Member, that surely it is appropriate for the other Member to rise and ask that that Member yield so they may be given the opportunity to answer.

I regret the personal tone that this debate has taken, because these are important issues, these are important challenges our Nation faces. And the simple fact is, the gentleman doesn't want me to answer those questions, because he knows that we have acted in each and every one of those cases.

Since the beginning of Medicare, the Democratic majority did not take advantage of the opportunity to modernize it so that it actually helped the people it was intended to serve by providing them a prescription drug benefit. It was this majority that provided that. Today, millions of Americans have access to prescription drugs who did not have that same access under the old regime.

Why is there such a bitterness that Wal-Mart and Target and other chain drugstores who will undoubtedly follow have used the marketplace to lower drug costs? Are you so angry that the government didn't force them to do it? Are you so angry that they responded to market conditions, and today millions of people will be able to get $4 pills without the government having to have intervened?

Does it require a fiat to make you feel fulfilled? The simple fact that they made a good business decision through competitive forces in the marketplace and they lowered prices and people will benefit and consumers will benefit, and they will be healthier and they will live longer lives, does it make you angry that that did not come out of this body, that it didn't come out of some law, some decree? Is that what the bitterness comes from, that the market worked?

There are good things coming out of this body, but, more importantly, Madam Speaker, good things come from functioning markets. $4 pills by the largest retailer in the world that didn't come out of legislation, that didn't come by fiat, that didn't come by decree. It came because market forces worked, and consumers benefit and patients are healthier and patients have access to pills at a lower cost than they would have before.

This is a same-day rule to deal with foreign intelligence surveillance, to deal with Homeland Security appropriations and military tribunals. Let's move it forward.

Madam Speaker, I reserve the balance of my time.

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Ms. MATSUI. Madam Speaker, before I yield to the next speaker, I would like to yield 10 seconds to the gentleman from Wisconsin to respond.

Mr. OBEY. Let me say to the gentleman, I am not angry at all to Wal-Mart for responding to a public need. I congratulate them for it. The shame is the fact that you and the majority folks in this House would not meet your responsibilities to have the government negotiate to save money for everybody.

Ms. MATSUI. Madam Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I think it is important to note that my good friend from Florida is a great debater and orator on this floor, but I think some of the debate has been skewed. The passion here is because we feel let down. We have let many American people down.

My good friend from Wisconsin is simply saying that, in spite of the procedural responsibility of moving to the end of this session, what has not been done is we have not done what the American people need: The minimum wage, responding to the crisis of Medicare part D. And let me give a personal story and I will answer the gentleman's question about security.

My mother is now paying more than she has ever paid before under Medicare part D. And all of my seniors are now crying because they are over the top in the donut hole. This is a personal story and a personal testimony.

And I would suggest to the gentleman that he knows the rules of this body and he knows that many times we ask the other side to yield and they do not. So there is no commentary on your understanding of the rules by not yielding to someone who is interjecting in your statements. It is a question of passion and commitment.

And I would simply say that I am prepared to discuss, as a member of the Homeland Security Committee, the failures of this body regarding security. The 9/11 Commission Report issued some 2 years ago rendered to this body Ds and Fs for every aspect of homeland security you could ever imagine. And Abraham Lincoln said: We cannot escape history, right after the Civil War. 1862, his mission during the Civil War. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us.

We will be doing the electronic surveillance. But as we speak, the leaders of Hewlett-Packard are in our committee rooms in the Rayburn room discussing why they abused technology. There is nothing on the record that suggests that we cannot use the FISA proceedings to deal with securing America. We know that there have been 19,000 FISA requests and less than five refused by the tribunal. The only necessity is to restate the authorization of FISA and to ensure that it is utilized. But this body will come and try to take away the very rights and protection from privacy for the American people. That is not homeland security. There is no basis for abusing America's military.

When I say that, let me qualify it. By jeopardizing their status as an MIA and a POW, in this instance, a POW, in any conflict around the world by what we are doing with the military tribunal system here, which is, ignoring the Geneva Convention.

And might I just show to my colleagues the faces and faces of the fallen, pages and pages in the Nation's newspapers of those who have lost their lives on the front lines in Iraq and Afghanistan. It is well documented in recent intelligence reports that have been declassified that we have created a pool for insurgency and terrorists, a breeding ground, in Iraq. So now my friends want to abuse the habeas corpus system of America. We want to ignore the Geneva Convention, which simply provides for no torture provisions and a respect for that incarcerated person.

Now, we have called these people enemy combatants, but we are now prepared to suspend the habeas corpus for an indefinite period of time. We are prepared now to ensure that there is not any real protection against torture. And, of course, this bill will be an amended bill that will come here to the floor that we will be debating, but the question is the reasonableness in protecting those who are offering their lives. The Military Tribunal Commission bill will still put U.S. soldiers in harm's way.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas. I would simply say, we know about homeland security. They don't, they failed. That is what we are doing today. Vote "no" on this rule.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas.——

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas.——

Mr. PUTNAM. Madam Speaker, I was wondering whether the gentleman from Wisconsin might want to share some parliamentary lessons with the gentlewoman from Texas as he did with me.

I would be happy to yield.

Mr. OBEY. I don't even understand what the gentleman is talking about.

Mr. PUTNAM. The gentleman took great umbrage at me asking to yield to answer his question.

Mr. OBEY. No, I did not. I took great umbrage at you interrupting me.

Mr. PUTNAM. Reclaiming my time.

Mr. OBEY. I told you I would not yield.

Mr. PUTNAM. Reclaiming my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Florida has the floor.

Mr. PUTNAM. Thank you, Madam Speaker.

Mr. OBEY. You don't like the answer.

Mr. PUTNAM. I am reclaiming my time. I offered you the time. I reclaimed it. That is my understanding of how the situation works. And we heed the gavel.

Madam Speaker, I am delighted to yield 4 minutes to a member of the Appropriations and Select Intelligence Committee, the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Madam Speaker, there has been some discussion about prescription drugs and the difference in philosophy between allowing the free market to work to bring drug prices down versus having the Federal Government negotiate the prices. And I have spent some time in the private sector dealing with the Federal Government, and I have observed two different types of contracts. And I think they very well represent the two concepts in providing for prescription drugs for our seniors.

If you look at a Federal negotiations for drug prices, essentially you are looking at sole source contracts. This is where the Federal Government goes out and says, okay, you are going to be the provider for this prescription drug, and we want to know what your costs are and then we are going to give you a fair and reasonable profit margin on top of that.

Well, that philosophy has been used in Federal procurement for a very long time. In fact, during the 1980s, there was a lot of controversy during the expansion of our defense capabilities using sole source contracts. And when they reviewed these sole source contracts, the government found that in some cases, a pair of pliers was being sold for $750. In other cases, a hammer was sold for $1,200 under, again, a sole source contract. They even had coffee pots that were costing $4,200, again, a sole source contract.

And there was a big shift in philosophy in the procurement side of the Department of Defense to competition, competitive contracts, having two companies bid against each other to provide the same service or object so that they could get a lower fee.

What we have done in Medicare part D is provide a market-based strategy where individual companies are competing for the lowest price out there for the consumer, the person who is receiving the pharmaceuticals. And what we have seen is a significant reduction in price. And the competition has gotten so strong now that the bigger companies in our economy are starting to weigh in, like Wal-Mart. Wal-Mart now has gone to these prescription manufacturers and they have gone to generic manufacturers, and they have come up with a new method of being more competitive than everyone else.

Now, some people say Wal-Mart is an evil company, it is exactly what is wrong with America. I don't. I think Wal-Mart has been significant in contributing to productivity. In fact, they contributed about 20 percent of the productivity in the 1990s. They have raised the standard of living across America. They have 1.3 million employees. They have done an excellent job. And, today, they are moving into the pharmaceutical market where they are bringing lower cost prescriptions to seniors by negotiating rates and prices, and by competing in the free market at the highest level.

So I think that we should be very thankful that we are not doing a sole source contract for pharmaceuticals, because the philosophy of having it cost plus profit says to the pharmaceutical companies: Bury stuff in your costs. Put more research and development, put your overhead in there, expand your buildings, hire additional people that you may or may not need, but inflate those costs. Because when you do inflate those costs, then your profit, which is a percentage of cost, is actually greater.

So to have the Federal Government go out and negotiate these sole source contracts with pharmaceuticals encourages higher costs. It encourages companies to bury costs into the bottom line there so that they can show a higher profit: the profit which is a percentage would be higher because it is applied to a larger base or the cost of the pharmaceuticals.

Competitive forces in pharmaceuticals are bringing the price down. We saw projections when we were looking at Medicare part D legislation about how high the costs were going to be. Today, in a comparison, the costs for the same pharmaceutical drugs that are most common have significantly been reduced.

And now we've heard some concerns now about people hitting the so called donut hole and they have to pay now more for their prescription drugs than ever before. Well, that is not true. The price is lower. And, if you go back a couple of years, they were getting no help from Medicare part D. Today there is a donut hole; it does get some people, but there have been thousands and thousands of dollars per individual applied, including for my own family, where they have had help getting pharmaceuticals. And that has been an important contribution to our culture and to the health of seniors.

Ms. MATSUI. Madam Speaker, I just want to make a comment that the Department of Veteran Affairs has been very successful lowering prescription drug prices by negotiating directly with the drug companies.

Madam Speaker, I would like to yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I rise today to defeat the previous question on the rule so that the House can finally consider the real issues facing American families.

You know, many conservative writers have called the Congress the less-than-do-nothing-congress, particularly at a time when there is concern on all parts of the political spectrum about the growth of the power of the Executive Branch of the government. Our forefathers warned us about this. No oversight, no oversight as to what is happening.

Look at what happened in the Interior Department in just the last 10 days and the HUD Department by Inspector Generals. That is a disgrace. And you can try to get us off track all you want, we are going to stay on track. This is not so much a question of less days, which we will be here, this is a question of less progress more than anything else.

You tell me if it is not irresponsible 5 years after September 11, 2001, that this Republican Congress is set to adjourn without fully implementing the 9/11 Commission recommendations to make our country safer. I am listening.

You tell me if it is not irresponsible that this Republican Congress pays lip service to the importance of higher education, and yet they are set to adjourn after making it harder to pay for college by cutting $12 billion over the next several years to student aid.

You tell me if it is not irresponsible that the Republican Congress has been a rubber stamp for the White House's Big Oil policies, and is set to adjourn without passing an energy plan that decreases dependence on foreign oil.

What is our answer? We are addicted to oil, Mr. President, you said in the State of the Union, and that is why we are going to drill off five States in this union. We lost our addiction, I guess, on the way.

It is irresponsible that this Congress is set to adjourn without increasing the minimum wage to $7.25 for up to 15 million hardworking Americans and their families. That is irresponsible. You attached it to another bill. You are good at it. You look back over the last several Congresses, you are good at attaching these things.

It is indeed irresponsible that millions of Americans are suffering the economic injustice of working a full-time job and earning a wage that leaves them below the poverty line. You tell me if it is not irresponsible that wages are stagnant, and that we are $1,700 below the median income of 6 years ago. You tell me if that is responsible. The fact is that it takes a minimum wage earner more than 1 day of work just to earn a full tank of gasoline.

The minimum wage is no longer a livable wage. Get it? As health care, grocery, energy and housing costs skyrocket for average Americans, house Republicans would rather help their CEO friends.

Madam Speaker, I urge the defeat of the previous question.

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Mr. PUTNAM. Madam Speaker, I remind the gentleman again that the House had an opportunity to pass a minimum wage bill, and we passed it over the objections of the other side of the aisle. We passed it.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Madam Speaker, I want to interject myself in the spirit of debate that we are having here, and want to thank both sides for making this a bit more fun than normal. But we heard a couple of words here today, one of them was "bitterness," one of them was "market forces," and one was "business."

If you look at the Republican-controlled Congress and you look at running the government like a business, I think you fail on all accounts. I think when you talk about losing $9 billion in Iraq, and no one knows where it is.

that is not running government like a business. When you look at all of the waste, this government is being run like it is 1950 with misleading information. Now we are moving into a new economy, knowledged-based and information-based, and the government has not changed at all.

All of the guys who came in here with Newt Gingrich in 1994, you may remember the big Republican revolution, we are going to balance the budget, we are going to run this thing like a business, we are going to have a smaller government, you are talking about a trillion dollar Medicare drug program, and you have to go back to your conservative base and you have to tell them that you passed it without any ability to negotiate down the drug prices. Good luck in the next 5 weeks.

You have to go back to them and say we are for free markets. But when we ask to get reimportation into this country from Canada and some of the G–7 countries to drive the prices down, you all were against it. That is not worshiping the free market like you normally do.

There are a lot of contradictions going on here, and I think we need to point this out to the American people.

Another thing that I think is even more important, as you guys move away from what your rhetoric is, is that this President and this Congress has borrowed more money from foreign interests than every single President in Congress before you. That is not conservative Republicanism. That is not running your government like a business.

If we don't get past all this rhetoric and doing something else, we are not going to be able to move the country forward. All of these games, we are now competing with 1.3 billion citizens in China and 1 billion citizens in India: hard-core brutal competition, and we are not investing back into the American people. We cannot even give them a slight pay raise. When you guys have given this Congress $30,000 in pay raises, you can't even raise the minimum wage.

We have to invest in these people. You can't compete with 300 million people against the whole globe and say just a small fraction of our society is going to be able to compete. If you can afford to go to a good private university, if you can afford the tuition, then you are going to be just fine. If you are a trust fund baby, you are going to be just fine.

Let us invest in the American people. We need everybody on the field playing for us. And I think Mr. OBEY's frustrations is that day in and day out you guys go to great lengths to walk the planks for your political donors. That's the bottom line. You can't argue away from negotiating down drug prices.

And thank God in your case for Wal-Mart. They saved you with Katrina bringing water down and making sure it got in. Thank God for Wal-Mart. If it was not for them, we would really be in a trick. Their $4 prescriptions are going to be helpful, and down in Katrina they were the ones getting the water in when FEMA was like a three-ring circus.

That is not running government like a business. So get your actions to match your rhetoric, and we will all be able to get along a lot better.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members to address their remarks to the Chair.

Mr. PUTNAM. Mr. Speaker, I appreciate the gentleman's remarks. I am glad he does not represent the collectivist view of some on the other side of the aisle in that he appreciates that market forces, not government decree or government fiat, are driving down prices. I am glad that he recognizes the role that free enterprise plays in delivering better, faster, cheaper health care to patients in need.

This bill before us, though, Mr. Speaker, is about updating the Foreign Intelligence Surveillance Act, moving forward on homeland security appropriations, and moving forward on a tribunal issue so that we deal with the terrorists who have already waged war on American soil and those who have been collected in the battlefield in the subsequent conflicts. This is the issue before us.

While there has been a great deal of passion and bitterness thrown around this Chamber, this is a same-day rule to move forward on those three items.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I couldn't agree more with one of the statements from a colleague on the other side of the aisle when he said a lot of contradictions are going on here.

Here we are talking about a bill to bring to the floor now for national security purposes, that is what it is about, but we are hearing all of these other things. We ought to do this and we ought to do that.

I remind my colleagues on the other side of the aisle, it is this body that passed the minimum wage raise and it was the body down the hall that did not. I would encourage them if they could go make these same speeches down at the other end in the offices of the Democrats, then we might could get four out of all of those Democrats who would go along with the Republicans and get that minimum wage bill passed, and we would be in good shape then, if that is what they feel.

The contradiction, though, when we talk about a lot of contradiction going on here, as my friend, Mr. RYAN, spoke of, all I could think of was the contradiction in complaining about gas prices, what they are doing to people. Yes, they are hurtful. They hurt our country badly. But the contradiction was why they acted so bothered when prices of gasoline went up. That is what they fought vehemently for all of these last 2 years that I have been here. No, this is exactly what they fought for when they opposed drilling in the Outer Continental Shelf. It is exactly what they fought for when they opposed drilling in ANWR. It is exactly what they fought for when they opposed an energy policy bill finally getting through that went basically much on party-line vote.

And then after Katrina and Rita when we were so fearful about all of the refineries being in trouble, we knew we needed more refineries. We knew we needed alternative energy incentives. And what happened, we passed the energy bill in October, again basically on a party-line vote, that would create incentives for independent oil companies to build refineries, including away from the coast, would increase incentives for biofuels, alternative energy sources, and they were fighting over that.

So the contradiction is how you could fight against all of the things that would give us energy independence and then seem upset that the gas prices went higher.

Thank goodness the policies we set in place a year ago are starting to work because that is national security. The rest of national security are some of the things we are taking up for the good of our troops and this country, and I would urge the passing of this rule.

Ms. MATSUI. Mr. Speaker, I yield 10 seconds to the gentleman from Ohio (Mr. RYAN) to respond.

Mr. RYAN of Ohio. Just to clarify to the gentleman from Texas, our frustration is as the gas prices were high, you all were putting $12–15 billion in corporate subsidies to the oil companies while they were having record profits. That's the frustration.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman, my colleague on the Rules Committee for yielding me this time.

As my colleague pointed out in his remarks, this is about a same-day rule. It is very simple and straightforward, as Mr. PUTNAM explained so clearly. We are asking this body to allow us to debate and pass legislation regarding military commissions so that we can try and bring to justice these terrorists. And by the way, 164 of my colleagues on the other side of the aisle yesterday voted against that.

Also in this same-day rule is to allow us to address this issue of wiretapping necessary to listen to the conversations, international conversations between al Qaeda and people in this country who would do us harm, to modernize that 1978 law which needs modernization to protect our American people. That is what this is all about.

Mr. Speaker, I was in my office and did not intend to speak on this rule, but I heard my colleagues talk about all of these issues and things that we haven't done, and then they got to the Medicare modernization and the all-important prescription drug part D plan for Medicare that we finally delivered to our American seniors back in November of 2003 when they have been asking for the 40 years that the Democrats controlled this body for relief and got now. And now they are railing against this issue saying it is a giveaway to the pharmaceutical industry and that we would not allow government price controls. No, we would not because we don't like price controls. We want the free market to determine the prices; and, indeed, they can't deny the fact that the prices are coming down. This is working, and they can't stand it.

Mr. Speaker, I want to point out finally that in their version of the bill, and I will mention just one, back in 2000, Congressman STARK of the Ways and Means Committee had a bill that included the very same language in regard to no government price controls, let the free market work, and 204 Democrats voted in favor of that.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. I appreciate the gentleman yielding.

You are talking about letting the free market work. You shut down. You have a closed market with pharmaceuticals. We wanted to allow reimportation in from Canada; you wouldn't allow that. And if the free market was working, just like Wal-Mart, I am sure they are buying in bulk and using the negotiating power of Wal-Mart, just like they do on everything else to keep the prices down. You are not allowing the free market to work.

Mr. GINGREY. Reclaiming my time, I know the gentleman knows that in the defense appropriations bill, that we have language in there right now that would allow it to be legal for our seniors that live at or close to the border to go across the border either into Canada or Mexico and buy those lower priced drugs.

But the point is this bill, Medicare Modernization and Prescription Drug Act, is lower in prices to the point where all of that is not even necessary.

Ms. MATSUI. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge all Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule so the House can immediately take up five important bills that actually do something to help Americans and make them safer.

Mr. Speaker, I ask unanimous consent to insert the text of my amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. MATSUI. Mr. Speaker, my amendment provides for immediate consideration of the following five bills.

One, a bill to implement the recommendations of the 9/11 Commission.

Two, legislation to increase the minimum wage to $7.25.

Three, a bill to give authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.

Four, a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and would expand the size and availability of Pell Grants.

Five, a bill to roll back tax breaks for large oil companies and invest those savings in alternative fuels to achieve energy independence.

Mr. Speaker, every one of these bills will make important changes to help hardworking Americans and their families. These bills should have been enacted a long time ago. But there is still time and opportunity to do something today. All it takes is a "no" vote on the previous question. For once, let's do the right thing and help the people we were sent here to serve.

Again, vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in my short 6 years here, I don't think I have ever seen nerves so raw on a same-day rule. It is, I think, a function of the calendar, a function of the end of the session where temperatures run high and passions are certainly in overdrive as we all are watching the clock wind down and wanting to make our points to the American people.

The points that are embodied in this legislation before us at this moment are keeping America secure. Most of the debate on this same-day rule has not been on the topic at hand.

We have successfully passed Medicare modernization, something that was not accomplished in the previous 40 years. It was this majority that accomplished that and gave seniors the modern access to prescription drugs that they did not have previously.

It was this Congress that delivered not one but three substantial energy independence bills.

□ 1215

Bills that would allow us to reduce our reliance on countries that often don't like us for the economic lifeblood that this Nation requires, by expanding our own capacity, expanding exploration, expanding refining capacity, expanding renewables, putting an emphasis on American agriculture so that we can grow our way to energy independence, investing in renewables like solar and wind and hydroelectric, investing in long-term technologies like hydrogen. That was this Congress that passed those items in three different vehicles, including a passage that would have fixed the Clinton administration's billion dollar giveaway to Big Oil in the Gulf. That was this Congress that passed that legislation, over the objections of the minority.

The issue at hand is homeland security appropriations, the funds that are necessary to put boots on the ground on the border; to hire 1,200 new Border Patrol agents; to expand the Customs capabilities; to use the technology and communications capacity that this great Nation brings to bear to break up, disrupt, and arrest terrorists who are plotting to do us harm. That is in this bill.

To update the Foreign Intelligence Surveillance Act of 1978. Surely, surely, there must be agreement that this Foreign Intelligence Surveillance Act of 1978 should be modernized to reflect things like the cell phone, multiple access to the Internet, all the tools the terrorists use to plot against innocent women and children and civilians and our military personnel at home and abroad. This is the vehicle to accomplish that. This is the vehicle that allows us to move those items that are so important to this agenda.

We have already moved the energy items they were talking about. Passed. We have already passed out of this body a minimum wage that they were so eloquent and so passionate about. Many voted against it, but it passed this body under this majority. We have passed the prescription drug plan. We have increased the number of students benefiting from Pell Grants.

But this piece of legislation that nobody wanted to talk about deals with national security, protecting our people, securing our borders, listening to the bad guys, locking them up and keeping them from doing future harm.

Let us move this same-day resolution. Let us move this agenda to keep America safe, secure, and prosperous. Let us continue to have a free society that creates free enterprise, that creates capitalism so that companies can choose to do things like lower drug prices on their own, not by government decree. Let us foster that type of environment. Let us foster the type of research and development and the investments that are required for research and development that were opposed by the other side when we moved the minimum wage bill. Let us continue to press on with that agenda, the secure America agenda, the economic prosperity agenda, and embrace the free enterprise and entrepreneurs. That is the agenda that we are moving forward in this same day.

The material previously referred to by Ms. MATSUI is as follows:

Previous Question for H. Res. 1046, Martial Law Rule-Waiving Clause 6(a), Rule XIII

At the end of the resolution add the following new Sections:

Sec. 3. Notwithstanding any other provisions in this resolution and without intervention of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bills listed in Sec. 4:

Sec. 4. The bills referred to in Sec. 3. are as follows:

(1) a bill to implement the recommendations of the 9/11 Commission.

(2) a bill to increase the minimum wage to $7.25 per hour.

(3) a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.

(4) a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell Grants.

(5) a bill to roll back tax breaks for large petroleum companies and to invest those savings in alternative fuels to achieve energy independence.

The Vote on the Previous Question: What It Really Means

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). As we close this debate, the Chair would make a brief statement.

Members should bear in mind that heeding the gavel that sounds at the expiration of their time is one of the most essential ingredients of the decorum that properly dignifies the proceedings of the House.

In addition, proper courtesy in the process of yielding and reclaiming time in debate, and especially in asking another to yield, helps to foster the spirit of mutual comity that elevates the deliberations here above mere arguments.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

ordering the previous question on H. Res. 1045, by the yeas and nays; adoption of H. Res. 1045, if ordered; ordering the previous question on H. Res. 1046, by the yeas and nays; adoption of H. Res. 1046, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 1045, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 13, as follows:

[Roll No. 495]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes

Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Brown (OH)
Castle
Evans
Green (WI)
Lewis (GA)
McKinney
Meehan
Moore (KS)
Ney
Strickland
Stupak
Towns
Westmoreland

☐ 1244

Messrs. GUTIERREZ, MURTHA, HONDA, HEFLEY and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

Messrs. OTTER, GARY G. MILLER of California, LEWIS of California and Ms. PRYCE of Ohio changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 1046, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 197, not voting 12, as follows:

[Roll No. 496]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky

Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Brown (OH)
Burton (IN)
Castle
Evans
Green (WI)
Lewis (GA)
Meehan
Ney
Strickland
Stupak
Towns
Westmoreland

□ 1253

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. MATSUI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 191, not voting 14, as follows:

[Roll No. 497]

AYES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Castle
Doggett
Evans
Fattah
Green (WI)
Johnson (CT)
Lewis (GA)
Meehan
Ney
Petri
Strickland
Stupak
Towns
Westmoreland

□ 1300

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

IRAN FREEDOM SUPPORT ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6198) to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran, as amended.

The Clerk read as follows:

H.R. 6198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Freedom Support Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

Sec. 101. Codification of sanctions.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

Sec. 201. Multilateral regime.
Sec. 202. Imposition of sanctions.
Sec. 203. Termination of sanctions.
Sec. 204. Sunset.
Sec. 205. Technical and conforming amendments.

TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

Sec. 301. Declaration of policy.
Sec. 302. Assistance to support democracy for Iran.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

Sec. 401. Sense of Congress.

TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

Sec. 501. Prevention of money laundering for weapons of mass destruction.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

SEC. 101. CODIFICATION OF SANCTIONS.

(a) CODIFICATION OF SANCTIONS.—Except as otherwise provided in this section, United States sanctions with respect to Iran imposed pursuant to sections 1 and 3 of Executive Order No. 12957, sections 1(e), (1)(g), and (3) of Executive Order No. 12959, and sections 2, 3, and 5 of Executive Order No. 13059 (relating to exports and certain other transactions with Iran) as in effect on January 1, 2006, shall remain in effect. The President may terminate such sanctions, in whole or in part, if the President notifies Congress at least 15 days in advance of such termination. In the event of exigent circumstances, the President may exercise the authority set forth in the preceding sentence without regard to the notification requirement stated therein, except that such notification shall be provided as early as practicable, but in no event later than three working days after such exercise of authority.

(b) NO EFFECT ON OTHER SANCTIONS RELATING TO SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.—Nothing in this Act shall affect any United States sanction, control, or regulation as in effect on January 1, 2006, relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) that the Government of Iran has repeatedly provided support for acts of international terrorism.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

SEC. 201. MULTILATERAL REGIME.

(a) WAIVER.—Section 4(c) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

"(c) WAIVER.—

"(1) IN GENERAL.—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that such waiver is vital to the national security interests of the United States.

"(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that, in accordance with paragraph (1), such a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for subsequent periods of not more than six months each.".

(b) INVESTIGATIONS.—Section 4 of such Act (50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

"(f) INVESTIGATIONS.—

"(1) IN GENERAL.—The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section.

"(2) DETERMINATION AND NOTIFICATION.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President should determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section and shall notify the appropriate congressional committees of the basis for any such determination.".

SEC. 202. IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES.—Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended in the heading, by striking "TO IRAN" and inserting "TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN".

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

"(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—The President shall impose two or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items knowing that the provision of such goods, services, technology, or other items would contribute materially to the ability of Iran to—

"(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

"(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions taken on or after June 6, 2006.

SEC. 203. TERMINATION OF SANCTIONS.

Section 8(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (1)(C), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) poses no significant threat to United States national security, interests, or allies.".

SEC. 204. SUNSET.

Section 13 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "on September 29, 2006" and inserting "on December 31, 2011".

SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FINDINGS.—Section 2 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking paragraph (4).

(b) DECLARATION OF POLICY.—Section 3 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking "(a) POLICY WITH RESPECT TO IRAN.—"; and

(2) by striking subsection (b).

(c) TERMINATION OF SANCTIONS.—Section 8 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking "(a) IRAN.—"; and

(2) by striking subsection (b).

(d) DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.—Section 9(c)(2)(C) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

"(C) an estimate of the significance of the provision of the items described in section 5(a) or section 5(b) to Iran's ability to, respectively, develop its petroleum resources or its weapons of mass destruction or other military capabilities; and".

(e) REPORTS REQUIRED.—Section 10(b)(1) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "and Libya" each place it appears.

(f) DEFINITIONS.—Section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (9)—

(A) in the matter preceding subparagraph (A), by—

(i) striking ", or with the Government of Libya or a nongovernmental entity in Libya,"; and

(ii) by striking "nongovenmental" and inserting "nongovernmental"; and

(B) in subparagraph (A), by striking "or Libya (as the case may be)";

(2) by striking paragraph (12); and

(3) by redesignating paragraphs (13), (14), (15), (16), and (17) as paragraphs (12), (13), (14), (15), and (16), respectively.

(g) SHORT TITLE.—

(1) IN GENERAL.—Section 1 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking "and Libya".

(2) REFERENCES.—Any reference in any other provision of law, regulation, document, or other record of the United States to the "Iran and Libya Sanctions Act of 1996" shall be deemed to be a reference to the "Iran Sanctions Act of 1996".

TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

SEC. 301. DECLARATION OF POLICY.

(a) IN GENERAL.—Congress declares that it should be the policy of the United States—

(1) to support efforts by the people of Iran to exercise self-determination over the form of government of their country; and

(2) to support independent human rights and peaceful pro-democracy forces in Iran

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as authorizing the use of force against Iran.

SEC. 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAN.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities working for the purpose of supporting and promoting democracy for Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

(2) LIMITATION ON ASSISTANCE.—In accordance with the rule of construction described in subsection (b) of section 301, none of the funds authorized under this section shall be used to support the use of force against Iran.

(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section should be provided only to an individual, organization, or entity that—

(1) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years;

(2) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

(3) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran;

(4) is dedicated to respect for human rights, including the fundamental equality of women;

(5) works to establish equality of opportunity for people; and

(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

(c) FUNDING.—The President may provide assistance under this section using—

(1) funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund; and

(2) amounts made available pursuant to the authorization of appropriations under subsection (g).

(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1), the President shall notify the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(e) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress that—

(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(2) officials and representatives of the United States should—

(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

(f) DURATION.—The authority to provide assistance under this section shall expire on December 31, 2011.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

SEC. 401. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS.—It should be the policy of the United States not to bring into force an agreement for cooperation with the government of any country that is assisting the nuclear program of Iran or transferring advanced conventional weapons or missiles to Iran unless the President has determined that—

(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has committed to verifiably refrain permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear fuel production facilities pursuant to internationally agreed arrangements and subject to strict international safeguards), and is abiding by that commitment; or

(2) the government of that country—

(A) has, either on its own initiative or pursuant to a binding decision of the United Nations Security Council, suspended all nuclear assistance to Iran and all transfers of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(B) is committed to maintaining that suspension until Iran has implemented measures that would permit the President to make such determination.

(b) DEFINITIONS.—In this section:

(1) AGREEMENT FOR COOPERATION.—The term "agreement for cooperation" has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

(2) ASSISTING THE NUCLEAR PROGRAM OF IRAN.—The term "assisting the nuclear program of Iran" means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of goods, services, or technology listed on the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 1, and subsequent revisions) or Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 2 and subsequent revisions).

(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term "transferring advanced conventional weapons or missiles to Iran" means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of—

(A) advanced conventional weapons; or

(B) goods, services, or technology listed on the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions.

TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

SEC. 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.

Section 5318A(c)(2) of title 31, United States Code, is amended—

(1) in subparagraph (A)(i), by striking "or both," and inserting "or entities involved in the proliferation of weapons of mass destruction or missiles"; and

(2) in subparagraph (B)(i), by inserting ", including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles" before the semicolon at the end.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

For decades, the Iranian regime, one of the world's most dangerous political entities, has been pursuing a covert nuclear program. According to multiple reports of the International Atomic Energy Agency, the IAEA, Iran has been deceiving the world for two decades about its nuclear ambitions and has breached its international obligations dealing with the most sensitive aspects of the nuclear cycle.

Iran's violation of the IAEA safeguards, the safe reporting to the International Atomic Energy Agency, the denial of the agency's request for access to individuals and locations, the involvement of its military in parts of it nuclear program, as well as the Iranian regime's continued support of terrorist activities around the globe contradict any assertion of the peaceful intent of the program.

It would be a critical mistake to allow a regime with a track record as bloody and as dangerous as Iran's to obtain nuclear weapons. Iran drives Hezbollah extremist ideology and provides it with weapons and funding, estimated by some at more than $80 million per year. In turn, Hezbollah has helped advance Iranian interests through continued terrorist attacks against the United States and our allies in the region.

This bill before us, Mr. Speaker, H.R. 6198, as amended, will help prevent Iran from acquiring the technical assistance, the financial resources, and the political legitimacy to develop nuclear weapons and to support terrorism. This bill requires the imposition of sanctions on any entity that has exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items that would materially contribute to Iran's ability to acquire or develop unconventional weapons. This bill codifies U.S. sanctions imposed on Iran by Executive Order.

The bill also amends the Iran-Libya Sanctions Act by extending the authorities in the bill until December 31, 2011. It also requires the President to certify to Congress that waiving the imposition of sanctions is vital to the national security interests of the United States.

Furthermore, the bill authorizes the provision of democracy assistance to eligible human rights and pro-democracy groups and broadcasting entities. Moreover, this legislation will allow the United States to use the necessary tools against financial institutions which are involved in the proliferation of weapons of mass destruction or missiles.

This bill provides a comprehensive approach, providing U.S. officials with strong leverage to secure cooperation from our allies in order to counter the Iranian threat. The sanctions under title II of this bill seek to target the Iranian regime where it is most vulnerable: Its energy sector. Knowledgable experts agree that for Iran, a fuel importer, sanctions could be crippling.

Thus, Mr. Speaker, this bill is not an alternative to diplomacy, but rather complementary to our multilateral efforts. We cannot afford to wait any longer as the potential consequences of further inaction could be catastrophic. I urge my colleagues to lend their support to this legislation.

Mr. Speaker, I am attaching an exchange of letters between Chairman HYDE and Chairmen THOMAS and OXLEY concerning the bill H.R. 6198 "The Iran Freedom Support Act" for printing in the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 27, 2006.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing regarding H.R. 6198, the "Iran Freedom Support Act," which is scheduled for floor action on September 28.

As per the agreement between our Committees, the bill would not codify the import sanctions contained in Executive Order 13059. However, Sections 202(a) and 202(b) of the bill would give the President the statutory authority to ban imports against Iran and would terminate that authority with respect to Libya.

Because each of these provisions, as well as provisions related to the waiver, termination, and sunset, have the effect of modifying and altering the application of an import ban, they fall within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 6198, and would ask that a copy of our exchange of letters on this matter be included in the record.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 27, 2006.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 6198, the "Iran Freedom Support Act," which is scheduled for floor action this week.

In recognition of the importance of this legislation and based on our two Committees' agreement, the final text of the bill would not codify the import sanctions contained in Executive Order 13059. However, Sections 202(a) and 202(b) of the bill would give the President the statutory authority to ban imports against Iran and would terminate that authority with respect to Libya.

I concur in your assessment that these provisions, as well as provisions related to the waiver, tennination, and sunset, have the effect of modifying and altering the application of an import ban and fall within the Rule X jurisdiction of the Committee on Ways and Means. I appreciate your willingness to forgo action on this bill. I also agree that your forgoing formal committee action does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

1As you have requested, I will insert a copy of our exchange of letters on this bill into the Congressional Record.

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 28, 2006.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 6198, the Iran Freedom Support Act. As indicated by the referral of the bill to both of our committees, I concur that the bill contains language which falls within the Rule X jurisdiction of the Committee on Financial Services. This language is contained in portions of title II and in title V of the bill.

I agree that ordinarily the Committee on Financial Services would be entitled to act on the bill. However, I thank you for your support in moving this important legislation forward by agreeing that it is not necessary for your Committee to act further on the bill. Given the importance and timeliness of the Iran Freedom Support Act, I appreciate your willingness to work with us regarding these issues and to permit the legislation to proceed. I understand that by doing so, it should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I will request the Speaker to name members of the Committee on Financial Services to the conference committee.

As you requested, I will be pleased to include a copy of this exchange of letters in the Congressional Record during the consideration of this bill if you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, September 28, 2006.

Hon. HENRY J. HYDE,
Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 6198, the Iran Freedom Support Act. This bill was introduced on September 27, 2006, and was referred to the Committee on International Relations as well as the Committee on Financial Services. I understand that the bill will be considered by the House in the near future.

Ordinarily, the Committee on Financial Services would be entitled to act on those matters within its jurisdiction, Title V and portions of title II. However, given the importance and timeliness of the Iran Freedom Support Act, and your willingness to work with us regarding the issues within this Committee's jurisdiction, further action in this Committee will not be necessary. I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 6198 and in the Congressional Record during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the years since we enacted our attack against Iraq, the threat from Iran has only grown more difficult, and our capacity to meet that threat actually has diminished. It is one of the reasons many of us opposed that action against Iraq.

There is no question Iran's President is a thug, an anti-Semite, and a dangerous man. He exploits Iranian national grievances to consolidate power and has openly expressed his desire to wipe Israel off the map. Well, our troops are bogged down in Iraq, placing them at risk should Iran launch a wave of terrorism. We have done nothing to break our global dependency on oil, the control of which gives Iran its greatest ability to blackmail other countries.

Now, I appreciate the good will and passion of the sponsors of this bill, bringing a critical issue before us. I rise in opposition, however. We have been at this point before. We passed an earlier version of this bill. The Senate rejected it as an amendment to the defense authorization. I appreciate that there have been some positive changes that have been made to this legislation. One is a sunset. The earlier bill would have made it permanent.

And I appreciate that it contains a provision that I authored that would prohibit assistance to groups who had appeared on the State Department's list of terrorist groups in the last 4 years. However, the problem is nothing in this legislation points us in the direction of a solution. It is, if you will, a cruise missile aimed at a difficult diplomatic effort just as they are reaching their most sensitive point. The timing for this legislation could not be worse.

While the United States has largely been missing in action from the diplomatic game, the European Union and Iran have been making progress at developing a formula that would lead to the suspension of Iran's nuclear enrichment program and the start of serious negotiations. This bill specifically targets Russia, which may have some influence with Iran and which is critical to a unified diplomatic front.

This bill has another fundamental flaw besides sanctioning people whose help we need to reach a diplomatic solution. It gives equal weight to overthrowing the Iranian government as it does to nonproliferation. These two goals work against each other.

Yes, the regime's human rights record is atrocious, but preventing them from developing nuclear weapons should be our first priority. By not prioritizing behavior change over regime change, we pull the rug out from anyone in the Iranian leadership who values survival over the nuclear program and eliminates incentives for diplomatic solutions.

Now, in my opinion, Iran holds, if not the key, a key to many of the issues that confound us in the Middle East. Their cooperation ultimately is going to be critical if we are going to be able to deal with the mess that our policies have created in Iraq, the problems that we are facing in Afghanistan with a resurgence of the Taliban, and it is going to play a key role on issues that deal with Israel, Hezbollah, and Hamas. They are like a puzzle. And, sadly, Iran is one of the missing pieces.

After September 11, when the United States took action to overthrow the Taliban, our interests and Iran's aligned, and we were able to coordinate quietly but effectively. They were partners with us at some tough sessions in Bonn when we were having the negotiations that set up the Afghanistan government. And in the midst of this tentative effort at cooperation, President Bush decided to declare Iran part of the axis of evil and most hope for progress disappeared.

Mr. Speaker, the irony is that Iran is one of the few nations in the world where the majority of the people still have a positive view of the United States.

This is difficult. It is not easy. But to simply sanction potential partners and confuse what our priorities are, I am sad to say, is going to be a step backward. We ought to make clear to Iran that they need to stop their support for terrorism, end development of nuclear capacity, and begin the process of free, fair, and open elections. But I am sorry to say that this legislation in front of us ignores the opportunities that we have incorporating the lessons we learned in our success with Libya.

I respectfully suggest that this is legislation that we ought to reject, and that we ought to instead prioritize what our goals are with Iran, and we are going to. By all means, have our sanctions but not be reckless in terms of the pressure we try to exert against the very people who are going to be necessary to help us with a diplomatic solution to prevent nuclear proliferation.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to yield 10 minutes of my time to the gentleman from California (Mr. LANTOS) and that he may be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), our distinguished majority whip, without whom we would not be here today considering a bill with strong bipartisan support as well as administration support. Thank you, Mr. BLUNT.

□ 1315

Mr. BLUNT. Thank you, Chairman ROS-LEHTINEN, for yielding. I am pleased to join you and join our friend Mr. LANTOS in support of this bill.

I think that Iran has more potential than any other country to destabilize the world today. President Bush should be given the tools necessary to work toward a diplomatic solution in the crisis that we now face with Iran and that Iran, frankly, presents to the world.

I believe the solution to this problem is in this legislation. I think this does point us in a direction that can work. The mandatory sanctions for any entity that is assisting Iran to have the potential for weapons of mass destruction are important. They don't have to be targeted at a country, but those countries who are helping make that happen need to get the attention of this Congress and this government.

This declares that we also intend as a Congress to avoid implementing agreements with countries that cooperate in this area with Iran. This provides new tools to the President to prevent money laundering that can be used to provide Iran and other dangerous countries with weapons that endanger our people.

Passage of this bill today sends a powerful message to Iran and to those who would support that country's weapons development, a program that we need to be sure that we punish that behavior.

I hope the President fully utilizes the new authority provided to him in this bill. I also urge not only that we approve this bill, but that our allies and our partners around the world work along with us to implement similar measures and convince Iran to peacefully abandon its efforts to destabilize the world. We encourage the President in this bill to work with those groups that have been mentioned that do support openness and democracy in Iran.

I thank ILEANA ROS-LEHTINEN for her great leadership in this effort and TOM LANTOS for his leadership in this effort.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. I first want to thank my good friends ILEANA ROS-LEHTINEN and GARY ACKERMAN for their tireless work on this critical legislation.

Mr. Speaker, the Iran Freedom Support Act will dramatically increase the economic pressure on the regime in Tehran to abandon its headlong pursuit of nuclear weapons. If we fail to use the economic and diplomatic tools available to us, the world will face a nightmare that knows no end, a despotic fundamentalist regime, wedded both to terrorism and to the most terrifying weapons known to man.

Iran's desire, Iran's determination to acquire nuclear weapons, is beyond dispute. For years it lied to the International Atomic Energy Agency, and even today it continues to deny access for IAEA inspectors to sensitive nuclear sites.

Mr. Speaker, a short while ago I had an extensive visit to IAEA headquarters in Vienna where I had discussions with some of the leaders of countries that are interested in this issue. They have no doubt that Iran is determined to pursue a military nuclear program.

Tehran has also defied the U.N. Security Council, which has demanded that it cease its enrichment of uranium. And now that Iran has been offered an incredibly generous package of benefits by the United States and our European allies in exchange for suspending uranium enrichment, the regime in Tehran is playing its usual cynical game, stalling for time.

Mr. Speaker, I meet with some frequency with Middle Eastern leaders, and there is not one who isn't deeply worried by the prospect of Iran's going nuclear. A nuclear Iran will touch off a bone-chilling arms race in the Middle East. But long before that happens, before Iran threatens to fire a shot, as it were, virtually every nation within reach of Iranian missiles will recalibrate its foreign policies to make certain that it doesn't offend the region's new nuclear power, Iran, and that, Mr. Speaker, would be a disaster for U.S. foreign policy interests, for the Middle East and for the entire civilized world.

Some argue that our legislation will undermine our relations with European allies who invest in Iran. But that argument, Mr. Speaker, is simply wrongheaded. Our legislation is intended to reinforce diplomacy with economics. We ask our allies to do what the United States did over a decade ago, divest from Iran's energy sector, the cash cow of the ayatollah's nuclear aspirations.

Nor is this legislation, Mr. Speaker, all stick and no carrot. By removing Libya from the list of the sanctioned, this legislation is an implicit invitation to Iran: mend your ways and your support of terrorism and your quest for weapons of mass destruction, and you will be welcomed back into the family of nations. Refuse to do so, and you will suffer accordingly.

The legislation before us will extend the Iran Sanctions Act for 5 years. It will boost congressional oversight over its implementation. The clear message of this legislation is that the administration now has to enforce the law fully.

Mr. Speaker, I would be delighted if our legislation were rendered redundant by serious Security Council action to impose international sanctions on Iran, but the attitudes shown by Russia and China thus far strongly suggest that meaningful U.N.-imposed sanctions are a most unlikely development.

In the meantime, we cannot shirk our responsibility to employ every peaceful means possible to defeat Iran's reckless nuclear military ambitions. That, in essence, is the reason for the urgency of passing H.R. 6198 today.

Mr. Speaker, I strongly support this bill, and for the sake of foiling a looming, long-term nuclear terrorist threat, I urge my colleagues to do so as well.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentlewoman from Florida for allowing us to have this debate today.

The human condition on the planet requires that there be strong military power under certain circumstances, strong intelligence under certain circumstances, strong sanctions under certain circumstances, and strong dialogue.

The President recently spoke to the Iranian people through The Washington Post. Here is what he said: "I would like to say to the Iranian people, we respect your history. We respect your culture. I recognize the importance of your sovereignty, that you are a proud nation. I understand that you believe it is in your interest, your sovereign interest, to have nuclear power for energy. I would work for a solution to meeting your rightful desires to have civilian nuclear power. I will tell the Iranian people that we have no desire for conflict."

If we hope to convince our allies and the international community that we are serious about resolving this matter diplomatically, the U.S. must open direct diplomatic channels with Tehran.

Mr. BLUMENAUER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it is important to go back a little bit in history here. The Iraq Accountability Act of 1998 was about funding a media propaganda machine which was, unfortunately, used to lay the groundwork for a war against Iraq. That act was about encouraging and funding opposition inside Iraq, unfortunately, to destabilize Iraq prior to a war.

You could call this bill the "Iran Accountability Act." This act funds media propaganda machines to lay the groundwork for a war against Iran. It encourages and funds opposition inside Iran for that same purpose.

Notwithstanding what the words are in this bill, we have been here before. This administration is trying to create an international crisis by inflating Iran's nuclear development into an Iraq-type WMD hoax. "Iran is not an imminent threat," this from Dr. Hans Blitz, former Chief U.N. Weapons Inspector, speaking to our congressional oversight subcommittee the other day.

The International Atomic Energy Agency points out that Iran has an enrichment level of about 3.6 percent. You have to go to 90 percent to have weapons quality enrichment. Iran is not an imminent threat. Iran does not have nuclear weapons.

This is a time for us to engage Iran with direct talks, our President to their President. This is the time to give assurance to Iran that we are not going to attack them.

Unfortunately, this administration has chosen to conduct covert ops in Iran. This administration has chosen to select 1,500 bombing targets with the Strategic Air Command. This administration has chosen plans for a naval blockade of the Strait of Hormuz. This administration looked the other way when a congressional staff report basically claimed that Iran was trying to engage in nuclear escalation.

We don't need war, we need to talk, and that is what we ought to stand for here. No more Iraqs.

The End of the "Summer of Diplomacy": Assessing U.S. Military Options on Iran

A CENTURY FOUNDATION REPORT

(By Sam Gardiner, Colonel, USAF (Ret.))

This report is part of a series commissioned by The Century Foundation to inform the policy debate about Iran-related issues.

The views expressed in this paper are those of the author. Nothing written here is to be construed as necessarily reflecting the views of The Century Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

"The doctrine of preemption remains sound and must remain an integral part of our national security strategy. We do not rule out the use of force before the enemy strikes."—Stephen Hadley, March 16, 2006.

Introduction

The summer of diplomacy began with a dramatic announcement: on May 31, 2006, Secretary of State Condoleezza Rice declared that if the Ahmadinejad government agreed to halt Iran's nuclear enrichment program, the United States would talk directly with Tehran. Secretary Rice crafted the statement working alone at home. She called President Bush and received his approval. The Bush administration announced it as a significant initiative; it appeared to reflect a major change in policy.

This shift was not uncontroversial within the administration; Vice President Dick Cheney had opposed the announcement. But the rationale that prevailed seems to have been that if the United States were going to confront Iran, the diplomacy box had to be checked. The secretary of state was given the summer to try it.

Well, the summer is over. Diplomacy was given a chance, and it now seems that the diplomatic activity of the past several months was just a pretext for the military option.

Unfortunately, the military option does not make sense. When I discuss the possibility of an American military strike on Iran with my European friends, they invariably point out that an armed confrontation does not make sense—that it would be unlikely to yield any of the results that American policymakers do want, and that it would be highly likely to yield results that they do not. I tell them they cannot understand U.S. policy if they insist on passing options through that filter. The "making sense" filter was not applied over the past four years for Iraq, and it is unlikely to be applied in evaluating whether to attack Iran.

In order to understand the position of those within the U.S. government who will make the final decision to execute a military option against Iran, you must first consider the seven key truths that they believe: Iran is developing weapons of mass destruction—that is most likely true. Iran is ignoring the international community—true. Iran supports Hezbollah and terrorism—true. Iran is increasingly inserting itself in Iraq and beginning to be involved in Afghanistan—true. The people of Iran want a regime change—most likely an exaggeration. Sanctions are not going to work—most likely true. You cannot negotiate with these people—not proven.

If you understand these seven points as truth, you can see why the administration is very close to being left with only the military option. Administration officials say that they want to give diplomacy a chance. But when they say that, we need to remind ourselves that they do not mean a negotiated settlement. They mean that Iran must do what we want as a result of our nonmilitary leverage: suspend enrichment, and we will talk. But enrichment appears to continue, and there are no direct discussions between the two main parties. Satisfied that nonmilitary leverage is not going to work, those who believe the seven "truths" argue that the only viable option remaining is a military one. The story, however, is more complicated.

This report draws on my long experience of running military war games to examine some of the complications of the current situation: the various pressures and rationales for an attack on Iran; the probable direct and indirect consequences of air strikes; the significant gap between what proponents of the military option want to achieve and what in fact such attacks will achieve; and the likelihood that policymakers will ignore those gaps and proceed to war despite them.

Timing and Uncertainty

Waiting makes it harder. The history of warfare is dominated by attackers who concluded that it was better to attack early than to wait. One source of the momentum in Washington for a strike on Iran's nuclear program is the strategic observation that if such an attack is in fact inevitable, then it is better done sooner than later.

I conducted a war game for the Atlantic Monthly magazine two years ago. On a chart prepared for a mock meeting of the National Security Council, I identified thirteen nuclear-related targets in Iran. I still do this kind of gaming. My most recent chart reflects twenty-four potential nuclear-related facilities. In the past few years we have seen Iran's Natanz uranium enrichment facility buried under more than fifteen meters of reinforced concrete and soil. There is evidence that similar hardening is taking place at other facilities, and there is some evidence of facilities being placed inside populated areas. The longer the United States waits, the harder the targets—and the harder the targeting.

Another major issue that affects timing is the conspicuous absence of reliable intelligence about Iran. A report by the House Intelligence Committee found that we have serious gaps in our knowledge of the Iranian nuclear program. Paradoxically, those gaps in intelligence produce not caution, but further pressure to attack. U.S. intelligence agencies do not know the locations of all of Iran's facilities; they are not certain how far Iran has gone with enrichment. They know that Iran's nuclear program bears a striking resemblance to the Pakistani program, but they do not know whether Iran has acquired technology that might put it ahead of current estimates.

Some U.S. officials say that Iran is ten years from a weapon. The Pentagon, we are told, is operating under the assumption that Iran could have a weapon in five years. Some Israeli estimates say that Iran could have a weapon in three years. John Negroponte, the U.S. director of national intelligence, recently said that Iran could not develop a nuclear weapon until some time in the next decade. But the next day, Secretary of Defense Donald Rumsfeld said he did not trust estimates of the Iranian program.

The very ambiguity of the intelligence picture has become another argument for military options, because even if U.S. policymakers could agree on a firm policy red line, there would be no way of determining if and when Iran crossed that line. Vice President Cheney's espoused calculation for dealing with global threats is that if there is even a 1 percent chance of a country passing WMD to a terrorist, the United States must act. Because there is a 1 percent chance Iran could pass WMD to a terrorist, the Bush administration finds itself obliged to reject nonmilitary options.

Regional Pressures

Adding to the political momentum toward war with Iran is significant pressure from the Israeli security establishment. Israel says that it has a plan for attacking Iranian nuclear facilities. Israel recently appointed an airman to be in charge of the Iranian theater of operations. It was announced that this major general would coordinate Israeli planning for Iran. Israeli military planners have U.S. penetrating weapons and a replica of the Natanz facility. They say that the attack would resemble the kind of operation they used against Egypt in 1967. They say that the plan involves more than just air strikes from the "Hammers" of the Israeli Air Force's 69 Squadron. It would include Shaldag commando teams, possibly some version of sea-launched missiles, and even explosive-carrying dogs that would penetrate the underground facilities.

Israel probably could hit most of the known nuclear targets. But such an attack would leave Iran with significant retaliatory options. That is a serious problem. U.S. forces and interests in the region would be likely targets of Iranian retaliation, so even an independent Israeli military operation would have critical consequences for the United States.

Part of the problem is that the two countries' red lines for Iran are not the same. Israel's red line is enrichment. The U.S. red line used to be the development of an Iranian nuclear weapon. But over the past six months, America's red line has drifted closer to Israel's. On March 21, the president said that the United States could not allow Iran to have the knowledge to make a weapon. He repeated the phrase in August.

By redrawing the red line in this manner, U.S. policymakers are creating pressure to go to war with Iran. In saying that Iran could not be permitted to have the knowledge to develop nuclear weapons, the president used almost the exact words the Israeli Foreign Minister had used a year earlier. More recently, a senior State Department official said that Iran was near "the point of no return" on its nuclear program. Again, this was an exact echo of the words of Israeli officials. The Israeli pressure has worked.

Marketing the Military Option

I often hear from those who were strongly supportive of the Iraq invasion that the targeting of the Iranian facilities would be simple. If you understand the elements of the nuclear process, all you have to do is go after a small number of targets. The argument continues that Iran's nuclear facilities could be devastated on a single night, in a single strike, by a small number of U.S. B–2 bombers. The apparent ease of the operation is another element of this pressure to go now: If the Iranian nuclear program can be stopped in one night by a simple strike, why should the United States wait?

But the elimination of Iran's nuclear capability, while it might be the stated aim for the United States, is only part of the objective. While the Iranian regime's weapons program is a genuine source of concern, American policymakers are also troubled by Iran's interference in Iraq. Despite U.S. warnings, the Revolutionary Guard continues to supply weapons, money, and training to insurgents inside Iraq. Some proponents of attacking Iran feel that Tehran should be punished for supporting militias and extremists in Iraq.

In addition to Iran's role as an aspiring nuclear rogue and a supporter of the insurgency in Iraq, the country has been repeatedly portrayed as a key adversary in the war on terrorism. The United States has put Iran into a separate and new terrorism category, dubbing it the "Central Banker of Terrorism." The new National Security Strategy says, "Any government that chooses to be an ally of terror, such as Syria or Iran, has chosen to be an enemy of freedom, justice, and peace. The world must hold those regimes to account." "Unnamed intelligence officials," citing evidence from satellite coverage and electronic eavesdropping, have told the press that Iran is hosting al Qaeda, granting senior operatives freedom to communicate and plan terrorist operations.

Indeed, the case against the regime is so forceful, and so multifaceted, that it becomes clear that the goal is not simply to do away with the regime's enrichment program. The goal is to do away with the regime itself.

And on top of all of those pressures—pressure from Israel, pressure from those worried about a nuclear Iran, Iran in Iraq, and Iran in the war on terrorism—is another, decisive piece of the puzzle: President George W. Bush. The argument takes several forms: the president is said to see himself as being like Winston Churchill, and to believe that the world will only appreciate him after he leaves office; he talks about the Middle East in messianic terms; he is said to have told those close to him that he has got to attack Iran because even if a Republican succeeds him in the White House, he will not have the same freedom of action that Bush enjoys. Most recently, someone high in the administration told a reporter that the president believes that he is the only one who can "do the right thing" with respect to Iran. One thing is clear: a major source of the pressure for a military strike emanates from the very man who will ultimately make the decision over whether to authorize such a strike-the president. And these various accounts of his motivations and rationales have in common that the president will not allow does-not-make-sense arguments to stand in the way of a good idea.

Below the CNN Line

Stay below the "CNN line." That was the guidance given to the Air Component Commander, General Mike Mosley, as the secret air strikes began against Iraq in operation SOUTHERN FOCUS. It was July 2002. This classified bombing campaign would involve strikes on almost 400 targets. It was initiated just after the president visited Europe where he announced numerous times, "I have no war plans on my desk."

There was no UN resolution. The congressional authorization was not to come for four months. But the United States was starting the war.

All of the pressures described above are pushing for war with Iran, and increasingly, a public case for such a war is being made. But behind the scenes, military operations are already under way. (See Figure 1.) Most likely, the same guidance has been given to military commanders. The pattern is repeating.

When U.S. commandos began entering Iran—probably in the summer of 2004—their mission appears to have been limited. The objective was to find and characterize the Iranian nuclear program. From press reports, we know that the task force doing these operations was implanting sensors to detect radioactivity. Intelligence for these early operations inside Iran was coming from information provided by A.Q. Khan, the Pakistani dealer in black market nuclear material. The incursions were focused in the northeast, where the Iranian nuclear facilities are concentrated. The base of these incursions was most likely Camp War Horse in Iraq.

Israel also was conducting operations inside Iran in late 2003 or early 2004. The Israeli commandos reportedly were operating from a base in Iraq. These commandos also were implanting sensors. I would expect the U.S. and Israeli operations to have been coordinated. At about this time the United States began operating remotely piloted vehicles inside Iran over nuclear facilities. (Although this was certainly an embarrassment to the Iranians, they mentioned the flights numerous times in their press.)

In 2005, the balance within the U.S. government shifted in favor of those who were pushing for regime change in Iran. This was to result in the eventual creation of the Iran/Syria Operations Group inside the State Department, a request to Congress for $75 million, and the creation of a robust "democracy promotion" program. Meanwhile the United States moved from intelligence collection inside Iran, to establishing contact with ethnic minorities, to being involved in—and most likely conducting—direct action missions. Reports suggest that the United States is supporting militant groups in the Baluchistan region of Iran. There have been killings and kidnappings in this region. Iran Revolutionary Guard convoys have been attacked. In a New Yorker article, Seymour Hersh confirmed that this region was one of the areas where U.S. forces were operating. The Iranian press also has accused the United States of operating there. In addition, press reports suggest that the United States may be sponsoring former members of the Iraq-based MEK (Mojahedin-e Khalq) in Baluchistan.

I recently attended a Middle East security conference in Berlin. At dinner one night, I sat next to the Iranian ambassador to the International Atomic Energy Agency, Ali-Asghar Soltanieh. I told him I had read that the Iranians were accusing the United States of supporting elements in Baluchistan. I asked him how they knew that. Without any hesitation, Soltanieh told me that they have captured militants who confessed that they were working with the Americans.

The United States is also directly involved in supporting groups inside the Kurdish area of Iran. According to both western and Iranian press reports, the Iranian Party of Free Life of Kurdistan (PJAK) has been allowed to operate from Iraq into Iran and has killed Revolutionary Guard soldiers. The Iranians have also accused the United States of being involved in shooting down two of their aircraft, an old C-130 and a Falcon jet, carrying Revolutionary Guard leaders.

NEXT STEPS: Above the CNN Line

How do we get from being below the CNN line to the next step? The path is fairly clear. The United Nations Security Council will fall short of imposing serious sanctions on Iran. The United States, then, will look for a coalition of the willing to implement smart sanctions, focused on the Iranian leadership.

But the sanctions will be designed less to ensure compliance from the Iranians than to generate domestic and international support for the American position. I do not know an Iranian specialist I trust who believes that the sanctions would cause the Iranians to abandon their nuclear program, any more than did the sanctions on India and Pakistan after their nuclear tests in 1998. The sanctions will be used to raise the collective conscience that Iran is a threat, and to convince the world that the United States has tried diplomatic solutions.

If the experience of 1979 and other sanctions scenarios is a guide, sanctions will actually empower the conservative leadership in Iran. There is an irony here. It is a pattern that seems to be playing out in the selection of the military option. From diplomacy to sanctions, the administration is not making good-faith efforts to avert a war so much as going through the motions, eliminating other possible strategies of engagement, until the only option left on the table is the military one.

When imposing the sanctions fails to alter Tehran's position, policymakers will revert to a strike on Iran's nuclear facilities. One can imagine the words of a planner in the meeting: "If we are going to do this, let's make certain we get everything they have." I have done some rough "targeting" of nuclear facilities for which I can find satellite photos on the Web. By my calculation, an attack of relatively high certainty on nuclear targets would require 400 aim points. (An aim point is the specific location where an individual weapon is directed. Most targets would have multiple aim points.) I estimate seventy-five of these aim points would require penetrating weapons. (See Table 1, page 12.)

But it is unlikely that a U.S. military planner would want to stop there. Iran probably has two chemical weapons production plants. He would want to hit those. He would want to hit Iran's medium-range ballistic missiles that have just recently been moved closer to Iraq. There are fourteen airfields with sheltered aircraft. Although the Iranian Air Force is not much of a threat, some of these airfields are less than fifteen minutes flying time from Baghdad. Military planners would want to eliminate that potential threat. The Pentagon would want to hit the assets that could be used to threaten Gulf shipping. That would mean targeting cruise missile sites, Iranian diesel submarines, and Iranian naval assets.

TABLE 1. TARGETS IN IRAN

Initial strikes	Follow-on strikes
Nuclear facilities	Revolutionary Guard bases.
Military air bases	Command and governance assets
Air defense command and control	Intelligence
Terrorist training camps	Military command
Chemical facilities	Radio and television
Medium-range ballistic missiles	Communications
23rd Commando Division	Security forces in Tehran
Gulf-threatening assets:	
Submarines	Leadership: targeted killing
Anti-ship missiles.	
Naval ships.	
Small boats	

After going through the analysis, I believe that the United States can and will conduct the operation by itself. There may be low-visibility support from Israel and the U.K., and France may be consulted. But it will be an American operation.

What about casualties? Although the United States would suffer casualties in the Iranian retaliation, the honest answer to the president if he asks about losses during the strike itself is that there probably will not be any. The only aircraft penetrating deep into Iranian airspace will be the B-2s at night. B-52s will stand off, firing cruise missiles. Other missile attacks will come from Navy ships firing at a safe distance.

Targeting the Nuclear Program? Or the Regime?

Air-target planners orchestrate strikes on the basis of desired target destruction criteria. In the case of an attack on Iran, after five nights of bombing, we can be relatively certain of target destruction. It is even possible to project the degree to which parts of the Iranian nuclear program would be set back. For example, using Web pictures of the Natanz enrichment facility, it is possible to see three years worth of construction. An attack on that construction might appear to set the program back three years. But it is hard to judge. David Kay, the former top U.S. weapons inspector, observed during our discussions that there is the program we see, but there is also the program we do not see. Because of the gaps in U.S. intelligence on Iran, and specifically on Iran's nuclear program, American military leaders are growing increasingly uneasy about the reliability and comprehensiveness of target selection. In other words, after the five-night military attack we would not be able with any degree of certainty to say how we had impacted the Iranian nuclear program.

If this uncertainty does not appear to worry the proponents of air strikes in Iran it is in no small part because the real U.S. policy objective is not merely to eliminate the nuclear program, but to overthrow the regime. It is hard to believe, after the misguided talk prior to Iraq of how American troops would be greeted with flowers and welcomed as liberators, but those inside and close to the administration who are arguing for an air strike against Iran actually sound as if they believe the regime in Tehran can be eliminated by air attacks.

In this case, the concept is not a ground force Thunder Run into Tehran of the sort used in Baghdad. It is a decapitation-based concept. Kill the leadership and enable the people of Iran to take over their government. More reasonable leadership will emerge.

Under this concept, the air operation would take longer than the five nights. The targets would be expanded. The Revolutionary Guard units would be attacked since according to the argument they are the primary force that keeps the current regime in power. There are other regime protection units in Tehran. Most important, the U.S. operation would move into targeted killing, seeking to eliminate the leadership of Iran.

It sounds simple. Air planners always tell a good story. By the same token, they almost always fall short of their promises, even in strictly military terms. That was true in World War II. It was true in Korea. It was true in Vietnam. It has just proved true with the Israeli attacks on Hezbollah. No serious expert on Iran believes the argument about enabling a regime change. On the contrary, whereas the presumed goal is to weaken or disable the leadership and then replace it with others who would improve relations between Iran and the United States, it is far more likely that such strikes would strengthen the clerical leadership and turn the United States into Iran's permanent enemy.

Iran's Response

Having demonstrated that air strikes are unlikely either to eliminate the nuclear program or to bring about the overthrow of the Islamic regime in Iran, we must now turn to what, precisely, they would achieve. It is important to remember that some of Iran's threats, demonstrations of new weapons, and military exercises are designed to have a deterrent effect. As such we should not deduce too much about what Iran would do in the event of an attack on the basis of what it might say and do in advance of an attack. A former CIA Middle East Station Chief told me once that predicting the consequences of a strategic event in the Middle East was as difficult as predicting how an Alexander Calder mobile would come to rest after you flicked one of its hanging pieces.

It is possible, however, to identify some high probability immediate consequences.

The Iranians would likely look to target Israel as a response to a U.S. strike, using Hezbollah as the primary vehicle for retaliation. For Tehran, there is the added benefit that blaming Israel (even for a U.S. strike) would play well at home, and probably throughout the region.

Moqtada al-Sadr has said publicly that if the United States were to attack Iran, he would target U.S. forces in Iraq.

Iran could channel more individuals and weapons into Iraq. Specifically, Iran could upgrade technology among Shiite militias, with weapons like the laser-guided anti-tank missiles Hezbollah had in Lebanon. We might even see more direct operations like missile attacks against U.S. forces.

Moqtada al-Sadr controls the large Facilities Protection Service forces in Iraq. Some estimates put this force as large as 140,000. Among other missions, they guard the oil pipelines. If Iran wants to cut the flow of oil, Iraq is the best place to begin, and the means are in place to take on the mission. The impact of severing Iraq's oil supplies would be an immediate increase in its own oil revenue.

Iran is not going to wipe Israel from the map or force the United States to leave Iraq with these operations. But in causing these various complications, Iran can still achieve a degree of success. As we recently witnessed in the clash between Hezbollah and Israel, Iran can seem stronger just by virtue of making the United States and Israel seem weaker.

Round Two

Once the nature of the Iranian retaliation becomes apparent, the United States will not likely declare success and walk away from the problem. Clearly, the pressure will be to expand the targets and punish Iran even more. The government of Iran is fragile, the thinking goes; it could even be on the verge of falling; it is time to "enable" the Iranian people. The Iranians will react with their own horizontal escalation. (See Table 2, page 16.)

Iran has been sending mixed signals about whether or not it would cut its own oil production or attempt to restrict the flow of oil from the Gulf. A strike of five nights might not push them to cut the flow of oil. But continued operations probably would. Iran does have some flexibility to do without oil revenues for a period because of surpluses from currently high oil prices. In additon, it has plans for rationing refined petroleum products that it must import.

Executing the oil option might not be limited to operations against tankers moving in and out of the Gulf. Iran has the capability, and we have seen some indications of the intent, to attack facilities of other oil providers in the region.

It would be tougher for Iran and Hezbollah to attack UN forces in Lebanon. If the UN forces were to become too aggressive in response to Hezbollah attacks against Israel, they would most likely become targets. In addition, at some point in the expanding conflict, Iran might see a value to making the war about attempts at Western domination of the region and not just about the United States and Israel. In that case, a focused attack on something like the Italian headquarters would resonate in the region.

It took a while for the nations of the region to react to the Israeli attack into Lebanon. That most likely would be the case in the event of a U.S. strike against Iran. As attacks continued and as the television coverage intensified, however, we could see something similar to the reactions to the Danish cartoons. We could see the "Arab Street" asserting itself.

Syria and Iran signed a defense agreement on June 15. Under this agreement Syrian forces would be brought into a fight if Iran were attacked. Syrian President Bashar Assad might be a reluctant participant, but as the conflict expands, he might not have a choice.

The Iranians could conduct targeted killing outside the region. They have used this tactic in the past: in 1991, Shapour Bakhtiar, the Shah's last prime minister, was decapitated in his apartment in Paris.

Continued air strikes and demonstrations could have a compounding effect. Weak governments in the Muslim world could be threatened. The governments of Pakistan, Jordan, Bahrain, and Saudi Arabia are vulnerable.

TABLE 2. CONSEQUENCES OF AN ATTACK

	Type of Operation	
	Short strike	Regime change
Hezbollah attacks on Israel	High probability	High probability.
Attacks on U.S. forces in Iraq	High probability	High probability.
Sabotage pipelines in Iraq	High probability	High probability.
Street demonstrations on a wide scale.	Possible	High probability.
Hezbollah attacks outside the region.	Possible	High probability.
Iran stopping its own oil exports	Possible	High probability.
Iran blocking Gulf oil flow	High probability	High probability.
Iran attacking other regional oil facilities.	Possible	Possible.
Iran suicide attacks	Not likely	Possible.
Syria involved	Not likely	Possible.
Threats to regional governments	Not likely	Possible.

As an obvious consequence of the instability resulting from a U.S. strike, the price of oil almost certainly will spike. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. Confidential analysis by a major European bank suggests it would level off at $130, and a very conservative estimate would be over $200.

With prices surging to this level, third order consequences become apparent. The most obvious would be a global, synchronized recession, intensified by the existing U.S. trade and fiscal imbalances. Another political consequence would be that oil exporting countries outside the region would enjoy significant surges in revenue from higher prices. As a result, countries such as Venezuela and Russia would enjoy expanded influence while the West would be reeling from recession.

I should note that in the preceding discussion of the cycle of action and reaction, I have not mentioned large U.S. ground unit formations. That is because I do not believe we will come to a point where that option will make sense to policymakers. This is the one lesson the administration seems to have learned from Iraq—occupation does not work. And that realization brings us back to why the air strike option has been so attractive to the administration from the beginning.

When Is the Strike?

When does it all come together? When could the United States pull the trigger on the military option? The most important point in understanding the window for an attack is that the military preparations will not be the determining factor. This operation will not resemble the six months of preparations for Operation Desert Shield in 1990. The preparations will be much less visible than the movements to the region in early 2003. We will not read about discussions with Turkey for basing permission. It will not be a major CNN event.

Instead, preparations will involve the quiet deployment of Air Force tankers to staging bases. We will see additional Navy assets moved to the region. The more significant indications will come from strategic influence efforts to establish domestic political support. The round of presidential speeches on terrorism is a beginning, but I expect more. An emerging theme for the final marketing push seems to be that Iran threatens Israel's existence. We can expect the number of administration references to Iran to significantly increase, and will see three themes—the nuclear program, terrorism, and the threat to Israel's existence.

The issue of congressional approval plays into the timing question. Administration officials have been asked numerous times if the president would require authorization by Congress for a strike on Iran. Secretary Rice responded to that question before the Senate Foreign Relations Committee in October 2005 by saying, "I will not say anything that constrains his authority as Command in Chief." Congressmen Peter DeFazio and Maurice Hinchey offered an amendment to the Defense Appropriations Bill in June that would have required the president to get authorization from Congress before taking military action against Iran. The amendment failed.

Over the past few months, we have seen numerous leaks and administration documents that raise an Iran-al Qaeda connection. In addition, the House Permanent Select Committee report on the threat of Iran implied an al Qaeda connection. This linkage of Iran and al Qaeda fits neatly into the broader effort to sell a strike to the American people. But more importantly, it opens the way for an argument that a strike on Iran was part of the global war on terrorism already authorized by Congress.

In other words, approval by Congress does not necessarily have to be part of the calculation of when an attack could take place. If the determining factor of timing is neither the preparation of military forces nor congressional approval, one question remains: How much public support do decisionmakers believe they need before pulling the trigger? And that question brings us back to the beginning of the summer of diplomacy. Vice President Cheney had to be convinced that it was necessary to give some lip service to diplomacy, checking that box in order to secure public support. President Bush seems to be convinced of the rightness of his cause and vision. He repeats often that he does not care about public opinion.

The window for a strike on Iran stands open.

Finally

Policymakers who begin with the seven "truths" of the situation can easily proceed down a path that leaves the military option as the only one on the table. There is a certain inevitability to this path, a certain inexorability to the momentum toward war. The policymakers will say that the Iranians have forced us to go in this direction. But the painful irony is that these policymakers are forcing the direction on themselves.

At the end of the path that the administration seems to have chosen, will the issues with Iran be resolved? No. Will the region be better off? No. Is it clear Iran will abandon its nuclear program? No. On the other hand, can Iran defeat the United States militarily? No.

Will the United States force a regime change in Iran? In all probability it will not. Will the economy of the United States suffer? In all probability it will.

Will the United States have weakened its position in the Middle East? Yes. Will the United States have reduced its influence in the world? Yes.

When I finished the 2004 Iran war game exercise, I summarized what I had learned in the process. After all the effort, I am left with two simple sentences for policymakers. "You have no military solution for the issues of Iran. You have to make diplomacy work." I have not changed my mind. That conclusion made sense then. It still makes sense today.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 1-1/3 minutes to my dear friend and distinguished colleague on the International Relations Committee, the Congresswoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank my good friend Mr. LANTOS for yielding to me.

Mr. Speaker, I rise in strong support of this legislation. Each day brings something new from Iran, a new boast, a new rant, a new threat. Yet we have made little progress in convincing our allies that the Iranian regime means business, and that business is funding and supplying terrorist organizations like Hezbollah, wiping Israel off the face of the map and denying the Holocaust.

We must not allow them to acquire the means to carry out their ambitions. It would be difficult to overstate the danger Iran represents. Unchecked Iranian nuclear proliferation, combined with increasing support for international terrorism, poses a grave threat to United States forces in the Middle East, moderate Islamic Arab countries in the region, the State of Israel. And a nuclear Iran poses just as much of a threat to Europe as it does to the countries in the Middle East.

Incomprehensibly, many of our allies seem oblivious to these dangers. Their strategy of negotiations, incentives, and concessions are not working. Stronger measures are necessary. This bill will ramp up the pressure on Iran to give up its nuclear ambitions and cooperate with the international community.

Iran is a radical fundamentalist country headed by a President who I believe is as dangerous to the world community in the 21st century as Hitler was in the 20th century. Every time this man opens his mouth, he proves it. We must deny Iran the technology and financial resources that will enable this regime to carry out its threats.

I urge support of this bill.

Mr. BLUMENAUER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

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Mr. PAUL. Mr. Speaker, I rise in strong opposition to this bill, and let me give you a few reasons why.

In the introduction to the bill, it says that its purpose is to hold the current regime in Iran accountable for its threatening behavior and to support a transition of its government; and I would just ask one question: Could it be possible that others around the world and those in Iran see us as participating in "threatening behavior?" We should make an attempt to see things from other people's view as well.

I want to give you three quick reasons why I think we should not be going at it this way:

First, this is a confrontational manner of dealing with a problem. A country that is powerful and self-confident should never need to resort to confrontation. If one is confident, one should be willing to use diplomacy whether dealing with our friends or our enemies; I think the lack of confidence motivates resolutions of this type.

The second reason that I will give you for opposing this is that this is clearly seeking regime change in Iran. We are taking it upon ourselves that we do not like the current regime. I don't like Almadinyad, but do we have the responsibility and the authority to orchestrate regime change? We approach this by doing two things: Sanctions to penalize; at the same time giving aid to those groups that we expect to undermine the government. Do you know if somebody came into this country and paid groups to undermine our government, that is illegal? Yet here we are casually paying money, millions of dollars, unlimited sums of money to undermine that government. This is illegal.

The third point. This bill rejects the notion of the nonproliferation treaty. The Iranians have never been proven to be in violation of the nonproliferation treaty; and this explicitly says that they cannot enrich uranium even for private and commercial purposes.

For these three reasons we obviously should reconsider and not use this confrontational approach. Why not try diplomacy? Oppose this resolution.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1⅓ minutes to Mr. SHERMAN.

Mr. SHERMAN. Mr. Speaker, I rise in reluctant support of this bill and in strong support of its authors—who got what they could from a President who has a veto pen, and is determined to continue our ineffectual policy toward Iran.

America has been blinded by the flash of this President's overly aggressive response to Iraq's tiny "weapons of mass destruction" program. So, as a result, we have settled for a loud but pitifully ineffectual effort, both toward North Korea's nuclear program and toward Iran's.

In this bill, I had an amendment that would have prohibited U.S. corporations from doing business with Iran through their foreign subsidiaries. That amendment was stripped in conference. So Halliburton is protected; the American people are not.

This bill extends the Iran-Libya Sanctions Act, which was so effective, along with other measures, in getting Khadaffi to change his policies. However, as toward Iran, the last administration and this administration has a policy of ignoring widely reported investments in the Iran oil sector. The bill says we are supposed to sanction oil companies that invest even $40 million in Iran's oil sector. When tens of billions of dollars of investments are announced in the Wall Street Journal, the President's response is, he didn't get that copy.

We have got to pass this bill, but we have got to do a lot more. And we have got to make sure that, in our policy toward Russia and China about Moldova, Abkhazia, and currency controls, that we make it clear that support on Iran will lead to our change on those issues that are so important to Russia and China. We need linkage, and we need an effective policy.

Mr. BLUMENAUER. I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the American people need to know the Republican majority today has created the House Failed Diplomacy Caucus.

The Republicans need another press release before they go home, so we have 20 minutes to offer our thoughts on a bad bill sent to the floor by Republicans to show how tough they are.

Showing how smart we are would be a far better idea for dealing with nations like Iran and Iraq. But global diplomacy isn't the stuff of press releases; rhetoric is. So the Republicans have shut down debate by bringing legislation to the floor under a closed rule. They don't want ideas or improvements for making the world a safer place. They want leaflets to drop during the campaign, and they are being printed en mass right now. It is the Republican Iraq strategy all over again. Different nation, same flawed approach.

Republicans have given us H.R. 6198, the We Run the World Act. There is no need for other nations to actually have governments, actually. We will send our press releases. Just follow along, Russia, Iraq, Iran, Pakistan, Lebanon, and anywhere else where we think we run them.

Republicans want Americans to point the finger and send along instructions. They are staging a campaign event right here on the floor. You watch how quick it makes it into the ads of television.

This is not, not, going to help America chart a path to deal with what is wrong with the Iranian government. No one disagrees with the fact that it is not a government we want in control of that country. It will only entrench and bolster those who are wrong.

The press release won't protect anybody. But, in fact, the Iranian dissidents don't want the money. Do you know why? Just like many Republicans today don't want Bush to come into their district and put his arm around them in the midst of this campaign, the Iranian dissidents know that, if it becomes American money, they are done. They will not be able to do what they need to. We need to vote "no" on this initiative.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield time to my colleague from Florida on this bipartisan bill, the essence of which has been extensively debated on the floor several times and in committees, as well.

I yield 2 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding this time to me and congratulate the committee on both sides of the aisle.

I think, however, when we look around and see some of the rhetoric that is going on, let's take a look at what is happening.

We have probably one of the most dangerous countries in the world run by fanatics that is in the process of producing a nuclear weapon. We have the Iranians financing the terrorists in Iraq killing American soldiers. We have the Iranians in Iraq killing innocent Iraqis. We have the Iranians in Iraq killing innocent Lebanese with the Hezbollah. And we are standing here today listening to people talk about press releases.

Come on, guys. Isn't there something that can draw this Congress together? It already has brought together responsible Democrats and Republicans. But to come forward and talk of this nature is absolutely counterproductive. It does not help us in our country, and we should stop it now. We need to put up a unified force in this country.

We are aiding and abetting the enemy when we stress our division. Of course we are going to disagree. That is healthy. That is what democracy is all about. But on some of these items, such as what we are talking about here today, when American soldiers are spilling their blood and that blood is being spilt with Iranian money, can't we start talking about America and quit talking about politics?

Mr. BLUMENAUER. I yield 2 minutes to the gentleman from New York.

Mr. HINCHEY. Mr. Speaker, I thank my friend from Oregon for yielding me this time and providing it to us in the context of this debate.

This proposed legislation is contrary to the best interest of Iran and the United States. It is, unfortunately, reminiscent of the State of the Union address which declared Iran, Iraq, and North Korea as part of the Axis of Evil; and we are now very familiar with the consequences of that statement. We have seen a disastrous situation develop in Iraq, and we have also seen the revival of nuclear interest both in North Korea and in Iran.

The attitude of our country toward Iran now for more than 50 years has been overly aggressive and overbearing, and the consequences of it have been very dangerous. We should be acting in a much more mature and responsible way, particularly toward this country. This is a very significant country, not only in the Middle East but in the world generally. The people of this country are good, sound, solid, reasonable people, and we need to be appealing to them on that basis, not on the basis of the language of this resolution, which continues to create this atmosphere of hostility which is, as I have indicated, has been going on now for more than 50 years.

That needs to change. We need to change our attitude, change our approach to this nation. We need to engage them more objectively, more seriously, and in a much more filial way, a much more friendlier way. And if we were to do that, we would find that this country would react and respond to us in a similar fashion.

Unfortunately, this proposed legislation does exactly the opposite. It places us, continues to place us in a difficult and dangerous, antagonistic circumstance between ourselves and this country, and unnecessarily so. So this legislation is contrary to our interests, just as it is contrary to the interests of Iran, and so it should be rejected by this body.

Mr. LANTOS. Mr. Speaker, I am pleased to yield the balance of our time to the distinguished member of the International Relations Committee, Mr. ENGEL, from New York.

Mr. ENGEL. I thank my distinguished friend from California for yielding to me, and I rise in strong support of this bill.

My colleagues, we have to deal with things as they are, not as what we wish them to be. I wish there was reasonableness among the government of Iran today. I wish there were people that we could talk to on a friendly basis and reason with them and come to some kind of a compromise.

But that is not what we have here. We have a belligerent regime that is pursuing nuclear weapons, that is hostile towards the United States, that is hostile towards the West, that is hostile towards Israel. You have a president of that country who has said every foul thing imaginable, denies the Holocaust, says he wants to wipe Israel off the face of the map, and says that Americans are his sworn enemy.

This bill makes sense. This bill extends the current law and sanctions and provides important additional authorities to fight that threat. It is the carrot and the stick. We are having democracy building in this bill. We are being able to try to reach the Iranian people, who are good friends of the American people, but they are trapped by a repressive government and a government that doesn't have their best interests at heart, let alone anybody else's best interest.

So this is sort of a carrot-and-stick approach. We slap sanctions when sanctions are needed. We amend, also we expand it. It is expiring if we don't amend it, and it does what we know needs to be done.

Iran needs to be challenged. It cannot be allowed to have nuclear weapons. This is the same policy, it is a centrist policy, it makes a lot of sense, and I urge strong bipartisan support for this bill.

Mr. BLUMENAUER. I yield 3 minutes to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

First, let me stress, this bill has strong bipartisan support. It also has significant bipartisan opposition. And so it should be considered in the category of individual judgment, not politics.

On the plus side of the bill, let me note that it does stress sanctions, not military action, and it quite properly gives the executive discretion to lift these sanctions.

On the minus side, and this is the compelling point, it represents an escalation of tension, policy, and attitudinal friction with Iran.

□ 1345

It is an escalation that is guaranteed to fail. You might ask, Why is it guaranteed to fail? It is because unilateral sanctions don't work, and there is no evidence that the other principal parties that are dealing with Iran will follow this example.

We can pound our chest all we want to suggest that a Russia or a China should follow our lead, but these kinds of suggestions from Congress simply carry no weight.

Secondly, no one should doubt that this complicates problems for our troops in Iraq today. That is an absolute utter circumstance that has to be dealt with, and we have to think it through.

Thirdly, this step implicitly underscores and advances a diplomacy-less strategy. That is, the United States of America has advanced a no-talk-with-Iran strategy for more than this administration, for quite a number of years, and the question is does it work, is it as hapless as our strategy towards certain other countries in the world, including Cuba.

In the backdrop is the issue of force, and also the issue of dominoes, dominoes in the sense of decisionmaking.

Often policies that don't work implicitly are followed by other policies that we hope will work. If this particular policy doesn't work, do we then have to go to the force option?

There is a neocon desire, as has been written about extensively, to consider the idea of a preemptive strike. All I would say is there is a "3-3-100" set of principles that we have to think through.

The first "three" is there are three ways of obtaining nuclear weapons: one is to develop them; another is to steal them; and another is to buy them.

If we bomb Iran, there is no doubt whatsoever we will put back their capacity to develop. But it might also accelerate the capacity to steal or purchase.

The second "three" principle is that there are three weapons of mass destruction. We not only have nuclear; we have chemical and biological. And knocking back their nuclear certainly will accelerate the other two.

The third issue is the issue of a "hundred." We have the idea that we can do a preemptive strike quickly and it will be over. But the fact is that the other side will respond. They might respond for 100 years.

I think it is time we talk about from the people's House the issue of developing mutual self-interest, not antagonism, and we ought to move in the direction of realism instead of taking ideological steps that don't fit the times.

Mr. BLUMENAUER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I appreciate the gentlewoman's work because the bill that we have before us, as I mentioned earlier, is a substantial improvement over the one that was approved by the House earlier this year. I had hoped it would come back to our committee because I think these issues are worthy of further discussion, and there is more fine-tuning we could do.

For instance, dealing with the provisions for terms of the promotion of democracy, reading the language that is in this bill, the Ayatollah Khomeini, in exile in France, would have qualified for U.S. assistance. We could have had a debacle like we had with Chalabi. I don't think it is as tight and precise as we would like.

But most important, it fails to deal with the fundamental choice we need to make between whether we want regime change or whether we want to stop nuclear proliferation.

I deeply appreciate the points raised by the gentleman from Iowa (Mr. LEACH). We could end up actually making the situation worse.

I am deeply troubled that we are going to ratchet up the pressure on the very people who we most need for a diplomatic solution, the people like China and Russia who are going to be key to ultimately resolving it.

Mr. Speaker, part of the problem that we have great difficulty with is that some of the most disagreeable people, some of the most dangerous people, are people that we ignore at our peril. We should not do that. We should engage them directly, diplomatically and not under the auspices of this bill, which I hope that the House will reject.

Ms. ROS-LEHTINEN. Mr. Speaker, as recently as last month, Iran blatantly refused to respond to the August 31 deadline as set forth by the United Nations Security Council to stop enriching its uranium in exchange for a very generous incentives package.

We have tried to coax. We have tried to induce. We have tried to talk the Iranians into cooperating. Enough with the carrots; it is time for the stick.

We hope that all freedom-loving nations are allies in this struggle for nonproliferation efforts and would, out of their own volition, take the necessary steps to hold Iran accountable for its own behavior. However, sometimes even friends need a little prodding.

Writer Charles Krauthammer points out the chilling reality of the opportunity costs of not dealing effectively with Iran at this time. He says, "If we fail to prevent an Iranian regime run by apocalyptic fanatics from going nuclear, we will have reached the point of no return. It is not just Iran that might be the source of great concern, but that we will have demonstrated to the world that for those similarly inclined, there is no serious impediment."

This bill will help contain the Iranian threat and will send a clear message that we will not tolerate flagrant violations of international nonproliferation obligations.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H.R. 6198, legislation to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran. As an original cosponsor of the legislation I am pleased that the House is considering it today.

The threat from Iran is plain. The Iranian mullahs have lied to the international community about their nuclear program for years. They have, again and again and again, defied the clear will of the international community that has demanded that they freeze their efforts to enrich uranium. Iran has been, and remains today, the most active state sponsor of terrorism in the world. Iran provides hundreds of millions of dollars, shiploads of weapons, advanced military training and substantial political cover to Hizballah, Hamas and other radical, violent Islamist groups in the Middle East. Their most senior officials continue to make pronouncements that call into question their attachment to reality. Supreme Leader Khamenei has confirmed that Iran would share its nuclear technology with other states. President Ahmadinejad has made a hobby out of Holocaust denial and at every opportunity violates the most fundamental tenet of international law by calling for the annihilation of Israel, a sovereign member of the international community.

In Iran, we have exactly what we thought we had in Iraq: a state with enormous wealth in natural resources; significant WMD capabilities and the means to deliver them; and the use of terrorist organizations as an instrument of state policy. But what will amaze the historians who look back on this period will be the stunning lack of urgency with which the Bush Administration and this Congress has approached this problem.

I will be the first to admit that our policy options toward Iran are unappetizing at best. We have little diplomatic leverage, since we don't talk with Iran directly, except in very limited circumstances. Any military operation beyond pinpoint air strikes is quite simply beyond our capacity at the moment, given our situation in Iraq. And we should honestly acknowledge that even a robust campaign of air strikes targeted at Iran's nuclear facilities might have only a marginal effect on Iran's nuclear program. We don't know where all of it is hidden and many of the sites that we do know of can't be effectively attacked from the air. Further, since our intelligence is so incomplete, we would have a very limited ability to assess how much damage our strikes had actually done to the Iranian program. In addition to questions about the direct affects, a decision to strike Iran, would have enormous diplomatic consequences for the United States, and would likely lead to Iranian retaliation against our already overextended troops in Iraq, and probably against our ally, Israel.

So without a viable military option, we are left with making multi-lateral diplomacy effective. This is the right course, but it is one that the Bush administration has been extremely loathe to pursue, and one at which they have shown little proficiency.

If a nuclear-armed Iran is "very de-stabilizing," as the President has said it is—and I do believe it is—then we need to make that view, and the implications of that view, clear to Russia and China and even to our partners in Europe. Fortunately, this legislation provides the administration with new and useful tools that can be applied to help make that case. Our message must be that this urgent problem can be addressed if the will is there to do so.

In short, Iran needs to become urgent for the administration before it will become urgent for anyone else. Only concerted, sustained multilateral pressure has any chance of convincing Iran to change course. And if Iran chooses not to change course, then the international community must be prepared to pursue effective multilateral sanctions against the regime. Unfortunately, while the EU–3 shares our view that an Iran with nuclear weapons is not an acceptable outcome, it seems that Russia and China do not. If the administration can't convince those nations that it is in their interest for Iran not to have nuclear weapons, then we need to start considering what options remain to us unilaterally, what the cost of the options would be and how we could go about containing a nuclear-armed Iran.

One last point Mr. Speaker, I am disappointed that the bill we are considering today does not contain the language regarding pension plans and mutual funds that would require the managers of such funds to notify investors if any of the assets of a particular fund are invested in an entity which has invested in

Iran and may be subject to sanctions under ILSA. I think such notifications are consistent with the fiduciary responsibilities of fund managers and would have prevented Americans from unwittingly fueling Iran's drive to acquire nuclear weapons, simply by contributing to their 401(k)'s. Nevertheless, I strongly urge my colleagues to support the bill.

Mr. STARK. Mr. Speaker, I rise to oppose the march to war with Iran. I am as concerned as the authors and supporters of this bill about Iran's nuclear weapons program. But I do not believe that levying additional sanctions and encouraging regime change is the correct course. Instead, we should work with our allies to negotiate a diplomatic solution.

The "Iran Freedom Support Act", H.R. 6198, will antagonize Iran's government. Provisions calling for democracy promotion and "the exercise of self-determination" will be interpreted as a direct assault on Iran's sovereignty and may prompt Iran to discontinue ongoing negotiations. Unilateral sanctions may also discourage France, Germany, Italy, and Spain from working to broker an international agreement. Our allies do not appreciate it when we "go it alone."

Dissidents will also be hurt by our offer of financial and political assistance. As in Iraq, individuals and groups that ally with America will see their integrity questioned and their reputations for independence undermined.

Iranian families will be hurt by sanctions that prohibit foreign investment in the country's petroleum industries. Sanctions already in place have not impacted Iran's behavior. Why would new prohibitions on investment succeed where old sanctions have failed?

Finally, the American people will be less secure. Antagonizing Iran will not stop or even slow nuclear weapons development. Instead, sanctions will prompt Iran to redouble its efforts as a means of saving domestic and international face.

The Bush administration and Republicans in Congress have already made a mess of Iraq and allowed warlords to gain control of much of Afghanistan's countryside. This legislation takes us a step closer to similar results in Iran. I urge my colleagues to vote "no".

Mr. CROWLEY. Mr. Speaker, I rise in strong support of H.R. 6198, introduced by my colleagues on the House International Relations Committee.

The international community continues to look the other way as Iran claims they will move forward in the process of enriching uranium.

The leaders of Iran decided the IAEA deadline did not apply to them and I strongly believe have no interest in negotiating with the West.

The President of Iran was clear about his intentions to enrich uranium at the United Nations General Assembly a few weeks ago.

His performance in New York and at the Council of Foreign Relations was a display of insanity.

He continues to proudly defend his comments about the Holocaust being a myth and how Iran is not trying to acquire nuclear weapons even as more and more information comes out about their covert nuclear program that was helped along by AQ Khan's black market nuclear network

This is a man who was basically appointed by the Mullahs in Tehran.

I say this because any reform minded candidate was removed from the ballots. Iran is not a democracy; the government of Iran is run by zealots using terrorism to meet their goals.

We need to support the people of Iran as they continue to be repressed by the Mullahs.

The people of Iran deserve freedom and democracy.

I strongly support this bill and I urge all of my colleagues to support this important piece of legislation.

Mr. MARKEY. Mr. Speaker, I rise in opposition to H.R. 6198, the Iran Freedom Support Act, because this bill could very well derail the diplomatic efforts currently underway that are our best hope for ending the possibility of an Iranian nuclear weapon.

Let me be clear that I agree with the great majority of which this bill would do. I believe that we should extend the Iran Libya Sanctions Act. I believe that we should support human rights in Iran.

But as with so many things in life, Mr. Speaker, timing is everything. And this is the wrong time to pass this bill.

Crucial negotiations between Iran and the European Union in Berlin are reportedly closing in on a deal that would suspend Iran's uranium enrichment program while multilateral talks commence. The Bush administration has so botched the issue of containing Iran's nuclear ambitions that we have few choices left. These negotiations were just suspended for a week, and it would surprise no one if Iran did not return to the table. But make no mistake: as bad as the negotiation option may turn out to be, it remains our best chance of stopping Iran from ever building a nuclear weapon.

We need to support these negotiations, not undermine them. For the Congress to pass language which essentially makes regime change in Iran the official policy of the United States would be counterproductive while these negotiations in Berlin remain promising.

I could support this bill at another time, but not now, not when its passage could kill the ongoing negotiations.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 6198, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY ACT OF 2006

Mr. ROGERS of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6162) to require financial accountability with respect to certain contract actions related to the Secure Border Initiative of the Department of Homeland Security.

The Clerk read as follows:

H.R. 6162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Secure Border Initiative Financial Accountability Act of 2006".

SEC. 2. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department's Secure Border Initiative having a value greater than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and timelines. The Inspector General shall complete a review under this subsection with respect to a contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) REPORT BY INSPECTOR GENERAL.—Upon completion of each review described in subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding any cost overruns, significant delays in contract execution, lack of rigorous departmental contract management, insufficient departmental financial oversight, bundling that limits the ability of small business to compete, or other high risk business practices.

(c) REPORT BY SECRETARY.—Not later than 30 days after the receipt of each report required under subsection (b), the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the findings of the report by the Inspector General and the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General, an additional amount equal to at least five percent for fiscal year 2007, at least six percent for fiscal year 2008, and at least seven percent for fiscal year 2009 of the overall budget of the Office for each such fiscal year is authorized to be appropriated to the Office to enable the Office to carry out this section.

(e) ACTION BY INSPECTOR GENERAL.—In the event the Inspector General becomes aware of any improper conduct or wrongdoing in accordance with the contract review required under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information related to such improper conduct or wrongdoing to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security for purposes of evaluating whether to suspend or debar the contractor.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. ROGERS) and the gentleman from Florida (Mr. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama.

GENERAL LEAVE

Mr. ROGERS of Alabama. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this bill, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6162, the Secure Border Initiative Financial Accountability Act of 2006.

This bipartisan legislation will help to ensure that taxpayer funds dedicated to technologies to secure our Nation's borders are spent efficiently and effectively.

The ranking member of the Committee on Homeland Security, Mr. THOMPSON, and I have worked for almost a year on this important bill.

Last November, I introduced H.R. 4284, the Secure Border Financial Accountability Act of 2005. I was pleased that Chairman KING and Ranking Member THOMPSON were original cosponsors of that bill.

We also worked to include the language in the border security bill which the Committee on Homeland Security marked up on November 11, 2005. At that time, Mr. THOMPSON added a key funding trigger to ensure that the Inspector General had the necessary resources to respond quickly to major disasters.

This language ultimately was included in H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, which passed the House on December 16 of that same year. We again worked in a bipartisan manner to include this provision in H.R. 5814, the Department of Homeland Security Authorization Act for 2007, which the Committee on Homeland Security reported favorably in July of this year.

But, why is this bill so important? The Homeland Security Subcommittee on Management, Integration, and Oversight, which I chair, has held three hearings over the past year and a half on the existing border technology program.

We found the Integrated Surveillance Intelligence System, ISIS, and its remote video surveillance program, was plagued by mismanagement, operational problems and financial waste. On June 16, 2005, our committee heard from the GSA deputy inspector general that electronic surveillance equipment covered only 2 to 4 percent of the border and that over $200 million was paid by the Federal Government for poor, incomplete and never-delivered goods and services.

At our second hearing on December 16, 2005, the Department of Homeland Security Inspector General testified that cameras and sensors were not integrated, oversight of contractor performance was ineffective, numerous poles and cameras were never installed along the border, and millions of program dollars remained unspent at the GSA.

Our third hearing on February 16, 2006, examined the disciplinary actions taken by the Department against employees responsible for these problems at ISIS to ensure that those employees would not be involved in any future border technology contracts.

Last Thursday, Secretary Chertoff announced the contract for the technology component of the Secure Border Initiative, known as SBInet. This is a 6-year, multi-billion dollar contract, and it is designed to establish a virtual fence across 6,000 miles of our borders through a mix of poles, cameras, ground-based radar, aircraft and other aerial platforms.

My subcommittee intends to hold a fourth hearing on November 15 to review the SBInet contract. The purpose of this bill is to prevent the same type of financial mismanagement of ISIS from taking place in SBInet.

Specifically, this bill directs the Inspector General of the Department of Homeland Security to review each contract action related to the Department's Secure Border Initiative that is a contracting amount of $20 million or more. This contract review will determine whether each contract action fully complies with cost requirements, performance objectives, and timelines.

The bill further requires that the Homeland Security Inspector General report to the Secretary of Homeland Security on cost overruns, significant delays in contract execution, lack of rigorous contract management, insufficient financial oversight, and other high-risk business practices.

The Secretary of Homeland Security is then required to notify the Congress and take immediate steps to rectify the problems within 30 days.

To carry out this vigorous oversight, the bill includes a provision by Mr. THOMPSON that would authorize additional funds. SBInet will involve numerous large and small Federal contractors to implement the technology required to successfully secure our Nation's borders.

We look forward to working with the chairman of the Committee on Government Reform, Mr. TOM DAVIS, in the coming months to ensure that we have the best oversight process in place to ensure SBInet is cost effective.

A "yes" vote on this legislation will send a strong message to the contractor and to the Department that Congress intends to "hold their feet to the fire" in fulfilling these contract requirements.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to Mr. THOMPSON of Mississippi, the ranking member of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the ranking member of the subcommittee for allowing me to speak on this bill.

Mr. Speaker, I want to thank Mr. ROGERS for his commitment to stemming waste, fraud and abuse in the Department of Homeland Security.

This bill, H.R. 6162, would require the Department of Homeland Security Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more. By requiring a review once this amount has been triggered, the Inspector General can immediately review the cost requirement, performance objectives and timelines for the SBI project.

This trigger builds accountability into every contract made for the Secure Border Initiative and will provide the American public with some certainty about where their money is going. This bill also will allow the Inspector General to express its concerns if they find unsatisfactory practices early on.

☐ 1400

They will not have to wait until all the money is out the door and excuses are being made before they get involved in the oversight of this multibillion dollar project.

Mr. Speaker, I also want to emphasize that this review would include the assessment of the inclusion of small, minority, and women-owned businesses in any subcontracting plans, an area of constant challenge for the Department.

I guess some people would wonder why this kind of oversight is necessary or whether we are being fair. Let me tell you why this kind of oversight is necessary for a project of this size.

First of all, SBInet is expected to cost around $2.5 billion. Under the predecessors to Secure Border, ISIS and American Shield, we have spent over $429 million and protected only 4 percent of the border. That is about $100 million for every 1 percent of the border. It is not an understatement to say that this has not been a cost-effective use of funds.

The Inspector General has found that the Department's failure in these past programs has been due to poor planning, bad equipment purchases, and spotty implementation. We are told once again that this program will solve the problems of our porous border through the use of integrated and coordinated technology and manpower. It seems like I have heard this before, Mr. Speaker.

We have not seen a detailed rendering of the Department's overall strategy. And in fact, this procurement allows the industry to pitch solutions based not on the Department's objectives. As I have said many times, I support the use of technology as a force-multiplier in the effort to secure our borders. However, I also support the effective use of our taxpayers' money. We all want to see this initiative fare better than its failed predecessors, but that will only happen with effective oversight and management of this program.

I commend Mr. ROGERS again and I commend my ranking member, Mr. MEEK, for their support of this legislation. I look forward not only to the passage of this legislation, but I look forward to working with both these gentlemen to make sure that with any other large contracts we provide similar oversight to make sure that the taxpayers' dollars are well spent.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

I think folks can take from the dialogue here today that this committee, this full committee, and particularly this Management Subcommittee that the gentleman from Florida and I are the ranking member and Chair of, are going to be vigorous in our oversight of these contracts going forward to ensure that we do not have future problems like we saw with ISIS and American Shield.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Speaker, I would like to yield 5 minutes to the distinguished gentlewoman from the great State of Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the distinguished gentlemen, the ranking member and the chairman of the Management Subcommittee on Homeland Security, that deal with these crucial issues.

I rise to support the Secure Border Initiative Financial Accountability Act and offer that there is an overall vision that this is a very important component of, and I hope that as we move this legislation along we still may have a window of opportunity to ensure that the Secure Border Initiative that Secretary Chertoff speaks of, that this is a major component of, is in place.

And I just want to thank both gentlemen for your leadership and acknowledge that, even with this Financial Accountability Act, we are still missing and need to move forward on: More agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate "catch and release" once and for all; a comprehensive and systematic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation detection technology; increased investment in infrastructure improvements at the border, providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws, including more robust work site enforcement; and, of course, an earned access to legalization.

We must not frighten America. Let them know that we are doing the job. But we can do both. We can account for everyone that is inside our borders, and we can work to protect and secure our northern and southern border. This initiative, the Financial Accountability, is crucial because it gives the Inspector General oversight and we, as the Management Subcommittee of the Homeland Security Committee, have seen the fractures in the oversight of spending money. This is an important way to provide the Department of Homeland Security's Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more.

Let me thank the two gentlemen, Mr. ROGERS and Mr. MEEK, who spent hours and hours reviewing some of the mishaps that have occurred with contracts that have not fulfilled the responsibility of securing America, contracts that have violated our trust. They have not had the right equipment, the technology. It hasn't worked. They haven't had the right staff.

This way, the Inspector General can make findings, including cost overruns, delays in contract execution, lack of rigorous contract management, insufficient Department oversight, and limitations on small business participation, which now will be able to be reported under this particular bill. Within 30 days of receiving the Inspector General's report, the Secretary must submit a corrective action plan to Congress, and as well we must ensure open opportunity.

Let me congratulate the ranking member, Mr. THOMPSON, and I joined him on these amendments that will highlight small businesses, automatically triggers oversight based on the award of contracts once a certain monetary amount has been reached, requires that the Inspector General conduct a review during the pendency of the project and requires that the Inspector General assess the inclusion of small, minority, and women-owned businesses in the SBI subcontracting plans as a factor in its review.

If that is not one of the larger pieces, everywhere we go, as this Department grows larger and larger and larger. Homeland Security spends more and more money, the question is, why can't the homegrown people do the job, the small businesses, the women-owned businesses, the minority-owned businesses? And the answer is a blank. We don't have an answer.

This committee has been in the leadership realm, this subcommittee with Chairman ROGERS and Ranking Member MEEK. You have been in the driver's seat on pushing the Homeland Security Department and our subcommittee in ensuring that the little guys get the work.

We are now suffering in Louisiana and the Gulf Region because the little guys have been ignored, and the jurisdictions down there say we have got the little guys willing to work but the big guys have thrown us out the door and not allowed us to be able to do an efficient, cost-efficient, good job. It has been the layered contracts with multinationals, and it never gets down to small business persons.

So I rise to support this initiative, the Secure Border Initiative Financial Accountability Act, and I want to thank Cherri Branson and Rosaline Cohen for their leadership of staff.

I thank the ranking member for yielding to me, and I ask my colleagues to support it. But our work is yet undone until we finish comprehensive immigration reform.

Mr. Speaker, I rise today in support of H.R. 6162, requiring financial accountability with respect to certain contract actions related to the Secure Border Initiative (SBI) of the Department of Homeland Security .

The Secure Border Initiative, SBI, is a comprehensive multi-year plan to secure America's borders and reduce illegal migration.

Homeland Security Secretary Michael Chertoff has announced an overall vision for the SBI which includes: more agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate "catch and release" once and for all; a comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation detection technology; increased investment in infrastructure improvements at the border—providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws—including more robust work site enforcement.

Mr. Speaker, an earlier version of this important bill passed the House as part of a border security measure in December 2005. Furthermore, the language of this bill also appears in fiscal year 2007 DHS authorization measure that passed the Committee on Homeland Security in July 2006.

This bill requires the DHS's Inspector General to immediately and automatically review any Secure Border Initiative contract valued at more than $20 million. This review necessarily entails examining the cost requirements, performance objectives, and program timelines set by the Department for the SBI project and requires an assessment of the inclusion of small, minority and women-owned businesses in any subcontracting plans.

The Inspector General's review must be completed within 60 days after its initiation and reported to the Secretary of DHS. Within 30 days of receiving the Inspector General's report, the Secretary of DHS must submit to the Committee on Homeland Security a report on the Inspector General's findings and the corrective action plan the Secretary has taken and plans to take.

This automatic triggering of oversight by the Inspector General for contracts greater than $20 million is critical to minimize the waste, abuse, and fraud, which unfortunately has plagued many of DHS's contracts. In addition, this review will occur during the pendency of the project rather than at its termination to minimize waste and ensure redemptive steps are taken expeditiously. The Inspector General's findings will include cost overruns, delays in contract execution, lack of rigorous Department contract management, insufficient Department financial oversight, limitations on small business participation, and other high risk business practices.

Moreover, this bill requires that the Inspector General assess the inclusion of small, minority and women-owned businesses in the SBI subcontracting plans as a factor in its review. Historically, small, minority and women-owned businesses have been disadvantaged in seeking and winning these types of contracts. There may be inherent disadvantages for these businesses, but it is clear their potential is tremendous. It is critical that DHS ensures that these businesses have the ability to compete fairly for these lucrative opportunities.

I am very proud that my district, Harris County and Houston ranks sixth and Texas ranks fifth in the country for the largest number of African-American owned firms, following New York, California, Florida, and Georgia. Minority and women-owned businesses across the country will appreciate the effort to preserve their opportunity to compete for these contracts. I encourage my colleagues to remember that there are a great many barriers to minority and women business professionals, and provisions such as these preserve equal access and open opportunities.

In the aftermath of Hurricanes Katrina, Rita and Wilma, small, minority and disadvantaged businesses from the region were shut out of disaster-related contracts because goals and preferences were not in place. Since the late 1960s, it has been the policy of the Federal Government to assist small businesses owned by minorities and women to become fully competitive, viable business concerns. As a result, the Small Business Administration has set forth government-wide goals to level the playing field for small and minority businesses seeking Federal Government contracts. Leveling the playing field continues to be a central concern for me and should continue to be a central concern for this Congress.

The oversight required in this bill is integral because SBInet is expected to be a $2.5 billion procurement and the contracts allocated through SBI will be substantial. For example, last week, DHS awarded a contract valued at $80 million to a team led by Boeing under the SBInet program. Furthermore, the predecessors to SBI—ISIS and American Shield—fell far short of expectations. The Department spent over $429 million and protected 4 percent of the border, which is about $100 million for every 1 percent of the border.

Similarly, the Inspector General has found that the Department's failure in these past programs has been due to poor planning, lax program management, inappropriate equipment purchases and spotty implementation.

This bill is the first step in requiring effective oversight. Realistically, effective oversight cannot be the sole province of Inspectors General. It is Congress's constitutional duty to conduct systematic oversight of the programs and activities of the executive branch. Just as the Department cannot contract out its responsibilities, neither can we.

Consequently, I urge my colleagues to support this important bill.

Mr. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have identified the true essence of this bill; and I think also that it is very, very important. I want to take from not only Ms. JACKSON-LEE but also Mr. ROGERS and Ranking Member BENNIE THOMPSON in saying in this area, when we look at management and oversight of one of the fastest-growing Departments and the largest Department in the history of the world, that we have to put these parameters in place because we have the responsibility of article I, section 1 of the U.S. Constitution to make sure that we have the level of oversight that is needed.

I think the record reflects for itself that when oversight is not paramount the taxpayers lose; and I hope, like Mr. THOMPSON said, that we can expand this kind of theme throughout other programs in the Department of Homeland Security.

Now, the people that are happy today are members on this committee and, hopefully, the Members when they vote for this piece of legislation. But the Inspector General is very happy because the Inspector General, especially in the Department of Homeland Security, writes these reports, submits them to Congress, and then there is a foot-dragging process at the Department of Homeland Security.

Within this piece of legislation within 30 days they have to respond as it relates to corrective action. And it would hopefully bring about the kind of accountability not only that we look for on the economic side, Mr. Speaker, but also look for as it relates to protecting our borders. Two programs before this program, well over $400 million, $429 million, was spent. We are going back again with a contract with a different company that would take us to $2.5 billion. We had the Secretary before the full committee just yesterday, or the day before last, and this was the line of my questioning. Because we do not want to be after the fact; we want to be before it.

So, Mr. Speaker, I encourage the Members to vote an affirmative on this very good piece of legislation; and hopefully, just hopefully, Mr. Speaker, we could head further into other contracting matters not only within the Department of Homeland Security but I would also add the Department of Defense and other departments like it so we can do away with waste and having individuals watching over the shoulders of individuals that may not hold the taxpayers' dollars as high as we do as it relates to accountability.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself the balance of my time.

I would like to sum up by emphasizing that it is critically important for the Members to recognize that we need to put these kinds of accountability measures in place so that we can ensure that as we go forward with the massive expenditures we are going to make to secure our borders that we don't have a repeat of the waste, fraud, and abuse that we have seen in the past.

With that, Mr. Speaker, I urge an "aye" vote for H.R. 6162.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. ROGERS) that the House suspend the rules and pass the bill, H.R. 6162.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHILDREN'S HOSPITAL GME SUPPORT REAUTHORIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Hospital GME Support Reauthorization Act of 2006".

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN'S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in subsection (a), by inserting "and each of fiscal years 2007 through 2011" after "for each of fiscal years 2000 through 2005";

(2) in subsection (e)(1), by striking "26" and inserting "12";

(3) in subsection (f)(1)(A)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) for each of fiscal years 2007 through 2011, $110,000,000."; and

(4) in subsection (f)(2)—

(A) in the matter before subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(B)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(D) for each of fiscal years 2007 through 2011, $220,000,000.".

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended—

(1) in paragraph (1), in the matter before subparagraph (A), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) ANNUAL REPORTING REQUIRED.—

"(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—

"(i) IN GENERAL.—The amount payable under this section to a children's hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

"(I) the hospital has failed to provide the Secretary, as an addendum to the hospital's application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

"(II) such report fails to provide the information required under any clause of such subparagraph.

"(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital's failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary's intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

"(B) ANNUAL REPORT.—The report required under this subparagraph for a children's hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

"(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

"(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

"(iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

"(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

"(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

"(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

"(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

"(C) RESIDENTS.—The residents described in this subparagraph are those who—

"(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

"(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

"(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

"(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

"(ii) describing the results of the program carried out under this section; and

"(iii) making recommendations for improvements to the program.".

(c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—

(1) in subsection (c)(2)(E)(ii), by striking "described in subparagraph (C)(ii)" and inserting "applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year";

(2) in subsection (e)(2), by striking the first sentence; and

(3) in subsection (e)(3), by striking "made to pay" and inserting "made and pay".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Today, I rise in support of H.R. 5574, the Children's Hospital Graduate Medical Education Support Reauthorization Act of 2006, which is legislation to reauthorize the Children's Hospital Graduate Medical Education Payment Program for another 5 years.

Without question, Children's Hospitals are an integral part of this country's health care delivery system. They improve health outcomes by providing a unique set of specialized health care services and treatment options for children. The Children's Hospital Graduate Medical Education Payment Program is designed to provide financial assistance to children's teaching hospitals, which do not receive significant Federal support for their resident and intern training programs through Medicare because of their low Medicare patient volume.

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By reauthorizing this important but relatively young program, we are able to help ensure that the mission of these teaching hospitals is continued.

Mr. Speaker, I am proud to say that this legislation makes improvements to the program by strongly encouraging the participating hospitals to report important new data measures to the Department of Health and Human Services.

As my colleagues are aware, we originally considered this bill under suspension of the rules on June 21, and the legislation passed by a strong bipartisan vote of 421–4. We are here today to reconsider this legislation because the Senate passed this bill with an amendment by unanimous consent on Tuesday.

This legislation will keep the important reporting requirement reforms embodied in the House bill. I encourage my colleagues to support this bill today so that we can send this important legislation to the President for his signature.

I would like to thank the chairman of the Senate Health, Education, Labor and Pensions Committee, Senator ENZI of Wyoming, for his leadership and hard work in moving this bill through the Senate. I would like to thank the 20 members of the Energy and Commerce Committee who joined me as original cosponsors of the bill.

Mr. Speaker, I would also like to specifically commend Chairman DEBORAH PRYCE of Ohio and Chairman NANCY JOHNSON of Connecticut for their strong and continued leadership on this important issue.

I encourage my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

I also rise in support of H.R. 5574, the Children's Hospital GME Support Reauthorization Act of 2006. I do want to thank the ranking member of our health subcommittee, Mr. SHERROD BROWN, for his support on our side of the aisle. He was the person who really took the lead on this legislation.

The legislation, as you know, reauthorizes the Children's Hospital Graduate Medical Education program until 2011 to fund residency programs in Children's Hospitals. This program is designed to help Children's teaching hospitals that do not receive significant Federal support for their resident and intern training programs through the Medicare program because of their low volume of Medicare patients.

Full-service teaching hospitals receive funds for graduate medical education through Medicare payments, but prior to the enactment of this program, independent Children's teaching hospitals did not have a similar program to fund their resident training programs for physicians.

Thankfully, Congress recognized this inequity and the financial disadvantage it placed on Children's Hospital. Now, Mr. Speaker, money from this program helps to support the broad teaching goals of Children's teaching hospitals, including training health care professionals, providing rare and specialized clinical services, and innovative clinical care, providing care to the poor and underserved, and conducting biomedical research.

Teaching hospitals have higher costs than other hospitals because of the special services they provide. This legislation seeks to alleviate that burden. On June 21, 2005, the House overwhelmingly passed legislation authorizing $100 million a year for fiscal years 2007 through 2011, to offset direct medical education costs of graduate medical education in Children's Hospitals.

The Senate amended this legislation and increased that authorization for direct costs to $110 million a year for fiscal years 2007 through 2011.

The Senate also increased the funds authorized for the indirect medical education costs of graduate medical by $20 million, providing $220 million for fiscal years 2007 through 2011.

These commendable changes will provide needed funds to the Children's Hospital Graduate Medical Education program. Again, I want to thank the chairman who is here on the floor, our Republican chairman, Mr. DEAL, because this did end up being a bipartisan effort. I know you played a major role in making it a consensus bill. I urge all of my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a long-time supporter of this program.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in enthusiastic support of H.R. 5574, legislation that reauthorizes the Children's Hospital Graduate Medical Education program.

It is a little recognized fact that we support medical education through Medicare payments. And since there are not a lot of Medicare patients in Children's Hospitals, we found that we were providing inadequate support for the training of pediatricians, and especially as pediatrics became a specialty with the same spectrum of subspecialties as are common in the rest of medicine.

So in 1998 Congresswoman PRYCE from Ohio and I authored this program, and I really appreciate the good work of Chairman NATHAN DEAL from Georgia in bringing it to the floor with bipartisan support to reauthorize it for another 5 years.

When we first started this program, Federal GME support for Children's Hospitals was at .5 percent of what Medicare was providing for other teaching hospitals. Thanks to the legislation and the support over the years that Congress has given it, today Federal GME supports 80 percent of the cost of residencies in Children's Hospitals.

That is a wonderful thing, because as a result of that, Children's Hospitals have been able to increase the number of residents they train, including both general pediatricians and pediatric specialists, increase the number of training programs, improve the quality of the training programs, and strengthen the caliber of the residents they train.

The program works. It is improving the care available to our children across the country. The Children's GME Hospitals accounted for more than 80 percent of the growth in pediatric subspecialty training programs in the country, and more than 65 percent of the growth in the number of pediatric subspecialists trained. That has been critical at the time when many regions of the country, including major metropolitan areas, have experienced shortages of pediatric subspecialists: pediatric cardiologists, pediatric oncologists, and so it goes.

In Connecticut, the pediatric residency program at the University of Connecticut School of Medicine is currently training 57 residents at Connecticut's Children's Medical Center. These residents provide care to children in all hospital settings, including primary care, emergency care, inpatient care, critical care and subspecialty clinics.

Mr. Speaker, I want to thank my colleagues for authorizing this program for the full 5 years and recognize my colleague from Ohio, Congresswoman PRYCE, for her leadership in this work over the last 7 years. It has been a huge success for children across America, and we salute those hospitals that specialize in the complex care of children with very serious illnesses as we pass this legislation today.

Mr. PALLONE. Mr. Speaker, I have no additional speakers and yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I have no other requests for time.

In closing, I would like to express my appreciation to Mr. PALLONE, who was an original cosponsor of this legislation. And it is true that we have made a bipartisan effort. I think that is the way we should do more things around here. I appreciate the cooperative spirit with which this bill has now moved through both bodies.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today in support of H.R. 5574, legislation that will reauthorize and strengthen the children's hospital graduate medical education program.

I want to thank Chairman BARTON and Chairman DEAL for their commitment to prioritizing this important measure this year—it's been a great team effort and I appreciate the Committee's support for children's health.

I also want to extend a special thanks to Congresswoman NANCY JOHNSON of Connecticut. We've been strong partners over the years on children's health issues—enactment of Children's Hospital GME back in 1999 is one of my proudest moments working together.

We've had great success increasing the Federal investment in this program ever since—from Members on both sides of the aisle.

The Ohio delegation has helped lead the charge—in no small part thanks to the efforts of our esteemed Chairman of the Labor HHS Appropriations Subcommittee, RALPH REGULA.

I am extremely fortunate to have an extraordinary children's hospital in my hometown of Columbus, OH. Strong leadership, a clear vision, and a compassionate team of medical professionals has made Columbus Children's one of the best hospitals in the nation caring for sick children.

The CHGME program has helped the hospital—and hospitals all across America—do what they do best—provide the best training to doctors to deliver the best patient care possible. And we can all agree that our children deserve nothing short of the very best.

A vote in favor of H.R. 5574 will send it to the President's desk and reauthorize this important program for another 5 years. I urge my colleagues to support this measure.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of this bill to reauthorize the Children's Hospital Graduate Medical Education Program. Seven years ago, Congress established this program to provide the federal support needed for training activities at our children's teaching hospitals. In other hospital settings, training dollars needed for residents are funded, in part, through Medicare's graduate medical education program. With relatively few Medicare patients being served at children's hospitals, however, children's teaching hospitals cannot fully benefit from Medicare's graduate medical education program. CHGME was established to help alleviate the inequity faced by children's hospitals with respect to the training of their residents.

Since its inception in 1999, the CHGME program has achieved tremendous success and enabled our children's teaching hospitals to address reductions in the number of pediatric residents. With this funding, children's teaching hospitals—such as Texas Children's Hospital in my hometown of Houston—have been able to keep their residency programs alive and ensure that the pediatricians treating our children and our grandchildren are trained at the best facilities in the country.

It's no surprise that the same children's teaching hospitals receiving CHGME funds provide the ideal training grounds for pediatric residents. These hospitals house the Nation's leading pediatric research institutions and provide residents with experience in treating the whole range of childhood health care problems, from routine immunizations to pediatric trauma care and pediatric oncology.

Continued CHGME funding is critical if our children's hospitals can continue providing quality care to low-income children, as well as children whose families have private health insurance. Nearly 50 percent of care delivered at our children's hospitals nationwide is provided to Medicaid beneficiaries, and CHGME payments help cover the gap created by a Medicaid reimbursement policy that covers only 80 percent of care delivered to Medicaid patients.

The CHGME program provides children's teaching hospitals with real funding, without which their residency programs would face severe financial strain. Texas Children's Hospital in Houston is one of the top children's hospitals in the country and received nearly $11 million last year in CHGME payments. Even with this funding, Texas Children's absorbed an additional $11.5 million in unreimbursed costs associated with their training of pediatric residents.

We want our pediatricians trained at quality hospitals like Texas Children's, where they can put their skills to use on a diverse set of patients. Through this type of education and training, pediatric residents can leave children's teaching hospitals and travel to all corners of the country armed with the experience to effectively treat the young patients in their community. CHGME makes this possible, and I encourage my colleagues to support the reauthorization of this important program.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 5574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6143) to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS, as amended.

The Clerk read as follows:

H.R. 6143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Ryan White HIV/AIDS Treatment Modernization Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

Sec. 101. Establishment of program; general eligibility for grants.
Sec. 102. Type and distribution of grants; formula grants.
Sec. 103. Type and distribution of grants; supplemental grants.
Sec. 104. Timeframe for obligation and expenditure of grant funds.
Sec. 105. Use of amounts.
Sec. 106. Additional amendments to part A.
Sec. 107. New program in part A; transitional grants for certain areas ineligible under section 2601.
Sec. 108. Authorization of appropriations for part A.

TITLE II—CARE GRANTS

Sec. 201. General use of grants.
Sec. 202. AIDS Drug Assistance Program.
Sec. 203. Distribution of funds.
Sec. 204. Additional amendments to subpart I of part B.
Sec. 205. Supplemental grants on basis of demonstrated need.
Sec. 206. Emerging communities.
Sec. 207. Timeframe for obligation and expenditure of grant funds.
Sec. 208. Authorization of appropriations for subpart I of part B.
Sec. 209. Early diagnosis grant program.
Sec. 210. Certain partner notification programs; authorization of appropriations.

TITLE III—EARLY INTERVENTION SERVICES

Sec. 301. Establishment of program; core medical services.
Sec. 302. Eligible entities; preferences; planning and development grants.
Sec. 303. Authorization of appropriations.
Sec. 304. Confidentiality and informed consent.
Sec. 305. Provision of certain counseling services.
Sec. 306. General provisions.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

Sec. 401. Women, infants, children, and youth.
Sec. 402. GAO Report.

TITLE V—GENERAL PROVISIONS

Sec. 501. General provisions.

TITLE VI—DEMONSTRATION AND TRAINING

Sec. 601. Demonstration and training.
Sec. 602. AIDS education and training centers.
Sec. 603. Codification of minority AIDS initiative.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Hepatitis; use of funds.
Sec. 702. Certain references.

TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

SEC. 101. ESTABLISHMENT OF PROGRAM; GENERAL ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—Section 2601 of the Public Health Service Act (42 U.S.C. 300ff-11) is amended by striking subsections (b) through (d) and inserting the following:

"(b) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that is an eligible area for a fiscal year continues to be an eligible area until the metropolitan area fails, for three consecutive fiscal years—

"(1) to meet the requirements of subsection (a); and

"(2) to have a cumulative total of 3,000 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(c) BOUNDARIES.—For purposes of determining eligibility under this part—

"(1) with respect to a metropolitan area that received funding under this part in fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that were in effect for such area for fiscal year 1994; or

"(2) with respect to a metropolitan area that becomes eligible to receive funding under this part in any fiscal year after fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that are in effect for such area when such area initially receives funding under this part.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended—

(1) by striking "through (d)" and inserting "through (c)"; and

(2) by inserting "and confirmed by" after "reported to".

(c) DEFINITION OF METROPOLITAN AREA.—Section 2607(2) of the Public Health Service Act (42 U.S.C. 300ff-17(2)) is amended—

(1) by striking "area referred" and inserting "area that is referred"; and

(2) by inserting before the period the following: ", and that has a population of 50,000 or more individuals".

SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA GRANTS.

(a) DISTRIBUTION PERCENTAGES.—Section 2603(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(2)) is amended—

(1) in the first sentence—

(A) by striking "50 percent of the amount appropriated under section 2677" and inserting "66⅔ percent of the amount made available under section 2610(b) for carrying out this subpart"; and

(B) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)".

(2) by striking the last sentence.

(b) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(3)) is amended—

(1) in subparagraph (B), by striking "estimated living cases of acquired immune deficiency syndrome" and inserting "living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)"; and

(2) by striking subparagraphs (C) through (E) and inserting the following:

"(C) LIVING CASES OF HIV/AIDS.—

"(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

"(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through 2010, an eligible area is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

"(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (viii); or

"(II) no later than the beginning of fiscal year 2008, 2009, or 2010, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

"(iii) REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.—For fiscal year 2007, an exemption under clause (ii) for an eligible area applies only if, by October 1, 2006—

"(I)(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

"(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

"(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

"(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

"(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009 or 2010, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

"(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

"(I) IN GENERAL.—With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as 'code-based reporting'), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

"(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for an eligible area shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the area.

"(vii) MULTIPLE POLITICAL JURISDICTIONS.—With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

"(I) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.

"(II) If under subclause (I) both names-based reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

"(viii) LIST OF ELIGIBLE AREAS MEETING STANDARD REGARDING DECEMBER 31, 2005.—

"(I) IN GENERAL.—If an eligible area or portion thereof is in a State specified in subclause (II), the eligible area or portion shall be considered to meet the standard described in clause (ii)(I). No other eligible area or portion thereof may be considered to meet such standard.

"(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

"(ix) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

"(I) CASES OF AIDS.—With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

"(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2011 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2010.

"(x) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.".

(c) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)), as amended by subsection (b)(2) of this section, is amended by adding at the end the following subparagraph:

"(D) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—

"(i) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

"(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant for the area that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting '66⅔ percent' for '50 percent'; and

"(II) for each of the fiscal years 2008 and 2009, exceed by more than 5 percent the amount of the grant pursuant to this paragraph and paragraph (4) for the area for the preceding fiscal year.

"(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2010, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).".

(d) HOLD HARMLESS.—Section 2603(a) of the Public Health Service Act (42 U.S.C. 300ff-13(a)) is amended—

(1) in paragraph (3)(A)—

(A) in clause (ii), by striking the period at the end and inserting a semicolon; and

(B) by inserting after and below clause (ii) the following:

"which product shall then, as applicable, be increased under paragraph (4).".

(2) by amending paragraph (4) to read as follows:

"(4) INCREASES IN GRANT.—

"(A) IN GENERAL.—For each eligible area that received a grant pursuant to this subsection for fiscal year 2006, the Secretary shall, for each of the fiscal years 2007 through 2009, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the fiscal year involved is not less than the following amount, as applicable to such fiscal year:

"(i) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting '66⅔ percent' for '50 percent'.

"(ii) For each of the fiscal years 2008 and 2009, an amount equal to 95 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for the preceding fiscal year.

"(B) SOURCE OF FUNDS FOR INCREASE.

"(i) IN GENERAL.—From the amounts available for carrying out the single program referred to in section 2609(d)(2)(C) for a fiscal year (relating to supplemental grants), the Secretary shall make available such amounts as may be necessary to comply with subparagraph (A), subject to section 2610(d)(2).

"(ii) PRO RATA REDUCTION.—If the amounts referred to in clause (i) for a fiscal year are insufficient to fully comply with subparagraph (A) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to this subsection for the fiscal year, other than grants for eligible areas for which increases under subparagraph (A) apply. A reduction under the preceding sentence may not be made in an amount that would result in the eligible area involved becoming eligible for such an increase.

"(C) LIMITATION.—This paragraph may not be construed as having any applicability after fiscal year 2009.".

SEC. 103. TYPE AND DISTRIBUTION OF GRANTS; SUPPLEMENTAL GRANTS.

Section 2603(b) of the Public Health Service Act (42 U.S.C. 300ff-13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "Not later than" and all that follows through "the Secretary shall" and inserting the following: "Subject to subsection (a)(4)(B)(i) and section 2610(d), the Secretary shall";

(B) in subparagraph (B), by striking "demonstrates the severe need in such area" and inserting "demonstrates the need in such area, on an objective and quantified basis,";

(C) by striking subparagraph (F) and inserting the following:

"(F) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS;";

(D) in subparagraph (G), by striking the period and inserting "; and"; and

(E) by adding at the end the following:

"(H) demonstrates the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than 2 percent of grant funds under such subsection canceled or covered by any waivers under subsection (c)(3)."; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "severe need" and inserting "demonstrated need";

(B) by striking subparagraph (B) and inserting the following:

"(B) DEMONSTRATED NEED.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of paragraph (1)(B) may include any or all of the following:

"(i) The unmet need for such services, as determined under section 2602(b)(4) or other community input process as defined under section 2609(d)(1)(A).

"(ii) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

"(iii) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

"(iv) The current prevalence of HIV/AIDS.

"(v) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

"(vi) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

"(vii) The prevalence of homelessness.

"(viii) The prevalence of individuals described under section 2602(b)(2)(M).

"(ix) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

"(x) The impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this title."; and

(C) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PRIORITY IN MAKING GRANTS.—The Secretary shall provide funds under this subsection to an eligible area to address the decline in services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.".

SEC. 104. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

Section 2603 of the Public Health Service Act (42 U.S.C. 300ff–13) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

"(1) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the area (referred to in this subsection as the 'grant year for the award'), except as provided in paragraph (3)(A).

"(2) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (b) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award—

"(A) the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area; and

"(B) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

"(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

"(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

"(i) before the end of the grant year, the chief elected official of the area submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

"(ii) the Secretary approves the waiver.

"(B) EXPENDITURE BY END OF CARRYOVER YEAR.—With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award:

"(i) The unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year (referred to in this subsection as the 'carryover year').

"(ii) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

"(C) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B)(ii), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

"(D) CORRESPONDING REDUCTION IN FUTURE GRANT.—

"(i) IN GENERAL.—In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

"(I) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

"(II) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants pursuant to subsection (b) for such first fiscal year, subject to subsection (a)(4) and section 2610(d)(2);

except that this clause does not apply to the eligible area if the amount of the unobligated balance was 2 percent or less.

"(ii) RELATION TO INCREASES IN GRANT.—A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year.".

SEC. 105. USE OF AMOUNTS.

Section 2604 of the Public Health Service Act (42 U.S.C. 300ff–14) is amended to read as follows:

"SEC. 2604. USE OF AMOUNTS.

"(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

"(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(C), by the HIV health services planning council that serves such eligible area;

"(2) funds provided under section 2601 will be expended only for—

"(A) core medical services described in subsection (c);

"(B) support services described in subsection (d); and

"(C) administrative expenses described in subsection (h); and

"(3) the use of such funds will comply with the requirements of this section.

"(b) DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE ENTITIES.—

"(1) IN GENERAL.—The chief elected official of an eligible area shall use amounts from a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

"(2) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

"(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

"(1) IN GENERAL.—With respect to a grant under section 2601 for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) WAIVER.—

"(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and "(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) NOTIFICATION OF WAIVER STATUS.—When informing the chief elected official of an eligible area that a grant under section 2601 is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

"(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term 'core medical services', with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual), means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (e).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(d) SUPPORT SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'support services' means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) MEDICAL OUTCOMES.—In this subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(e) EARLY INTERVENTION SERVICES.—

"(1) IN GENERAL.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

"(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

"(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

"(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

"(f) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

"(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

"(2) WAIVER.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

"(g) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(1) PROVISION OF SERVICE.—Subject to paragraph (2) the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER.—

"(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

"(h) ADMINISTRATION.—

"(1) LIMITATION.—The chief elected official of an eligible area shall not use in excess of 10 percent of amounts received under a grant under this part for administrative expenses.

"(2) ALLOCATIONS BY CHIEF ELECTED OFFICIAL.—In the case of entities and subcontractors to which the chief elected official of an eligible area allocates amounts received by the official under a grant under this part, the official shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

"(3) ADMINISTRATIVE ACTIVITIES.—For purposes of paragraph (1), amounts may be used for administrative activities that include—

"(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

"(B) all activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council as established under section 2602(b), the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

"(4) SUBCONTRACTOR ADMINISTRATIVE ACTIVITIES.—For the purposes of this subsection, subcontractor administrative activities include—

"(A) usual and recognized overhead activities, including established indirect rates for agencies;

"(B) management oversight of specific programs funded under this title; and

"(C) other types of program support such as quality assurance, quality control, and related activities.

"(5) CLINICAL QUALITY MANAGEMENT.

"(A) REQUIREMENT.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management program required in subparagraph (A) not to exceed the lesser of—

"(I) 5 percent of amounts received under the grant; or

"(II) $3,000,000.

"(ii) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under subparagraph (A) may not be considered administrative expenses for purposes of the limitation established in paragraph (1).

"(i) CONSTRUCTION.—A chief elected official may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.".

SEC. 106. ADDITIONAL AMENDMENTS TO PART A.

(a) REPORTING OF CASES.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended by striking "for the most recent period" and inserting "during the most recent period".

(b) PLANNING COUNCIL REPRESENTATION.—Section 2602(b)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff-12(b)(2)(G)) is amended by inserting ", members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C" after "disease".

(c) APPLICATION FOR GRANT.—

(1) PAYER OF LAST RESORT.—Section 2605(a)(6)(A) of the Public Health Service Act (42 U.S.C. 300ff-15(a)(6)(A)) is amended by inserting "(except for a program administered by or providing the services of the Indian Health Service)" before the semicolon.

(2) AUDITS.—Section 2605(a) of the Public Health Service Act (42 U.S.C. 300ff-15(a)) is amended—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) that the chief elected official will submit to the lead State agency under section 2617(b)(4), audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this part every 2 years and shall include necessary client-based data to compile unmet need calculations and Statewide coordinated statements of need process.".

(3) COORDINATION.—Section 2605(b) of the Public Health Service Act (42 U.S.C. 300ff-15(b)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(5) the manner in which the expected expenditures are related to the planning process for States that receive funding under part B (including the planning process described in section 2617(b)); and

"(6) the expected expenditures and how those expenditures will improve overall client outcomes, as described under the State plan under section 2617(b), and through additional outcomes measures as identified by the HIV health services planning council under section 2602(b).".

SEC. 107. NEW PROGRAM IN PART A; TRANSITIONAL GRANTS FOR CERTAIN AREAS INELIGIBLE UNDER SECTION 2601.

(a) IN GENERAL.—Part A of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11) is amended—

(1) by inserting after the part heading the following:

"Subpart I—General Grant Provisions"; and

(2) by adding at the end the following:

"Subpart II—Transitional Grants

"SEC. 2609. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of providing services described in section 2604 in transitional areas, subject to the same provisions regarding the allocation of grant funds as apply under subsection (c) of such section.

"(b) TRANSITIONAL AREAS.—For purposes of this section, the term 'transitional area' means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

"(c) CERTAIN ELIGIBILITY RULES.—

"(1) FISCAL YEAR 2007.—With respect to grants under subsection (a) for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

"(2) CONTINUED STATUS AS TRANSITIONAL AREA.—

"(A) IN GENERAL.—Notwithstanding subsection (b), a metropolitan area that is a transitional area for a fiscal year continues, except as provided in subparagraph (B), to be a transitional area until the metropolitan area fails, for three consecutive fiscal years—

"(i) to qualify under such subsection as a transitional area; and

"(ii) to have a cumulative total of 1,500 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(B) EXCEPTION REGARDING STATUS AS ELIGIBLE AREA.—Subparagraph (A) does not apply for a fiscal year if the metropolitan area involved qualifies under subpart I as an eligible area.

"(d) APPLICATION OF CERTAIN PROVISIONS OF SUBPART I.—

"(1) ADMINISTRATION; PLANNING COUNCIL.—

"(A) IN GENERAL.—The provisions of section 2602 apply with respect to a grant under subsection (a) for a transitional area to the same extent and in the same manner as such provisions apply with respect to a grant under subpart I for an eligible area, except that, subject to subparagraph (B), the chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) if the official provides documentation to the Secretary that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant under subsection (a).

"(B) EXCEPTION.—For each of the fiscal years 2007 through 2009, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

"(2) TYPE AND DISTRIBUTION OF GRANTS; TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

"(A) FORMULA GRANTS; SUPPLEMENTAL GRANTS.—The provisions of section 2603 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I, subject to subparagraphs (B) and (C).

"(B) FORMULA GRANTS; INCREASE IN GRANT.—For purposes of subparagraph (A), section 2603(a)(4) does not apply.

"(C) SUPPLEMENTAL GRANTS; SINGLE PROGRAM WITH SUBPART I PROGRAM.—With respect to section 2603(b) as applied for purposes of subparagraph (A):

"(i) The Secretary shall combine amounts available pursuant to such subparagraph with amounts available for carrying out section 2603(b) and shall administer the two programs as a single program.

"(ii) In the single program, the Secretary has discretion in allocating amounts between eligible areas under subpart I and transitional areas under this section, subject to the eligibility criteria that apply under such section, and subject to section 2603(b)(2)(C) (relating to priority in making grants).

"(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under sections 2603(a)(4) and 2610(d)(1).

"(3) APPLICATION; TECHNICAL ASSISTANCE; DEFINITIONS.—The provisions of sections 2605, 2606, and 2607 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I.".

(b) CONFORMING AMENDMENTS.—Subpart I of part A of title XXVI of the Public Health Service Act, as designated by subsection (a)(1) of this section, is amended by striking "this part" each place such term appears and inserting "this subpart".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Part A of title XXVI of the Public Health Service Act, as amended by section 106(a), is amended by adding at the end the following:

"Subpart III—General Provisions

"SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $604,000,000 for fiscal year 2007, $626,300,000 for fiscal year 2008, $649,500,000 for fiscal year 2009, $673,600,000 for fiscal year 2010, and $698,500,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

"(b) RESERVATION OF AMOUNTS.—

"(1) FISCAL YEAR 2007.—Of the amount appropriated under subsection (a) for fiscal year 2007, the Secretary shall reserve—

"(A) $458,310,000 for grants under subpart I; and

"(B) $145,690,000 for grants under section 2609.

"(2) SUBSEQUENT FISCAL YEARS.—Of the amount appropriated under subsection (a) for fiscal year 2008 and each subsequent fiscal year—

"(A) the Secretary shall reserve an amount for grants under subpart I; and

"(B) the Secretary shall reserve an amount for grants under section 2609.

"(c) TRANSFER OF CERTAIN AMOUNTS; CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.—Notwithstanding subsection (b):

"(1) If a metropolitan area is an eligible area under subpart I for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2601(b)—

"(A)(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for the first such subsequent year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year; and

"(ii)(I) if the metropolitan area qualifies for such first subsequent fiscal year as a transitional area under 2609, the amount reserved under paragraph (1)(B) or (2)(B) of subsection (b) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year; or

"(II) if the metropolitan area does not qualify for such first subsequent fiscal year as a transitional area under 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623; and

"(B) if a transfer under subparagraph (A)(ii)(II) is made with respect to the metropolitan area for such first subsequent fiscal year, then—

"(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for such year is deemed to be reduced by an additional $500,000; and

"(ii) an amount equal to the amount of such additional reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

"(2) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be a transitional area by reason of section 2609(c)(2) (and does not qualify for such subsequent fiscal year as an eligible area under subpart I)—

"(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of not being a transitional area is deemed to be reduced by an amount equal to the total of—

"(i) the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

"(ii) $500,000; and

"(B) an amount equal to the amount of the reduction under subparagraph (A) for such year is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

"(3) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year qualifies as an eligible area under subpart I—

"(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of becoming an eligible area is deemed to be reduced by an amount equal to the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

"(B) the amount reserved under subsection (b)(2)(A) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year.

"(d) Certain Transfers; Allocations Between Programs Under Subpart I.—With respect to paragraphs (1)(B)(i) and (2)(A)(ii) of subsection (c), the Secretary shall administer any reductions under such paragraphs for a fiscal year in accordance with the following:

"(1) The reductions shall be made from amounts available for the single program referred to in section 2609(d)(2)(C) (relating to supplemental grants).

"(2) The reductions shall be made before the amounts referred to in paragraph (1) are used for purposes of section 2603(a)(4).

"(3) If the amounts referred to in paragraph (1) are not sufficient for making all the reductions, the reductions shall be reduced until the total amount of the reductions equals the total of the amounts referred to in such paragraph.

"(e) Rules of Construction Regarding First Subsequent Fiscal Year.—Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year becomes an eligible area under subpart I, rather than applying to a single such series.".

TITLE II—CARE GRANTS

SEC. 201. GENERAL USE OF GRANTS.

(a) In General.—Section 2612 of the Public Health Service Act (42 U.S.C. 300ff-22) is amended to read as follows:

"SEC. 2612. GENERAL USE OF GRANTS.

"(a) In General.—A State may use amounts provided under grants made under section 2611 for—

"(1) core medical services described in subsection (b);

"(2) support services described in subsection (c); and

"(3) administrative expenses described in section 2618(b)(3).

"(b) Required Funding for Core Medical Services.—

"(1) In general.—With respect to a grant under section 2611 for a State for a grant year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of subparagraphs (A) and (E)(ii)(I) of section 2618(b)(3), use not less than 75 percent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) Waiver.—

"(A) In general.—The Secretary shall waive the application of paragraph (1) with respect to a State for a grant year if the Secretary determines that, within the State—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

"(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) Notification of waiver status.—When informing a State that a grant under section 2611 is being made to the State for a fiscal year, the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect for the fiscal year.

"(3) Core medical services.—For purposes of this subsection, the term 'core medical services', with respect to an individual infected with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (d).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(c) Support Services.—

"(1) In general.—For purposes of this subsection, the term 'support services' means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) Definition of medical outcomes.—In this subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(d) Early Intervention Services.

"(1) In general.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by States, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

"(2) Conditions.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the State involved that—

"(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

"(B) the entity will expend funds pursuant to such subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

"(e) Priority for Women, Infants, Children, and Youth.—

"(1) In general.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, a State shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

"(2) Waiver.—With respect to the population involved, the Secretary may provide to a State a waiver of the requirement of paragraph (1) if such State demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program under title XIX of the Social Security Act, the State children's health insurance program under title XXI of such Act, or other Federal or State programs.

"(f) Construction.—A State may not use amounts received under a grant awarded under section 2611 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.".

(b) HIV Care Consortia.—Section 2613 of the Public Health Service Act (42 U.S.C. 300ff–23) is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by striking "may use" and inserting "may, subject to subsection (f), use"; and

(B) by striking "section 2612(a)(1)" and inserting "section 2612(a)"; and

(2) by adding at the end the following subsection:

"(f) Allocation of Funds; Treatment as Support Services.—For purposes of the requirement of section 2612(b)(1), expenditures of grants under section 2611 for or through consortia under this section are deemed to be support services, not core medical services. The preceding sentence may not be construed as having any legal effect on the provisions of subsection (a) that relate to authorized expenditures of the grant.".

(c) Technical Amendments.—Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended—

(1) in section 2611—

(A) in subsection (a), by striking the subsection designation and heading; and

(B) by striking subsection (b);

(2) in section 2614—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "section 2612(a)(2)" and inserting "section 2612(b)(3)(J)"; and

(B) in subsection (c)(2)(B), by striking "homemaker or";

(3) in section 2615(a) by striking "section 2612(a)(3)" and inserting "section 2612(b)(3)(F)"; and

(4) in section 2616(a) by striking "section 2612(a)(5)" and inserting "section 2612(b)(3)(B)".

SEC. 202. AIDS DRUG ASSISTANCE PROGRAM.

(a) Requirement of Minimum Drug List.—Section 2616 of the Public Health Service Act (42 U.S.C. 300ff–26) is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) ensure that the therapeutics included on the list of classes of core antiretroviral therapeutics established by the Secretary under subsection (e) are, at a minimum, the treatments provided by the State pursuant to this section;";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) List of Classes of Core Antiretroviral Therapeutics.—For purposes of subsection (c)(1), the Secretary shall develop and maintain a list of classes of core antiretroviral therapeutics, which list shall be based on the therapeutics included in the guidelines of the Secretary known as the Clinical Practice Guidelines for Use of HIV/AIDS Drugs, relating to drugs needed to manage symptoms associated with HIV. The preceding sentence does not affect the authority of the Secretary to modify such Guidelines.".

(b) Drug Rebate Program.—Section 2616 of the Public Health Service Act, as amended by subsection (a)(2) of this section, is amended by adding at the end the following:

"(g) Drug Rebate Program.—A State shall ensure that any drug rebates received on drugs purchased from funds provided pursuant to this section are applied to activities supported under this subpart, with priority given to activities described under this section.".

SEC. 203. DISTRIBUTION OF FUNDS.

(a) Distribution Based on Living Cases of HIV/AIDS.—

(1) State distribution factor.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)) is amended—

(A) in subparagraph (B), by striking "estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved" and inserting "number of living cases of HIV/AIDS in the State involved"; and

(B) by amending subparagraph (D) to read as follows:

"(D) Living cases of HIV/AIDS.—

"(i) Requirement of names-based reporting.—Except as provided in clause (ii), the number determined under this subparagraph for a State for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS in the State that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

"(ii) Transition period; exemption regarding non-AIDS cases.—For each of the fiscal years 2007 through 2010, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

"(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State, subject to clause (vii); or

"(II) no later than the beginning of fiscal year 2008, 2009, or 2010, the Secretary, after consultation with the chief executive of the State, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

"(iii) Requirements for exemption for fiscal year 2007.—For fiscal year 2007, an exemption under clause (ii) for a State applies only if, by October 1, 2006—

"(I)(aa) the State had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

"(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

"(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

"(iv) Requirement for exemption as of fiscal year 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

"(v) Progress toward names-based reporting.—For fiscal year 2009 or 2010, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

"(vi) Counting of cases in areas with exemptions.—

"(I) In general.—With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as 'code-based reporting'), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the State in order to adjust for duplicative reporting in and among systems that use code-based reporting.

"(II) Adjustment rate.—The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the State.

"(vii) List of states meeting standard regarding December 31, 2005.—

"(I) In general.—If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

"(II) Relevant states.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

"(viii) Rules of construction regarding acceptance of reports.—

"(I) Cases of AIDS.—With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

"(II) Applicability of exemption requirements.—The provisions of clauses (ii) through (vii) may not be construed as having any legal effect for fiscal year 2011 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2010.

"(ix) Program for detecting inaccurate or fraudulent counting.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.".

(2) Non-EMA distribution factor.—Section 2618(a)(2)(C) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(C)) is amended—

(A) in clause (i), by striking "estimated number of living cases of acquired immune deficiency syndrome" each place such term appears and inserting "number of living cases of HIV/AIDS"; and

(B) in clause (ii), by amending such clause to read as follows:

"(ii) a number equal to the sum of—

"(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 2601 for the area for such fiscal year; and

"(II) the total number of such cases that are within areas in such State that are transitional areas under section 2609 for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.".

(b) FORMULA AMENDMENTS GENERALLY.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "The amount referred to" in the matter preceding clause (i) and all that follows through the end of clause (i) and inserting the following: "For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

"(i) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (G); and"; and

(B) in clause (ii)—

(i) in subclause (I)—

(I) by striking ".80" and inserting "0.75"; and

(II) by striking "and" at the end;

(ii) in subclause (II)—

(I) by inserting "non-EMA" after "respective"; and

(II) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transitional area under section 2609 (referred to in this subclause as a 'no-EMA State'), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that so apply for all no-EMA States.";

(2) by striking subparagraphs (E) through (H);

(3) by inserting after subparagraph (D) the following subparagraphs:

"(E) CODE-BASED STATES; LIMITATION ON INCREASE IN GRANT.—

"(i) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such fiscal year.

"(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2010, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to section 2620, subject to subparagraph (H).

"(F) SEVERITY OF NEED.—

"(i) FISCAL YEARS BEGINNING WITH 2011.—If, by January 1, 2010, the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index in accordance with clause (v), the provisions of subparagraphs (A) through (E) shall not apply for fiscal year 2011 or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

"(ii) SUBSEQUENT FISCAL YEARS.—If, on or before any January 1 that is subsequent to the date referred to in clause (i), the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, in accordance with clause (v), for each succeeding fiscal year, the provisions of subparagraphs (A) through (D) shall not apply for the subsequent fiscal year or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

"(iii) FISCAL YEAR 2013.—The Secretary shall notify the appropriate committees of Congress that the Secretary has developed a severity of need index by January 1, 2012, in accordance with clause (v), and the provisions of subparagraphs (A) through (D) shall not apply for fiscal year 2013 or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

"(iv) DEFINITION OF SEVERITY OF NEED INDEX.—In this subparagraph, the term 'severity of need index' means the index of the relative needs of individuals within the State, as identified by a variety of different factors, and is a factor that is multiplied by the number of living HIV/AIDS cases in the State, providing different weights to those cases based on their needs.

"(v) REQUIREMENTS FOR SECRETARIAL NOTIFICATION.—When the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, the Secretary shall provide the following:

"(I) Methodology for and rationale behind developing the severity of need index, including information related to the field testing of the severity of need index.

"(II) An independent contractor analysis of activities carried out under subclause (I).

"(III) Expected changes in funding allocations, given the application of the severity of need index and the elimination of the provisions of subparagraphs (A) through (D).

"(IV) Information regarding the process by which the Secretary received community input regarding the application and development of the severity of need index.

"(V) Timeline and process for the implementation of the severity of need index to ensure that it is applied in the following fiscal year.

"(vi) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of the Ryan White HIV/AIDS Treatment Modernization Act of 2006, and annually thereafter until the Secretary notifies Congress that the Secretary has developed a severity of need index in accordance with this subparagraph, the Secretary shall prepare and submit to the appropriate committees of Congress a report—

"(I) that updates progress toward having client level data;

"(II) that updates the progress toward having a severity of need index, including information related to the methodology and process for obtaining community input; and

"(III) that, as applicable, states whether the Secretary could develop a severity of need index before fiscal year 2010."; and

(4) by redesignating subparagraph (I) as subparagraph (G).

(c) SEPARATE ADAP GRANTS.—Section 2618(a)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)(G)), as redesignated by subsection (b)(4) of this section, is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "section 2677" and inserting "section 2623";

(B) in subclause (II), by striking the period at the end and inserting a semicolon; and

(C) by adding after and below subclause (II) the following:

"which product shall then, as applicable, be increased under subparagraph (H).";

(2) in clause (ii)—

(A) by striking subclauses (I) through (III) and inserting the following:

"(I) IN GENERAL.—From amounts made available under subclause (V), the Secretary shall award supplemental grants to States described in subclause (II) to enable such States to purchase and distribute to eligible individuals under section 2616(b) pharmaceutical therapeutics described under subsections (c)(2) and (e) of such section.

"(II) ELIGIBLE STATES.—For purposes of subclause (I), a State shall be an eligible State if the State did not have unobligated funds subject to reallocation under section 2618(d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause. For purposes of determining severe need, the Secretary shall consider eligibility standards, formulary composition, the number of eligible individuals to whom a State is unable to provide therapeutics described in section 2616(a), and an unanticipated increase of eligible individuals with HIV/AIDS.

"(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under this clause unless the State agrees that the State will make available (directly or through donations of public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to $1 for each $4 of Federal funds provided in the grant, except that the Secretary may waive this subclause if the State has otherwise fully complied with section 2617(d) with respect to the grant year involved. The provisions of this subclause shall apply to States that are not required to comply with such section 2617(d).";

(B) in subclause (IV), by moving the subclause two ems to the left;

(C) in subclause (V), by striking "3 percent" and inserting "5 percent"; and

(D) by striking subclause (VI); and

(3) by adding at the end the following clause:

"(iii) CODE-BASED STATES; LIMITATION ON INCREASE IN FORMULA GRANT.—The limitation under subparagraph (E)(i) applies to grants pursuant to clause (i) of this subparagraph to the same extent and in the same manner as such limitation applies to grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this clause. Amounts available as a result of the limitation under the preceding sentence shall be made available by the Secretary as additional amounts for grants under clause (ii) of this subparagraph.".

(d) HOLD HARMLESS.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)), as amended by subsection (b)(4) of this section, is amended by adding at the end the following subparagraph:

"(H) INCREASE IN FORMULA GRANTS.—

"(i) IN GENERAL.—For each of the fiscal years 2007 through 2009, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 95 percent of such total for the State for the preceding fiscal year, except that any increase under this clause—

"(I) may not result in a grant pursuant to paragraph (1) that is more than 95 percent of the amount of such grant for the preceding fiscal year; and

"(II) may not result in a grant pursuant to subparagraph (G) that is more than 95 percent of the amount of such grant for such preceding fiscal year.

"(ii) FISCAL YEAR 2007.—For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.

"(iii) SOURCE OF FUNDS FOR INCREASE.—

"(I) IN GENERAL.—From the amount reserved under section 2623(b)(2) for a fiscal year, and from amounts available for such section pursuant to subsection (d) of this section, the Secretary shall make available such amounts as may be necessary to comply with clause (i).

"(II) PRO RATA REDUCTION.—If the amounts referred to in subclause (I) for a fiscal year are insufficient to fully comply with clause (i) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to paragraph (1) for the fiscal year, other than grants for States for which increases under clause (i) apply and other than States described in paragraph (1)(A)(i)(I). A reduction under the preceding sentence may not be made in an amount that would result in the State involved becoming eligible for such an increase.

"(iv) APPLICABILITY.—This paragraph may not be construed as having any applicability after fiscal year 2009.".

(e) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT.—Section 2618(b) of the Public Health Service Act (42 U.S.C. 300ff-28(b)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6);

(2) in paragraph (2) (as so redesignated)—

(A) by striking "paragraph (5)" and inserting "paragraph (4)"; and

(B) by striking "paragraph (6)" and inserting "paragraph (5)";

(3) in paragraph (3) (as so redesignated)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Subject to paragraph (4,) and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 2611 for administration.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) ALLOCATIONS.—In the case of entities and subcontractors to which a State allocates amounts received by the State under a grant under section 2611, the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).";

(D) in subparagraph (C) (as so redesignated), by inserting before the period the following: ", including a clinical quality management program under subparagraph (E)"; and

(E) by adding at the end the following:

"(E) CLINICAL QUALITY MANAGEMENT.—

"(i) REQUIREMENT.—Each State that receives a grant under section 2611 shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(ii) USE OF FUNDS.—

"(I) IN GENERAL.—From amounts received under a grant awarded under section 2611 for a fiscal year, a State may use for activities associated with the clinical quality management program required in clause (i) not to exceed the lesser of—

"(aa) 5 percent of amounts received under the grant; or

"(bb) $3,000,000.

"(II) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under clause (i) may not be considered administrative expenses for purposes of the limitation established in subparagraph (A).";

(4) in paragraph (4) (as so redesignated)—

(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (2) and (3)"; and

(5) in paragraph (5) (as so redesignated), by striking "paragraphs (3)" and all that follows through "(5)," and inserting the following: "paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4),".

(f) REALLOCATION FOR SUPPLEMENTAL GRANTS.—Section 2618(d) of the Public Health Service Act (42 U.S.C. 300ff-28(d)) is amended to read as follows:

"(d) REALLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as described in subsection (c) ceases to be available to the State and shall be made available by the Secretary for grants under section 2620, in addition to amounts made available for such grants under section 2623(b)(2).".

(g) DEFINITIONS; OTHER TECHNICAL AMENDMENTS.—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff-28(a)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "section 2677" and inserting "section 2623";

(2) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by striking "each of the several States and the District of Columbia" and inserting "each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a 'covered State')"; and

(B) in clause (i)—

(i) in subclause (I), by striking "State or District" and inserting "covered State"; and

(ii) in subclause (II)—

(I) by striking "State or District" and inserting "covered State"; and

(II) by inserting "and" after the semicolon; and

(3) in paragraph (1)(B), by striking "each territory of the United States, as defined in paragraph (3)," and inserting "each territory other than Guam and the Virgin Islands";

(4) in paragraph (2)(C)(i), by striking "or territory"; and

(5) by striking paragraph (3).

SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART I OF PART B.

(a) REFERENCES TO PART B.—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended by striking "this part" each place such term appears and inserting "section 2611".

(b) HEPATITIS.—Section 2614(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-24(a)(3)) is amended by inserting ", including specialty care and vaccinations for hepatitis co-infection," after "health services".

(c) APPLICATION FOR GRANT.—

(1) COORDINATION.—Section 2617(b) of the Public Health Service Act (42 U.S.C. 300ff-27(b)) is amended—

(A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(B) by inserting after paragraph (3), the following:

"(4) the designation of a lead State agency that shall—

"(A) administer all assistance received under this part;

"(B) conduct the needs assessment and prepare the State plan under paragraph (3);

"(C) prepare all applications for assistance under this part;

"(D) receive notices with respect to programs under this title;

"(E) every 2 years, collect and submit to the Secretary all audits, consistent with Office of Management and Budget circular A133, from grantees within the State, including audits regarding funds expended in accordance with this part; and

"(F) carry out any other duties determined appropriate by the Secretary to facilitate the coordination of programs under this title.";

(C) in paragraph (5) (as so redesignated)—

(i) in subparagraph (E), by striking "and" at the end; and

(ii) by inserting after subparagraph (F) the following:

"(G) includes key outcomes to be measured by all entities in the State receiving assistance under this title; and"; and

(D) in paragraph (7) (as so redesignated), in subparagraph (A)—

(i) by striking "paragraph (5)" and inserting "paragraph (6)"; and

(ii) by striking "paragraph (4)" and inserting "paragraph (5)".

(2) NATIVE AMERICAN REPRESENTATION.—Section 2617(b)(6) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before "representatives of grantees" the following: "members of a Federally recognized Indian tribe as represented in the State,".

(3) PAYER OF LAST RESORT.—Section 2617(b)(7)(F)(ii) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before the semicolon the following: "(except for a program administered by or providing the services of the Indian Health Service)".

(d) MATCHING FUNDS; APPLICABILITY OF REQUIREMENT.—Section 2617(d)(3) of the Public Health Service Act (42 U.S.C. 300ff-27(d)(3)) is amended—

(1) in subparagraph (A), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS"; and

(2) in subparagraph (C), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS".

SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF DEMONSTRATED NEED.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended—

(1) by redesignating section 2620 as section 2621; and

(2) by inserting after section 2619 the following:

"SEC. 2620. SUPPLEMENTAL GRANTS.

"(a) In General.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States—

"(1) whose applications under section 2617 have demonstrated the need in the State, on an objective and quantified basis, for supplemental financial assistance to provide such services; and

"(2) that did not, for the most recent grant year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) for which data is available, have more than 2 percent of grant funds under such sections canceled or covered by any waivers under section 2622(c).

"(b) Demonstrated Need.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of subsection (a)(1) may include any or all of the following:

"(1) The unmet need for such services, as determined under section 2617(b).

"(2) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

"(3) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

"(4) The current prevalence of HIV/AIDS.

"(5) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

"(6) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

"(7) The prevalence of homelessness.

"(8) The prevalence of individuals described under section 2602(b)(2)(M).

"(9) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

"(10) The impact of a decline in the amount received pursuant to section 2618 on services available to all individuals with HIV/AIDS identified and eligible under this title.

"(c) Priority in Making Grants.—The Secretary shall provide funds under this section to a State to address the decline in services related to the decline in the amounts received pursuant to section 2618 consistent with the grant award to the State for fiscal year 2006, to the extent that the factor under subsection (b)(10) (relating to a decline in funding) applies to the State.

"(d) Core Medical Services.—The provisions of section 2612(b) apply with respect to a grant under this section to the same extent and in the same manner as such provisions apply with respect to a grant made pursuant to section 2618(a)(1).

"(e) Applicability of Grant Authority.—The authority to make grants under this section applies beginning with the first fiscal year for which amounts are made available for such grants under section 2623(b)(1).".

SEC. 206. EMERGING COMMUNITIES.

Section 2621 of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

(1) in the heading for the section, by striking "**SUPPLEMENTAL GRANTS**" and inserting "**EMERGING COMMUNITIES**";

(2) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) agree that the grant will be used to provide funds directly to emerging communities in the State, separately from other funds under this title that are provided by the State to such communities; and".

(3) by striking subsections (d) and (e) and inserting the following:

"(d) Definitions of Emerging Community.—For purposes of this section, the term 'emerging community' means a metropolitan area (as defined in section 2607) for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

"(e) Continued Status as Emerging Community.—Notwithstanding any other provision of this section, a metropolitan area that is an emerging community for a fiscal year continues to be an emerging community until the metropolitan area fails, for three consecutive fiscal years—

"(1) to meet the requirements of subsection (d); and

"(2) to have a cumulative total of 750 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

"(f) Distribution.—The amount of a grant under subsection (a) for a State for a fiscal year shall be an amount equal to the product of—

"(1) the amount available under section 2623(b)(1) for the fiscal year; and

"(2) a percentage equal to the ratio constituted by the number of living cases of HIV/AIDS in emerging communities in the State to the sum of the respective numbers of such cases in such communities for all States.".

SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.), as amended by section 205, is further amended by adding at the end the following:

"SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

"(a) Obligation by End of Grant Year.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G), or under section 2620 or 2621, are available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the 'grant year for the award'), except as provided in subsection (c)(1).

"(b) Supplemental Grants; Cancellation of Unobligated Balance of Grant Award.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(2)(G)(ii), or under section 2620 or 2621, has an unobligated balance as of the end of the grant year for the award—

"(1) the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State; and

"(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under paragraph (1) to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

"(c) Formula Grants; Cancellation of Unobligated Balance of Grant Award; Waiver Permitting Carryover.—

"(1) In general.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

"(A) before the end of the grant year, the State submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the State intends to expend the funds involved; and

"(B) the Secretary approves the waiver.

"(2) Expenditure by end of carryover year.—With respect to a waiver under paragraph (1) that is approved for a balance that is unobligated as of the end of a grant year for an award:

"(A) The unobligated funds are available for expenditure by the State involved for the one-year period beginning upon the expiration of the grant year (referred to in this section as the 'carryover year').

"(B) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State.

"(3) Use of cancelled balances.—In the case of any balance of a grant award that is cancelled under paragraph (1) or (2)(B), the grant funds involved shall be made available by the Secretary as additional amounts for grants under section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such paragraph to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

"(4) Corresponding reduction in future grant.—

"(A) In general.—In the case of a State for which a balance from a grant award made pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) is unobligated as of the end of the grant year for the award—

"(i) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such section for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance); and

"(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants under section 2620 for such first fiscal year, subject to section 2618(a)(2)(H);

except that this subparagraph does not apply to the State if the amount of the unobligated balance was 2 percent or less.

"(B) Relation to increases in grant.—A reduction under subparagraph (A) for a State for a fiscal year may not be taken into account in applying section 2618(a)(2)(H) with respect to the State for the subsequent fiscal year.

"(d) Treatment of Drug Rebates.—For purposes of this section, funds that are drug rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a).".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR SUBPART I OF PART B.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as amended by section 207, is further amended by adding at the end the following:

"SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—For the purpose of carrying out this subpart, there are authorized to be appropriated $1,195,500,000 for fiscal year 2007, $1,239,500,000 for fiscal year 2008, $1,285,200,000 for fiscal year 2009, $1,332,600,000 for fiscal year 2010, and $1,381,700,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

"(b) Reservation of Amounts.—

"(1) Emerging communities.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve $5,000,000 for grants under section 2621.

"(2) Supplemental grants.—

"(A) In general.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve ⅓ for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such year, and except that any amount appropriated exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(G)) is not subject to this subparagraph.

"(B) 2006 adjusted amount.—For purposes of subparagraph (A), the term '2006 adjusted amount' means the amount appropriated for fiscal year 2006 under section 2677(b) (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(I), as so in effect).".

SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.

Section 2625 of the Public Health Service Act (42 U.S.C. 300ff-33) is amended to read as follows:

"SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.

"(a) In General.—In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

"(b) Description of Compliant States.—For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if, under such laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, or both of the policies described in paragraph (2) are in effect, as follows:

"(1)(A) Voluntary opt-out testing of pregnant women.

"(B) Universal testing of newborns.

"(2)(A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

"(B) Voluntary opt-out testing of clients at substance abuse treatment centers.

The Secretary shall periodically ensure that the applicable policies are being carried out and recertify compliance.

"(c) Use of Funds.—A State may use funds provided under subsection (a) for HIV/AIDS testing (including rapid testing), prevention counseling, treatment of newborns exposed to HIV/AIDS, treatment of mothers infected with HIV/AIDS, and costs associated with linking those diagnosed with HIV/AIDS to care and treatment for HIV/AIDS.

"(d) Application.—A State that is eligible for the grant under subsection (a) shall submit an application to the Secretary, in such form, in such manner, and containing such information as the Secretary may require.

"(e) Limitation on Amount of Grant.—A grant under subsection (a) to a State for a fiscal year may not be made in an amount exceeding $10,000,000.

"(f) Rule of Construction.—Nothing in this section shall be construed to pre-empt State laws regarding HIV/AIDS counseling and testing.

"(g) Definitions.—In this section:

"(1) The term 'voluntary opt-out testing' means HIV/AIDS testing—

"(A) that is administered to an individual seeking other health care services; and

"(B) in which—

"(i) pre-test counseling is not required but the individual is informed that the individual will receive an HIV/AIDS test and the individual may opt out of such testing; and

"(ii) for those individuals with a positive test result, post-test counseling (including referrals for care) is provided and confidentiality is protected.

"(2) The term 'universal testing of newborns' means HIV/AIDS testing that is administered within 48 hours of delivery to—

"(A) all infants born in the State; or

"(B) all infants born in the State whose mother's HIV/AIDS status is unknown at the time of delivery.

"(h) Authorization of Appropriations.—Of the funds appropriated annually to the Centers for Disease Control and Prevention for HIV/AIDS prevention activities, $30,000,000 shall be made available for each of the fiscal years 2007 through 2011 for grants under subsection (a), of which $20,000,000 shall be made available for grants to States with the policies described in subsection (b)(1), and $10,000,000 shall be made available for grants to States with the policies described in subsection (b)(2). Funds provided under this section are available until expended.".

SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS; AUTHORIZATION OF APPROPRIATIONS.

Section 2631(d) of the Public Health Service Act (42 U.S.C. 300ff-38(d)) is amended by striking "there are" and all that follows and inserting the following: "there is authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2011.".

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM; CORE MEDICAL SERVICES.

(a) In General.—Section 2651 of the Public Health Service Act (42 U.S.C. 300ff-51) is amended to read as follows:

"SEC. 2651. ESTABLISHMENT OF A PROGRAM.

"(a) In General.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a).

"(b) Requirements.—

"(1) In general.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant only for—

"(A) core medical services described in subsection (c);

"(B) support services described in subsection (d); and

"(C) administrative expenses as described in section 2664(g)(3).

"(2) Early intervention services.—An applicant for a grant under subsection (a) shall expend not less than 50 percent of the amount received under the grant for the services described in subparagraphs (B) through (E) of subsection (e)(1) for individuals with HIV/AIDS.

"(c) Required Funding for Core Medical Services.—

"(1) In general.—With respect to a grant under subsection (a) to an applicant for a fiscal year, the applicant shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 2664(g), use not less than 75 percent to provide core medical services that are needed in the area involved for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

"(2) Waiver.—

"(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant for a grant if the Secretary determines that, within the service area of the applicant—

"(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

"(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

"(B) Notification of waiver status.—When informing an applicant that a grant under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

"(3) Core medical services.—For purposes of this subsection, the term 'core medical services', with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

"(A) Outpatient and ambulatory health services.

"(B) AIDS Drug Assistance Program treatments under section 2616.

"(C) AIDS pharmaceutical assistance.

"(D) Oral health care.

"(E) Early intervention services described in subsection (e).

"(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

"(G) Home health care.

"(H) Medical nutrition therapy.

"(I) Hospice services.

"(J) Home and community-based health services as defined under section 2614(c).

"(K) Mental health services.

"(L) Substance abuse outpatient care.

"(M) Medical case management, including treatment adherence services.

"(d) Support Services.—

"(1) In general.—For purposes of this section, the term 'support services' means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

"(2) Definition of medical outcomes.—In this section, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

"(e) Specification of Early Intervention Services.—

"(1) In General.—The early intervention services referred to in this section are—

"(A) counseling individuals with respect to HIV/AIDS in accordance with section 2662;

"(B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

"(C) referrals described in paragraph (2);

"(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

"(E) providing the therapeutic measures described in subparagraph (B).

"(2) Referrals.—The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of a pregnant woman.

"(3) Requirement of availability of all early intervention services through each grantee.—

"(A) In general.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

"(B) Other requirements.—Grantees described in—

"(i) subparagraphs (A), (D), (E), and (F) of section 2652(a)(1) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site or at sites where other primary care services are rendered; and

"(ii) subparagraphs (B) and (C) of section 2652(a)(1) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.".

(b) Administrative Expenses; Clinical Quality Management Program.—Section 2664(g) of the Public Health Service Act (42 U.S.C. 300ff-64(g)) is amended—

(1) in paragraph (3), by amending the paragraph to read as follows:

"(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant, including planning and evaluation, except that the costs of a clinical quality management program under paragraph (5) may not be considered administrative expenses for purposes of such limitation;"; and

(2) in paragraph (5), by inserting "clinical" before "quality management".

SEC. 302. ELIGIBLE ENTITIES; PREFERENCES; PLANNING AND DEVELOPMENT GRANTS.

(a) Minimum Qualification of Grantees.—Section 2652(a) of the Public Health Service Act (42 U.S.C. 300ff-52(a)) is amended to read as follows:

"(a) Eligible Entities.—

"(1) In general.—The entities referred to in section 2651(a) are public entities and nonprofit private entities that are—

"(A) federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(B) grantees under section 1001 (regarding family planning) other than States;

"(C) comprehensive hemophilia diagnostic and treatment centers;

"(D) rural health clinics;

"(E) health facilities operated by or pursuant to a contract with the Indian Health Service;

"(F) community-based organizations, clinics, hospitals and other health facilities that provide early intervention services to those persons infected with HIV/AIDS through intravenous drug use; or

"(G) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV/AIDS, including faith-based and community-based organizations.

"(2) Underserved populations.—Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.".

(b) Preferences in Making Grants.—Section 2653 of the Public Health Service Act (42 U.S.C. 300ff-53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking "acquired immune deficiency syndrome" and inserting "HIV/AIDS"; and

(B) in subparagraph (D), by inserting before the semicolon the following: "and the number of cases of individuals co-infected with HIV/AIDS and hepatitis B or C"; and

(2) in subsection (d)(2), by striking "special consideration" and inserting "preference".

(c) Planning and Development Grants.—Section 2654(c) of the Public Health Service Act (42 U.S.C. 300ff-54(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "HIV"; and

(B) in subparagraph (B), by striking "HIV" and inserting "HIV/AIDS"; and

(2) in paragraph (3), by striking "or underserved communities" and inserting "areas or to underserved populations".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 of the Public Health Service Act (42 U.S.C. 300ff-55) is amended by striking "such sums" and all that follows through "2005" and inserting ", $218,600,000 for fiscal year 2007, $226,700,000 for fiscal year 2008, $235,100,000 for fiscal year 2009, $243,800,000 for fiscal year 2010, and $252,800,000 for fiscal year 2011".

SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.

Section 2661 of the Public Health Service Act (42 U.S.C. 300ff-61) is amended to read as follows:

"SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.

"(a) Confidentiality.—The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

"(b) Informed Consent.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.".

SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.

Section 2662 of the Public Health Service Act (42 U.S.C. 300ff-62) is amended to read as follows:

"SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) Counseling of Individuals With Negative Test Results.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition, the applicant will provide the individual information, including—

"(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

"(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

"(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

"(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases;

"(5) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

"(6) information regarding the availability of hepatitis B vaccine and information about hepatitis treatments.

"(b) Counseling of Individuals With Positive Test Results.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide to the individual appropriate counseling regarding the condition, including—

"(1) information regarding—

"(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

"(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C; and

"(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

"(3) providing counseling—

"(A) on the availability, through the applicant, of early intervention services;

"(B) on the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

"(C)(i) that explains the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis

C and any individual whom the infected individual may have exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

"(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on the manner in which such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

"(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C);

"(4) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

"(5) information regarding the availability of hepatitis B vaccine.

"(c) Additional Requirements Regarding Appropriate Counseling.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

"(d) Counseling of Emergency Response Employees.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV/AIDS, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

"(e) Rule of Construction Regarding Counseling Without Testing.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a result of the grantee or the individual determining that such testing of the individual is not appropriate.".

SEC. 306. GENERAL PROVISIONS.

(a) Applicability of Certain Requirements.—Section 2663 of the Public Health Service Act (42 U.S.C. 300ff–63) is amended by striking "will, without" and all that follows through "be carried" and inserting "with funds appropriated through this Act will be carried".

(b) Additional Required Agreements.—Section 2664(a) of the Public Health Service Act (42 U.S.C. 300ff–64(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking "and" at the end; and

(C) by adding at the end the following:

"(C) information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2602) and for States funded under part B (including the planning process described in section 2617(b)); and

"(D) a specification of the expected expenditures and how those expenditures will improve overall client outcomes, as described in the State plan under section 2617(b);";

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(3) the applicant agrees to provide additional documentation to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

"(4) the applicant agrees to submit, every 2 years, to the lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this title and shall include necessary client level data to complete unmet need calculations and Statewide coordinated statements of need process.".

(c) Payer of Last Resort.—Section 2664(f)(1)(A) of the Public Health Service Act (42 U.S.C. 300ff–64(f)(1)(A)) is amended by inserting "(except for a program administered by or providing the services of the Indian Health Service)" before the semicolon.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.

Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–71 et seq.) is amended to read as follows:

"PART D—WOMEN, INFANTS, CHILDREN, AND YOUTH

"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

"(a) In General.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to public and nonprofit private entities (including a health facility operated by or pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care (directly or through contracts) for women, infants, children, and youth with HIV/AIDS.

"(b) Additional Services for Patients and Families.—Funds provided under grants awarded under subsection (a) may be used for the following support services:

"(1) Family-centered care including case management.

"(2) Referrals for additional services including—

"(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(B) referrals for other social and support services, as appropriate.

"(3) Additional services necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection including services designed to recruit and retain youth with HIV.

"(4) The provision of information and education on opportunities to participate in HIV/AIDS-related clinical research.

"(c) Coordination With Other Entities.—A grant awarded under subsection (a) may be made only if the applicant provides an agreement that includes the following:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

"(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

"(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding funds expended in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

"(d) Administration; Application.—A grant may only be awarded to an entity under subsection (a) if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section. Such application shall include the following:

"(1) Information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process outlined in section 2602) and for States funded under part B (including the planning process outlined in section 2617(b)).

"(2) A specification of the expected expenditures and how those expenditures will improve overall patient outcomes, as outlined as part of the State plan (under section 2617(b)) or through additional outcome measures.

"(e) Annual Review of Programs; Evaluations.—

"(1) Review regarding access to and participation in programs.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

"(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

"(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

"(2) Evaluations.——The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(f) Administrative Expenses.—

"(1) Limitation.—A grantee may not use more than 10 percent of amounts received under a grant awarded under this section for administrative expenses.

"(2) Clinical quality management program.—A grantee under this section shall implement a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(g) Training and Technical Assistance.—From the amounts appropriated under subsection (i) for a fiscal year, the Secretary may use not more than 5 percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

"(h) Definitions.—In this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' means funds that are to be used by grantees for grant management and monitoring activities, including costs related to any staff or activity unrelated to services or indirect costs.

"(2) INDIRECT COSTS.—The term 'indirect costs' means costs included in a Federally negotiated indirect rate.

"(3) SERVICES.—The term 'services' means—

"(A) services that are provided to clients to meet the goals and objectives of the program under this section, including the provision of professional, diagnostic, and therapeutic services by a primary care provider or a referral to and provision of specialty care; and

"(B) services that sustain program activity and contribute to or help improve services under subparagraph (A).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated, $71,800,000 for each of the fiscal years 2007 through 2011.".

SEC. 402. GAO REPORT.

Not later than 24 months after the date of enactment of this Act, the Comptroller General of the Government Accountability Office shall conduct an evaluation, and submit to Congress a report, concerning the funding provided for under part D of title XXVI of the Public Health Service Act to determine—

(1) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, for individuals with HIV/AIDS;

(2) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, and youth infected with HIV/AIDS;

(3) how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;

(4) how funds are used to provide additional services authorized under section 2671(b) of such title; and

(5) how funds are used to help identify HIV-positive pregnant women and their children who are exposed to HIV and connect them with care that can improve their health and prevent perinatal transmission.

TITLE V—GENERAL PROVISIONS

SEC. 501. GENERAL PROVISIONS.

Part E of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–80 et seq.) is amended to read as follows:

"PART E—GENERAL PROVISIONS

"SEC. 2681. COORDINATION.

"(a) REQUIREMENT.—The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and the Centers for Medicare & Medicaid Services coordinate the planning, funding, and implementation of Federal HIV programs (including all minority AIDS initiatives of the Public Health Service, including under section 2693) to enhance the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease. The Secretary shall consult with other Federal agencies, including the Department of Veterans Affairs, as needed and utilize planning information submitted to such agencies by the States and entities eligible for assistance under this title.

"(b) REPORT.—The Secretary shall biennially prepare and submit to the appropriate committees of the Congress a report concerning the coordination efforts at the Federal, State, and local levels described in this section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the continuity of care and prevention services for individuals with HIV/AIDS or those at risk of such disease.

"(c) INTEGRATION BY STATE.—As a condition of receipt of funds under this title, a State shall provide assurances to the Secretary that health support services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV/AIDS is enhanced.

"(d) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall provide assurances to the Secretary that services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV is enhanced.

"SEC. 2682. AUDITS.

"(a) IN GENERAL.—For fiscal year 2009, and each subsequent fiscal year, the Secretary may reduce the amounts of grants under this title to a State or political subdivision of a State for a fiscal year if, with respect to such grants for the second preceding fiscal year, the State or subdivision fails to prepare audits in accordance with the procedures of section 7502 of title 31, United States Code. The Secretary shall annually select representative samples of such audits, prepare summaries of the selected audits, and submit the summaries to the Congress.

"(b) POSTING ON THE INTERNET.—All audits that the Secretary receives from the State lead agency under section 2617(b)(4) shall be posted, in their entirety, on the Internet website of the Health Resources and Services Administration.

"SEC. 2683. PUBLIC HEALTH EMERGENCY.

"(a) IN GENERAL.—In an emergency area and during an emergency period, the Secretary shall have the authority to waive such requirements of this title to improve the health and safety of those receiving care under this title and the general public, except that the Secretary may not expend more than 5 percent of the funds allocated under this title for sections 2620 and section 2603(b).

"(b) EMERGENCY AREA AND EMERGENCY PERIOD.—In this section:

"(1) EMERGENCY AREA.—The term 'emergency area' means a geographic area in which there exists—

"(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

"(B) a public health emergency declared by the Secretary pursuant to section 319.

"(2) EMERGENCY PERIOD.—The term 'emergency period' means the period in which there exists—

"(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

"(B) a public health emergency declared by the Secretary pursuant to section 319.

"(c) UNOBLIGATED FUNDS.—If funds under a grant under this section are not expended for an emergency in the fiscal year in which the emergency is declared, such funds shall be returned to the Secretary for reallocation under sections 2603(b) and 2620.

"SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

"None of the funds appropriated under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.

"SEC. 2685. PRIVACY PROTECTIONS.

"(a) IN GENERAL.—The Secretary shall ensure that any information submitted to, or collected by, the Secretary under this title excludes any personally identifiable information.

"(b) DEFINITION.—In this section, the term 'personally identifiable information' has the meaning given such term under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"SEC. 2686. GAO REPORT.

"The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of Federal, State, and local barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing the continuity of care and the provision of prevention services for individuals with HIV/AIDS or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided with such funds increase access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.

"SEC. 2687. DEFINITIONS.

"For purposes of this title:

"(1) AIDS.—The term 'AIDS' means acquired immune deficiency syndrome.

"(2) CO-OCCURRING CONDITIONS.—The term 'co-occurring conditions' means one or more adverse health conditions in an individual with HIV/AIDS, without regard to whether the individual has AIDS and without regard to whether the conditions arise from HIV.

"(3) COUNSELING.—The term 'counseling' means such counseling provided by an individual trained to provide such counseling.

"(4) FAMILY-CENTERED CARE.—The term 'family-centered care' means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV/AIDS.

"(5) FAMILIES WITH HIV/AIDS.—The term 'families with HIV/AIDS' means families in which one or more members have HIV/AIDS.

"(6) HIV.—The term 'HIV' means infection with the human immunodeficiency virus.

"(7) HIV/AIDS.—

"(A) IN GENERAL.—The term 'HIV/AIDS' means HIV, and includes AIDS and any condition arising from AIDS.

"(B) COUNTING OF CASES.—The term 'living cases of HIV/AIDS', with respect to the counting of cases in a geographic area during a period of time, means the sum of—

"(i) the number of living non-AIDS cases of HIV in the area; and

"(ii) the number of living cases of AIDS in the area.

"(C) NON-AIDS CASES.—The term 'non-AIDS', with respect to a case of HIV, means that the individual involved has HIV but does not have AIDS.

"(8) HUMAN IMMUNODEFICIENCY VIRUS.—The term 'human immunodeficiency virus' means the etiologic agent for AIDS.

"(9) OFFICIAL POVERTY LINE.—The term 'official poverty line' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(10) PERSON.—The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(11) STATE.—

"(A) IN GENERAL.—The term 'State' means each of the 50 States, the District of Columbia, and each of the territories.

"(B) TERRITORIES.—The term 'territory' means each of American Samoa, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

"(12) YOUTH WITH HIV.—The term 'youth with HIV' means individuals who are 13 through 24 years old and who have HIV/AIDS.".

TITLE VI—DEMONSTRATION AND TRAINING

SEC. 601. DEMONSTRATION AND TRAINING.

Subpart I of part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended to read as follows:

"Subpart I—Special Projects of National Significance

"SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, C, and D for each fiscal year, the Secretary shall use the greater of $20,000,000 or an amount equal to 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer special projects of national significance to—

"(1) quickly respond to emerging needs of individuals receiving assistance under this title; and

"(2) to fund special programs to develop a standard electronic client information data system to improve the ability of grantees under this title to report client-level data to the Secretary.

"(b) GRANTS.—The Secretary shall award grants under subsection (a) to entities eligible for funding under parts A, B, C, and D based on—

"(1) whether the funding will promote obtaining client level data as it relates to the creation of a severity of need index under section 2618(a)(2)(E), including funds to facilitate the purchase and enhance the utilization of qualified health information technology systems;

"(2) demonstrated ability to create and maintain a qualified health information technology system;

"(3) the potential replicability of the proposed activity in other similar localities or nationally;

"(4) the demonstrated reliability of the proposed qualified health information technology system across a variety of providers, geographic regions, and clients; and

"(5) the demonstrated ability to maintain a safe and secure qualified health information system; or

"(6) newly emerging needs of individuals receiving assistance under this title.

"(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

"(d) PRIVACY PROTECTION.—The Secretary may not make a grant under this section for the development of a qualified health information technology system unless the applicant provides assurances to the Secretary that the system will, at a minimum, comply with the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(e) REPLICATION.—The Secretary shall make information concerning successful models or programs developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance for grantees funded under this part.".

SEC. 602. AIDS EDUCATION AND TRAINING CENTERS.

(a) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and Native Americans" after "minority individuals"; and

(B) by striking "and" at the end;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or C co-infected individuals.".

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SCHOOLS, CENTERS, AND DENTAL PROGRAMS.—Section 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–111(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (a), there is authorized to be appropriated $34,700,000 for each of the fiscal years 2007 through 2011.

"(2) DENTAL SCHOOLS.—For the purpose of awarding grants under subsection (b), there is authorized to be appropriated $13,000,000 for each of the fiscal years 2007 through 2011.".

SEC. 603. CODIFICATION OF MINORITY AIDS INITIATIVE.

Part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended by adding at the end the following:

"Subpart III—Minority AIDS Initiative

"SEC. 2693. MINORITY AIDS INITIATIVE.

"(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are authorized to be appropriated $131,200,000 for fiscal year 2007, $135,100,000 for fiscal year 2008, $139,100,000 for fiscal year 2009, $143,200,000 for fiscal year 2010, and $147,500,000 for fiscal year 2011.

"(b) CERTAIN ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the purpose described in subsection (a), the Secretary shall provide for—

"(A) emergency assistance under part A;

"(B) care grants under part B;

"(C) early intervention services under part C;

"(D) services through projects for HIV-related care under part D; and

"(E) activities through education and training centers under section 2692.

"(2) ALLOCATIONS AMONG ACTIVITIES.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

"(A) For competitive, supplemental grants to improve HIV-related health outcomes to reduce existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

"(i) For fiscal year 2007, $43,800,000.

"(ii) For fiscal year 2008, $45,400,000.

"(iii) For fiscal year 2009, $47,100,000.

"(iv) For fiscal year 2010, $48,800,000.

"(v) For fiscal year 2011, $50,700,000.

"(B) For competitive grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to treatment through the program under section 2616 for therapeutics, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

"(i) For fiscal year 2007, $7,000,000.

"(ii) For fiscal year 2008, $7,300,000.

"(iii) For fiscal year 2009, $7,500,000.

"(iv) For fiscal year 2010, $7,800,000.

"(v) For fiscal year 2011, $8,100,000.

"(C) For planning grants, capacity-building grants, and services grants to health care providers who have a history of providing culturally and linguistically appropriate care and services to racial and ethnic minorities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

"(i) For fiscal year 2007, $53,400,000.

"(ii) For fiscal year 2008, $55,400,000.

"(iii) For fiscal year 2009, $57,400,000.

"(iv) For fiscal year 2010, $59,500,000.

"(v) For fiscal year 2011, $61,800,000.

"(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV disease for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve $18,500,000 for each of the fiscal years 2007 through 2011.

"(E) For increasing the training capacity of centers to expand the number of health care professionals with treatment expertise and knowledge about the most appropriate standards of HIV disease-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV disease, the Secretary shall, of the amount appropriated under subsection (a), reserve $8,500,000 for each of the fiscal years 2007 through 2011.

"(c) CONSISTENCY WITH PRIOR PROGRAM.—With respect to the purpose described in subsection (a), the Secretary shall carry out this section consistent with the activities carried out under this title by the Secretary pursuant to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116).".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. HEPATITIS; USE OF FUNDS.

Section 2667 of the Public Health Service Act (42 U.S.C. 300ff-67) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) shall provide information on the transmission and prevention of hepatitis A, B, and C, including education about the availability of hepatitis A and B vaccines and assisting patients in identifying vaccination sites.".

SEC. 702. CERTAIN REFERENCES.

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is amended—

(1) by striking "acquired immune deficiency syndrome" each place such term appears, other than in section 2687(1) (as added by section 501 of this Act), and inserting "AIDS";

(2) by striking "such syndrome" and inserting "AIDS"; and

(3) by striking "HIV disease" each place such term appears and inserting "HIV/AIDS".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006, because I believe that we must reform the unacceptable status quo for the benefit of those suffering from HIV/AIDS across our great Nation.

As my colleagues are aware, the Ryan White CARE Act was first authorized in 1990 and was reauthorized in 1996 and 2000. And although the legislative authority expired on September 30, 2005, the program continues to operate at its current funding level.

The outcomes and treatments for HIV and AIDS have changed over the years, and so have the needs of those who suffer from the disease. For example, persons with HIV now live longer due to advances in drug therapies.

However, many patients are on waiting lists for these life-saving drugs, because Ryan White funds are being spent on nonmedical services. Those include services not covered for Medicare or Medicaid beneficiaries, including buddy and companion services, dog walking, therapeutic touching, and housing assistance.

Dog walking? Therapeutic touching? Is this what the Federal Government really wants to pay for? The Ryan White CARE Act program is designed to provide needed medical services to people suffering from HIV/AIDS. If we do not pass this bill, the status quo will remain.

The AIDS Drug Assistance Program, ADAP, provides needed life-saving therapies to those suffering from HIV/AIDS. These are crucial medications that extend and prolong life.

Next year, funds to supplement States' ADAP spending will be used for hold-harmless payments based on an old, inaccurate case count. Patients will not receive needed drug therapies if the status quo remains. Currently, there is a 50 percent difference in funding for AIDS cases for some areas of the country over other areas due to outdated formulas.

Some States cannot find enough doctors to write prescriptions for needed medications, while others are paying for buddy and companion services. If we do not pass this legislation, the status quo will remain.

Mr. Speaker, the status quo to me is unacceptable, and I think it is unacceptable to the taxpayers, and it is unacceptable to those suffering from AIDS/HIV.

Mr. Speaker, I urge my colleagues to support this needed and timely legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is with great regret that I rise in opposition to this bill. Unlike previous reauthorizations of the Ryan White CARE Act, I believe the legislation before us has the potential to do great harm to systems of care around the country and place HIV/AIDS patients at risk.

In my home State of New Jersey, for example, we have tremendous need for CARE Act dollars. We have the highest proportion of cumulative AIDS cases in women. We rank third in cumulative pediatric AIDS cases, and fifth in overall cumulative AIDS cases. In the early days of this epidemic when the Federal Government refused to help, New Jersey stepped forward and did the right thing.

Ever since then, we have remained at the forefront of this battle working hard to provide the medical and support services HIV/AIDS patients need to live longer.

But that will all change if this bill is enacted. This bill will punish States like New Jersey for keeping people alive and preventing new infections. It sets up a very perverse disincentive. It says to States: you will be penalized for doing a good job. This is not the message that Washington should be sending back home.

Mr. Speaker, there are a number of reasons why this bill is flawed. The most obvious is that it is woefully underfunded. As a result, it sets up a vicious system of winners and losers. This bill pits AIDS against HIV, urban centers against rural communities. This is not how you treat a public health emergency.

If Republicans would stop draining the Treasury to help pay for the tax cuts, we would have the resources necessary to adequately address this epidemic. Ultimately this bill is flawed, Mr. Speaker. It has no business being considered in the waning days of the session on this Suspension Calendar.

Mr. Speaker, it needs to be fixed so that every State has the resources to treat their HIV/AIDS patients. I urge my colleagues to oppose this bill. Instead, let's pass a temporary reauthorization that holds every State harmless so that we can work out these problems.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Mrs. BONO), the original sponsor of this legislation.

Mrs. BONO. Mr. Speaker, I rise today in strong support of the Ryan White HIV/AIDS Treatment Modernization Act. Its consideration on the floor today is testament to the bipartisan nature of this legislation.

HIV/AIDS is a disease that has virtually touched all of us in all parts of our great Nation. Since its inception, the purpose of the Ryan White CARE Act has been to provide care.

As we discuss this specifics of this legislation, and the more technical aspects of the funding formulas, it is my hope that each of us will bear in mind the true purpose of this legislation. It is critical that we recognize the significant steps that have been made towards ensuring that the funding we are providing here today is going to real people to meet very real and very imminent needs.

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In bringing together systems of care from across the Nation, significant compromises have been made, and I assure you that they have been made in the interest of providing care to the individuals who need it the most. Every attempt has been made to ensure that funds are directed to areas of greatest need and are balanced by provisions that limit the loss of funds for jurisdictions.

I believe that none of us want to reduce funding for HIV services in any jurisdictions, but I ask you to consider carefully the existing disparities in funding and services, to bear in mind our solemn duty to serve people with HIV regardless of where they live and to support the effort of the Modernization Act to address those disparities.

In California's 45th district, I have had the opportunity to work closely with an exceptional provider of this care, the Desert AIDS Project. It has been my privilege to see firsthand what caring and dedicated people do with the funds and framework that have been provided in the Ryan White CARE Act. Their input throughout this process has been invaluable to me, and their work has been and continues to be inspiring. I would like to express my personal thanks to the great people of the Desert AIDS Project.

I would also like to express my deep appreciation to Chairman BARTON, Chairman DEAL and Ranking Member DINGELL for bringing this bill to the floor today.

This reauthorization has been the product of bipartisan and bicameral efforts. I would like to thank the committee staff who have dedicated so much time to this effort from both sides of the Capitol and from both sides of the aisle: Melissa Bartlett, John Ford, Shana Christrup and Connie Garner. And, finally, I would like to thank my personal staff, both past, Katherine Martin, and present, Taryn Nader, for their hard work and tireless efforts on behalf of the Ryan White CARE Act.

The goal of each Member of this body is to serve their constituencies and all citizens of this great country by passing legislation that meets the needs of our citizens. The CARE Act has for 16 years been a cornerstone of the care, treatment and support services necessary for the lives of people living with HIV and AIDS. It is vitally important to maintain its support and modernize its approach to ensure it continues to sustain the lives of people with HIV and AIDS.

I ask my colleagues for their support, Mr. Speaker.

Mr. PALLONE. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), who has been a leader on this Ryan White CARE Act from the very beginning.

Mr. WAXMAN. Mr. Speaker, I rise in very reluctant opposition to this Ryan White HIV/AIDS Treatment Modernization Act of 2006.

I was the original sponsor of the legislation, and I have been a long-time supporter of it, but I think we find ourselves in a tragic situation today because the basis of the problem is that the population of those needing services has grown, but the funds for the Ryan White program have not grown with it. This program is chronically underfunded.

Well, that means if we want to give to some people who are very deserving, we are going to have to take it from others who are very deserving. This should not be the choice of the body in Congress today.

I recognize that a failure to pass the legislation could put many States, like my own, that have been collecting HIV data by code, at a severe risk of a loss of funding. Obviously, this is a situation in which we wish we would not find ourselves in, but if we adopt this bill we are agreeing to a long-term system that does not treat fairly States which must now begin to implement a whole new system for finding and reporting persons with HIV.

The bill favors States and cities that collected HIV data by name over those that collected it by code; and, as a result, many areas of the country will see drastic losses of funding. This is unfair.

Large and diverse code-based States, like California, would have to start from scratch, converting their approximately 40,000 code-based cases of HIV to names, and under California law, these cases cannot simply be retallied under a new names-based system. The State would have to contact 40,000 individuals. I do not think California will be able to get all of those individuals entered into the names-based system in 3 years.

So I cannot support legislation that would take critical dollars away from California simply because its data system is incomplete. We will have the same number of persons with HIV needing services. They should not lose needed services because of an unrealistic data requirement.

I wish I could support this bill. I would support it if this problem could be addressed, and I am hopeful that when this bill gets to the Senate and there are further deliberations we can get a better bill. I do not want to see no bill pass, particularly with the threat that we are hearing from the administration that they are going to penalize the code-based States, but I do not want to vote for a bill that I do not think is a good enough bill.

The Ryan White program has had a long history of broad bipartisan support. It did not pit interests of one area of the country against another. It did not ask cities and States to give up critical funds to treat people in their areas. Ultimately, we must find the will to direct the necessary dollars to this problem. The people who continue to suffer from this epidemic deserve no less.

Mr. Speaker, I have to be reluctant and vote "no" and hope that we can get a better bill when this legislation passes the House and there are further deliberations with the Senate.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that I be given control of the time on the majority side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 14½ minutes remaining, and the gentleman from New Jersey (Mr. PALLONE) has 14 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. This legislation was introduced by Congresswoman BONO. It is the product of a year of bipartisan, bicameral negotiations. The bill reauthorizes and reforms the Ryan White program, the Federal Government's largest discretionary grant program specifically designed for people with HIV/AIDS.

We know that HIV/AIDS disproportionately affects people in poverty and racial/ethnic populations who are underserved by health care and prevention systems. We know that the most likely users of Ryan White services are persons with no or limited sources of health care. We know that Ryan White services keeps these people out of hospitals, increases their access to health care and improves their quality of life.

Here is what we also know about the current Ryan White program. We know that due to outdated, hold-harmless and double-counting provisions in the current law persons are not treated similarly across this country. We know that, under the current formula, there is reportedly a 50 percent increase in funding per AIDS case for some areas of the country over other areas of the country who get no increase or little increase at all. We know that sometimes this huge inequity occurs within the same State. We know that one city in particular is greatly advantaged by an outdated, hold-harmless formula, one that may allow even for deceased persons, someone who is no longer living, counted for current funding purposes. I do not think anyone would think that is right. In fact, I would say that is not right.

The Ryan White program was established to be the payor of last resort for needed medical services for those suffering from HIV/AIDS. Then and now, that is a noble cause and one worth supporting. However, we know that in many States, including my own State of Texas, Ryan White dollars, Federal taxpayer dollars, are being used for nonhealth care services. What kind of services? For example, buddy/companion services, child care services, housing, transportation and many other types of services similar to these are being provided with Ryan White dollars. While some of these services may, arguably, be necessary to get people to health care and keep people in health care, others are misuses of Ryan White dollars under the current formula and need to be fixed.

The use of Ryan White funds for such services should be put into check. We should be asking the question, why are there waiting lists in some parts of the country to get lifesaving drugs? And why in some parts of the country are there no physicians to even write prescriptions for these lifesaving drugs? Again, this is just not right. It is not fair.

The bill before us would begin to right those wrongs. The bill before us would begin to treat people across the country in a fair and equitable fashion so that, no matter where you live, if you are eligible for Ryan White assistance, you will get access to health care, you will get access to treatment, you will get access to drugs.

This bill requires cities, States and providers to start making the right decisions when it comes to how to spend their Ryan White dollars by requiring that they spend at least 75 percent on core medical services. I repeat, they must spend at least 75 percent on core medical services. HIV/AIDS is, first and foremost, a medical condition and providing medical care should be the primary focus of the Federal bill.

I know that the bill is not perfect. I know that there have been significant compromises made by all parties at the table. I know that had any one party decided to write a reauthorization bill the bill would look different than it does today. This bill, though, reflects over a year of intense negotiations by all of the stakeholders. It reflects the input of many stakeholder groups and the Bush administration. The bill advances important consensus policy reforms.

The bill is also coming to this floor at a critical time for the Ryan White program. In just 3 days, again, 3 days from today, current law dictates that many areas of this country, including several large States, will not be able to include their HIV case counts to receive the appropriate Federal funding to provide services to persons in their States.

What does this mean? This means that thousands of HIV persons may have their health care needs put in jeopardy. This means that, under current law, the drug grant program will be reduced by 3 percent to pay for any existing hold harmless. So, at a time when there are people on waiting lists for drugs in some parts of the country, access to drugs in other parts of the country will be hindered, be reduced. These drug dollars will come up short. According to the Department of Health and Human Services, there will be about a $40 million shortfall. Those are real dollars that otherwise would go to help real people. I cannot underscore the urgency of passing this bill today to prevent these cuts.

I want to commend Congresswoman BONO for her leadership in preventing these losses. I also want to thank Congressman DINGELL, Senator KENNEDY and Senator ENZI in the other body for their hard work on this consensus bill to reauthorize the program.

At the staff level, I want to thank John Ford on the minority staff and Melissa Bartlett on the majority staff for their hard work in dedicating themselves during the last several months and the last year to produce the legislation that is before us today.

Finally, I want to thank the Legislative Counsel's office and, in particular, Pete Goodloe. He has worked very, very hard on this.

It is critical that we act today in a positive fashion so that we can prevent the cuts that go into effect 3 days from today.

The bill before us passed the Energy and Commerce Committee on a 38–10 bipartisan vote last week. If it passes this body under suspension, it will go to the other body, and we will work very hard to get it passed over there in the next 2 days. Because it is on suspension, it takes a two-thirds vote, which, if everyone is present and voting, we will need 291 Members to vote in favor of reauthorization of the Ryan White HIV/AIDS Act. I hope we get that vote later this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank my friend from New Jersey for yielding to me; and, first of all, Mr. Speaker, I want to express my extreme displeasure that this bill comes here today on consent calendar, a bill with more than $2 billion in this bill and we have 40 minutes to debate it. This is not a bill that should be under a suspension calendar. This is a bill that should have full and open debate among the Congress with not a 40-minute time limitation.

This is not a consensus bill. This is a contentious bill, and many of us are very, very upset. We are upset about the bill, and we are upset at the manner that this leadership brings this bill to the House floor.

This bill will destabilize established systems and care and will have a devastating effect on the ability of high prevalent communities to address need: and, unfortunately, as home to 17 percent, which is one-sixth of the Nation's AIDS population, New York is just so upset that this bill has come out the way it has. This is profoundly important to our State. That is why all 29 Members of the New York delegation, Democrats and Republicans alike, have signed a letter opposing this bill and pledging to vote against the bill.

New York remains the epicenter of the HIV/AIDS crisis, leading the Nation in both the number of persons living with HIV/AIDS and number of new cases of HIV/AIDS each year.

But what does this bill do? It has been estimated that New York State stands to lose more than $78 million in the first 4 years of the reauthorization. New York City will likely lose $17 million in the first year alone.

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This bill will result in deep cuts in medications and services for people living with HIV/AIDS throughout the State.

It reminds me of homeland security. Sometimes we need to use a little common sense. Homeland security, everyone knows, unfortunately, that New York City remains the number one terrorist target and Washington number two. So what did we have when we had the Department of Homeland Security come up with its budget? They cut New York City by 30 percent and cut Washington by 30 percent. The two biggest terrorist threats. That made no sense at all.

What happens here? New York City remains the epicenter of the AIDS epidemic, and what does this bill do? It cuts $78 million for New York and $17 million for New York City. It is shameful and disgraceful.

And despite what some may say, the HIV/AIDS epidemic has not shifted. It has expanded. One-half of all people living with AIDS reside in five States: New York, New Jersey, Florida, Texas, and California. Three of these States, New York, New Jersey and Florida, will face devastating losses under this reauthorization.

There is no question that other States have mounting epidemics and they are absolutely entitled and deserving of more funding. A good Ryan White bill would have ensured that every State had enough money to meet their needs; that every State would be held harmless; that every State would not be a winner or a loser, but that every State would have the resources needed to combat the scourge of AIDS.

I offered amendments in committee to increase funding for the bill with Mr. TOWNS, Ms. ESHOO, and Mrs. CAPPS. It failed on essentially a party-line vote. So I strongly urge my colleagues to vote against this bill.

Where are our spending priorities? We continue to pass irresponsible tax cuts in a time of war, and yet shortchange cities and states who are just trying to provide lifesaving services. We're truly talking about life and death here, and it is shameful that we are pitting states against each other for scarce funding.

Compounding the funding problem is that a proposed Severity of Need Index, expected to be implemented in this reauthorization may consider state and local resources in determining how much federal funding to grant to states.

This is not the right message to send to NY that has more HIV/AIDS cases than any other state in the nation and spends more of its state dollars on care for HIV/AIDS patients than any other state in the nation. We have always viewed caring for our HIV/AIDS patients as a partnership between the local, state and federal governments. The Severity of Need Index is a powerful disincentive for states and local areas to take action.

It is with great sadness that I will vote against this bill today. But NY needs to make sure that we can keep helping the nearly 110,000 people living in our state with HIV/AIDS. We need to make sure we can keep providing life saving drugs and healthcare services which are preventing the transmission of HIV, preventing the progression from HIV to AIDS and ultimately keeping people from dying. This bill compromises our ability to do this.

This is why Mayor Bloomberg opposes this bill, this is why Gov. Pataki opposes this bill and this is why I must as well. Our nation deserves better than the underlying bill before us and it is a disgrace that this is all it will get.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the chairman for the time.

Mr. Speaker, this bill seeks to offer services by primary care providers for the uninsured and less fortunate individuals. We have to work together to improve the quality and the availability of care for persons living with HIV/AIDS.

In my congressional district of Miami-Dade County, we had the second highest rate of AIDS, major cases of AIDS of all the cities in 2004. And the number of people suffering with HIV/AIDS has reached epidemic proportions, especially within my district with minority communities. There are over 12,000 people living with AIDS in Miami-Dade County and almost 10,000 living with HIV.

We have got to remain vigilant in our efforts to provide for and protect the HIV infected, affected, and at-risk individuals living in this country, especially through prevention and education; and this bill seeks to do that.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Speaker, I thank the gentleman for yielding. This bill, maybe if we changed the name of it, maybe it might help some folks, because this is called the winner-loser bill. Calling it Ryan White is a misnomer. I think that is a shame, that we would move legislation without the opportunity to amend it and to try to make it better and to be able to deal with the States that are getting hurt.

We act as if we are not talking about human beings. New York State would lose $17 million. And, of course, the Governor of the State has said he is against the bill and the mayor of the city indicated that he is against the bill. And every Member of the New York State delegation, New York City delegation has indicated that they are actually against this legislation.

I don't understand why we have to rush this and put this kind of bill on suspension. It seems to me that this is a bill that we would bring up and give people an opportunity to amend it and make it as strong as possible, because we are talking about lives. So the reauthorization does not have to be brought up this kind of way.

And let us be candid. Brooklyn itself would lose approximately $3 million, and that is the epicenter of the disease. So I don't understand why we can't take our time and provide help for the people that truly need help. Of course I am against this bill in every way, and I am hoping that my colleagues understand that we can do a much better job and that we need to do a much better job. What we have to do now is to defeat it and then let us go back and come up with a bill that is going to improve the quality of life for people that need it. I hope the Members of this body will understand that.

These States that are losing, and there are quite a few of them, I think that we would want to do something and do it right on behalf of the people. So I urge my colleagues to vote "no" on this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise in strong support of the Ryan White CARE Act and the great care that it offers for those suffering from HIV/AIDS. But today I reluctantly rise in opposition to this legislation because it contains flawed provisions with harsh and negative effects for New York's Hudson Valley and New York State.

I represent Dutchess County, New York, and the eligible metropolitan area in that county. If this bill is passed, Dutchess County would lose up to 5 percent the first year, and then incrementally more in the second and third year. And by the fourth year, all funds for title I would be eliminated for Dutchess County.

Title I money goes for support and services for people living with HIV/AIDS. The patients benefiting from these services simply will not get their needed medication because the program won't exist. If the funds to Dutchess County disappear, there is absolutely nowhere near where the HIV/AIDS patients would be able to go for support, services, and medication because the entire State is suffering from the cuts for New York that this bill calls for.

This means over 1,600 people in Dutchess County alone will lose out with the passage of the Ryan White CARE Act in its current form. This is unacceptable, and that is why I reluctantly ask that you vote against H.R. 6143 at this time. This legislation should be brought up under regular order so that amendments can be offered.

And while I strongly support the Ryan White Act, the HIV/AIDS problem is a problem that requires resources to fight. While we recognize the need to direct attention to those communities where this is an emerging problem, we must not do so at the cost of the places that need it the most. People in my district and the people of New York need these lifesaving funds. Please don't take away from them. Vote against H.R. 6143.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I am not reluctant to vote against this bill. I voted against it in committee because it is not the right measure we should be approving today. In fact, I supported some of our alternative amendments that were presented by folks on our side of the aisle.

For my community, this is devastating. We see an increase in communities like East Los Angeles, the hub of the Hispanic community in the San Gabriel Valley, that fought over 20 years to combat this disease, yet it continues to be on the rise. Yet you want to take away very important funding and reappropriate it to other parts of the country.

We need to expand the pie. We need to make sure people are covered everywhere. And I am glad to hear from my colleagues that while we know that this is not a good solution, but we are really working toward a deadline of October 1, we should hold off, make some rational decisions, and when we come back in November do the right thing for those afflicted by this disease.

I am very concerned, because a large number of Latinas, almost 20 to 25 percent, are now faced with this disease, and it is through heterosexual relationships. We have yet to understand what the cultural dichotomies are that exist in our communities. We have to understand that, get information tools out there, a campaign to combat this disease, and put all the resources that are necessary there.

I am glad that we were able to get some semblance of these concepts in the bill, but it is still not good enough. Places like Los Angeles and San Francisco and other epicenters that we heard of in New York and Miami, they are affected. Our communities need this funding.

So I just want to say to my colleagues that don't know much about this, because it is on suspension, take a very close look at what is going on in your district. All of my groups, the minority groups that I represent, are saying that they also are urging us to vote "no" on this bill.

The reauthorization of the Ryan White CARE Act has enormous implications for people living with HIV and AIDS, and the communities providing related health services.

The communities I represent in East Los Angeles and the San Gabriel Valley have fought this disease since its onset over 20 years ago.

Los Angeles is an epicenter of the HIV and AIDS epidemic, with between 50,000 and 60,000 persons living with HIV/AIDS.

As the epidemic grows, communities of color are disproportionately at risk.

Although only 14 percent of the U.S. population, Latinos constitute almost 20 percent of the AIDS cases diagnosed since the start of the epidemic.

I am proud of the work that has been accomplished to codify the Minority AIDS Initiative in this reauthorization, a priority of the TriCaucus.

I am pleased that the committee agreed to report language recognizing the importance of language services to persons with limited English proficiency at risk of and living with HIV and AIDS.

However, I cannot support this legislation:

We are being pushed to vote on this legislation because of an arbitrary October 1 deadline.

We could move to extend this deadline and create better, sounder policy, as my good friend Mr. PALLONE has suggested, but instead we are being pushed to vote on legislation that risks too much for the health of too many.

This bill considers language services a support service, when in reality, for many racial and ethnic minorities, language services are necessary to ensure proper HIV/AIDS related health care.

This bill also bases future funding levels on questionable runs and conflicting data.

I believe that, while we need to address the increasing incidence of HIV and AIDS in the south and rural areas, we must do this without risking those communities such as mine which have historically had large populations and which continue to struggle.

The position we are in today is not enviable, but we have the opportunity to work through the needs of our States and communities by rejecting the arbitrary deadlines.

I am rejecting this risky bill and encouraging my colleagues to join with me. Let's give our suffering communities a better policy for a brighter, healthier future.

Mr. BARTON of Texas. Mr. Speaker, may I inquire as to the time remaining.

The SPEAKER pro tempore. The gentleman from Texas has 4½ minutes remaining, and the gentleman from New Jersey has 7 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to put into the RECORD a letter dated September 19, 2006, from the County of Los Angeles signed by Reginald Todd, the Chief Legislative Representative for that county to Congresswoman BONO, where he states strong support of the current bill before us, and I want to read one sentence from this letter:

"The county understands that absent this legislation the Health Resources and Services Administration will count only HIV cases for States with mature named-based HIV reporting systems in allocating Federal fiscal year 2007 Ryan White CARE Act funds. This would have a devastating fiscal impact on California and the County of Los Angeles. The proposed CARE Act reauthorization effectively addresses many of the concerns raised by the County's Board of Supervisors in its August 30, 2006, letter to you."

COUNTY OF LOS ANGELES,
WASHINGTON, DC LEGISLATIVE OFFICE,
Washington, DC, September 19, 2006.

Hon. MARY BONO,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BONO: I am writing to communicate Los Angeles County's support for the Ryan White HIV/AIDS Treatment Modernization Act of 2006, which is due to be marked up by the House Energy and Commerce Committee on September 20, 2006.

This Ryan White CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting system. As you know, this is extremely important for California and Los Angeles County, which is the nation's second-most HIV/AIDS impacted local jurisdiction. The Centers for Disease Control and Prevention (CDC) currently does not count California's HIV cases, as it does not consider the State's name-based HIV reporting system to be mature. While hard work lies ahead for California to fully implement its names-based HIV reporting system, we are confident that this provision in the legislation will adequately protect existing systems of care for its residents who live with HIV and AIDS.

The County understands that, absent this legislation; the Health Resources and Services Administration (HRSA) will count only HIV cases for states with mature name-based HIV reporting systems in allocating Federal Fiscal Year 2007 Ryan White CARE Act funds. This would have a devastating fiscal impact on California and the County. The proposed CARE Act reauthorization legislation effectively addresses many of the concerns raised by the County's Board of Supervisors in its August 30, 2006 letter to you. To further strengthen this legislation, the County encourages you to support efforts to extend the hold harmless provision for a total of 4 years, and a provision that counts HIV cases in states working toward mature HIV surveillance systems in periods when a hold harmless provision is not in effect.

Thank you for your assistance to the County on this important issue.

Sincerely,

REGINALD N. TODD,
Chief Legislative Representative.

What we have before us, Mr. Speaker, is a classic case of a formula funding fight. Those States and those cities that were the epicenter of the AIDS epidemic 10 to 15 years ago benefit greatly from the current formula. However, the AIDS/HIV epidemic is moving. It is actually, luckily, thankfully, declining in some of the areas where it began; but, unfortunately, it is growing in other areas where it wasn't prevalent 10 or 15 years ago.

The proposed legislation reallocates the funds based on HIV cases and AIDS cases. The old formula only counts AIDS cases. The old formula only counts what is called a named-base case. The new formula would allow for, in addition to named-based cases, also what are called code-based cases, where individuals still have to be counted, but they are not collectively sent to HHS.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New Jersey for the time.

Mr. Speaker, I came to this floor really intending to support this bill. But, you know, I am not going to do it. I am not going to support this bill. It is not worth the paper it is written on.

Here we are fighting with each other, people from New York and California and places fighting with people from the South because we have a piece of legislation that is pitting us against each other instead of funding what needs to be funded with HIV and AIDS.

Over 1 million people in the United States have HIV/AIDS. African Americans are only 13 percent of the population, but we account for a half of all the new AIDS cases. African American women represent 71 percent of the new AIDS cases among women, and African American teenagers represent 66 percent of the new AIDS cases among teenagers.

The Congressional Black Caucus has been struggling and working, and I have been working on this for 15 years. We are spending $2 billion a week in Iraq. We only need $1 billion more to fund all of these programs adequately. What are we doing? Let's not play with this. Don't accept this. Don't pit yourself against your friends and your colleagues. Tear it up. It is not worth the paper it is written on. Vote "no" on this bill. Throw it out and let's start all over again next year.

I am with my friends from New York. I support the South. But let's not be scrambling over pennies. People are dying. And don't tell me we don't have the resources to deal with it. Even if you didn't spend $2 billion a week in Afghanistan, in Iraq, we would be able to fund this adequately.

Somebody does not care that Americans are dying. Somebody doesn't give a darn that it is decimating black populations. Let's stop playing the game. Let's stop it today. Stop this bill. Don't think you're so desperate you have to vote for anything in order to get a little something. Throw it out. It's not worth it.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

I appreciate the gentlewoman's passion, but I just want to point out the facts. If we don't pass this bill today, the City of Los Angeles, in 3 days, is going to lose over $4 million, and the State is going to lose over $6 million. The State could lose up to 21 percent of its AIDS funds.

Now, those are the facts.

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Mr. PALLONE. Mr. Speaker, I yield 1½ minutes to my colleague from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. I rise today, Mr. Speaker, in strong opposition to the legislation before us. It reduces vital funding for States that are most heavily impacted.

I absolutely disagree with the Chair. He is wrong when he says that this problem has shifted. The epidemic has expanded. It has not shifted. There are more areas that are involved, and we should be fair to all areas besides New York, California, Florida, Texas and New Jersey. I can't support that idea. If Ryan White resources are to follow the epidemic, they must continue to flow to all jurisdictions, and be increased.

It is irresponsible to take an already inadequate pot of money and cover new areas with it, taking it away from the areas of need. If you don't understand what the need is in those five States that I recognize, I will give you the flat statistics: They are not diminishing in any sense of the imagination whatsoever. I don't know what facts you are looking at.

Under the proposed bill in the House, Mr. Speaker, funding for New Jersey will be cut by $13 million. I looked at the numbers in New Jersey. I have worked on this problem for 15 years. I don't know where this gentleman is coming from when he says that the problem is less in those five States that I mentioned and increased in other areas. It just is not so. It is not true. Sixty thousand of these dollars will go directly to the two counties that I am involved in, a cut of 40 percent in the funding.

I urge you to vote against this proposed legislation. It will hurt all EMA and the States most affected by the devastating effects of HIV.

Mr. BARTON of Texas. Mr. Speaker, I reserve my time.

Mr. PALLONE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think if you have listened to those in opposition to this bill, you recognize that there is not a consensus. One of the things that disturbs me the most today is that this is on the suspension calendar. This does not belong on the suspension calendar because it is obviously a very controversial piece of legislation.

Let me tell you, I heard my colleague from New Jersey (Mr. PASCRELL). I went to one of the centers in my State in my district that treats AIDS and HIV patients, and I want to tell you, people are scared about this. They are very, very concerned that if this legislation passes in its current form that we are just not going to have the funding to deal with the AIDS and HIV cases in my State.

Really, when you have a situation where so many people are worried about the impact this is going to have, and we have clear indication that this is not going to be enough money, this is simply not the way to go.

I have no reason to believe if this bill goes to the other body that it is actually going to end up in something that goes to the President's desk. It is simply a mistake to deal with this on the suspension calendar with all the controversy that exists over it.

Mr. Speaker, again, I want to stress again those of us who are in opposition to this bill, why we feel so strongly about it. The problem is that it is woefully underfunded. No one is suggesting that more money doesn't need to go to other parts of the country, that maybe the formula needs to be changed in some fashion. But the problem is there just isn't enough money to go around. So you have a situation where we are pitting one State against another or even different parts of the State of one State against other. It just isn't right.

My colleagues on this side of the aisle have pointed out over and over again how we are spending money in Iraq, we are spending money on tax cuts. The problem here is the Republicans, those on the other side of the aisle, are not prioritizing funding where it should go. It should go to health care. It should go in this case to not only the AIDS patients but also those with HIV.

The problem is we tried many times in committee to add through various amendments on our side of the aisle amendments that would increase the funding, hold harmless those States and those localities that need this funding under the current formula. Every time we tried to do that we were not successful because of the Republican leadership and the opposition, if you will, to the suggestions that we were making.

I can't stress enough, there is not enough funding in this bill. We really should go back to day one. One of the amendments that I had was simply reauthorize the program the way it is for another year and hold us harmless for a year as we tried to find a solution that would be acceptable to everyone. That did not happen; and, instead, instead of having a normal debate and allowing amendments on the floor in the normal course of procedure, we stand here today with this bill on the suspension calendar.

It shouldn't be here. The consensus doesn't exist. I urge my colleagues to vote against this legislation, and let's bring it back on an occasion when we can actually have a full debate and have amendments.

Mr. Speaker, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will include for the RECORD a list of over 20 organizations that have endorsed the bill, as well as a letter from the AIDS Institute dated September 28, 2006, signed by Dr. Gene Copello.

Mr. Speaker, I want to read from the AIDS Institute endorsement letter that was dated September 28 by Dr. Gene Copello. I won't read the entire letter, but I want to read parts of it.

It says, "Dear Representative: The AIDS Institute," and this is a nonpartisan institute, "urges you to vote 'yes' today on the Ryan White HIV/AIDS Treatment Modernization Act, H.R. 6143.

"While no bill that is crafted through a series of compromises is perfect, the AIDS Institute strongly supports its immediate passage because it would better direct limited resources throughout the country in a more equitable fashion. Additionally, it contains a number of important reforms that seek to update the law to better reflect today's epidemic.

"If the bill is not passed this week, a number of States and the District of Columbia will lose funding, and the important reforms contained in the bill will not be allowed to be implemented for the coming year."

Mr. Speaker, the bill before us is the result of bipartisan, bicameral negotiations over a several year period. It is not perfect, but it is a better bill and better legislation than current law. It more equitably allocates the funds not just for AIDS patients but also for HIV patients.

The States that lose in the new formula are guaranteed 95 percent of their current year funding for 3 years, 95 percent. And then, in the fourth or fifth year, they are allowed to petition through a supplemental fund to make up for these losses under the old baseline formula.

This is a very fair compromise. It begins to treat all States on an equal footing; and it also, for the first time, begins to count HIV cases as well as AIDS cases. It deserves to be supported.

Please vote "yes." We do need a two-thirds vote to pass this, because it is on the suspension calendar. So we need more than a majority vote.

Please vote "yes" on H.R. 6143.

ORGANIZATIONS THAT SUPPORT THE RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT

AbsoluteCare Medical Center.
ADAP Coalition.
AIDS Action Coalition; Huntsville, AL.
AIDS Alabama, Inc.
AIDS Healthcare Foundation.
AIDS Outreach of East Alabama Medical Center.
Alaska Native Tribal Health Consortium.
American Academy of HIV Medicine.
American Dietetic Association.
Am I My Brother's Keeper, Inc.
Brother 2 Brother.
Carepoint Adult, Child and Family.
Catholic Charities Diocese of Fort Worth.
First Ladies Summit.
Harabee Empowerment Center.

HIV Medicine Association.
Latino Coalition.
League of United Latin American Citizens (LULAC).
Log Cabin Republicans.
Lowcountry Infectious Diseases.
Montgomery AIDS Outreach.
National Black Chamber of Commerce.
National Coalition of Pastors Spouses.
National Minority Health Month.
New Black Leadership Coalition.
President's Advisory Council on HIV/AIDS.
Rep. Linda Upmeyer (Iowa State Rep. District 12).
South Alabama Cares.
Southern AIDS Coalition.

THE AIDS INSTITUTE,
September 28, 2006.

Re: Vote "yes" on Ryan White HIV/AIDS Treatment Modernization Act.

DEAR REPRESENTATIVE: The AIDS Institute urges YOU to vote "yes" today on the Ryan White HIV/AIDS Treatment Modernization Act (H.R. 6143). This important bill would reauthorize the Ryan White CARE Act for the next five years. Ryan White CARE Act programs provide lifesaving medical care, drug treatment, and support services to over 535,000 low-income people living with HIV/AIDS throughout the nation. The bill is the result of three long years of work and has been carefully crafted in an unprecedented bi-partisan, bicameral fashion.

While no bill that is crafted through a series of compromises is perfect, The AIDS Institute strongly supports its immediate passage because it would better direct limited resources throughout the country in a more equitable fashion. Additionally, it contains a number of important reforms that seek to update the law to better reflect today's epidemic.

The bill prioritizes medical core services, including medications; takes into account HIV case counts, in addition to AIDS cases; and addresses such issues as co-morbidities, unspent funds, accountability, and coordination of services. While at the same time, the existing title structure and the AIDS service infrastructure together with the social service component of AIDS care and treatment remain.

If the bill is not passed this week, a number of states and the District of Columbia will lose funding, and the important reforms contained in the bill will not be allowed to be implemented for this coming year.

This reauthorization process has been long and divisive for all those involved. Unfortunately, it has pitted HIV/AIDS patients from one part of the country against another. Congress has to do what is best for the entire nation; just not one state or region.

The AIDS Institute urges you to vote "yes" on H.R. 6143.

We thank you for your interest in this legislation, and look forward to working with you to adequately fund Ryan White CARE Act programs to meet the growing domestic need for HIV/AIDS care and treatment. The AIDS Institute is extremely disappointed the bill provides absolutely no increase next year for the nation's AIDS Drug Assistance Programs (ADAPs). We hope you will join us in seeking new additional money for ADAP in FY07 as part of the Labor, HHS Appropriations bill.

Should you have any questions or comments, please feel free to contact me or Carl Schmid, Director Federal Affairs for The AIDS Institute at (202) 462-3042 or cschmid@theaidsinstitute.org.

Sincerely,

DR. A. GENE COPELLO,
Executive Director, The AIDS Institute.

Ms. LEE. Mr. Speaker, I must reluctantly rise in opposition to H.R. 6143.

As the Co-chair of the Congressional Black Caucus Global AIDS Taskforce, I have consistently fought for more funding for our HIV/AIDS programs.

Along with my colleagues in the CBC, we have helped lead efforts to raise awareness about HIV/AIDS in the African American community, and last year the House passed my resolution supporting Black HIV/AIDS Awareness Day.

I have also tried to do my part to encourage wider testing for HIV, introducing several resolutions on the subject, and just yesterday by getting tested with my colleagues in the CBC.

With my colleagues I have also worked to dramatically scale up U.S. foreign assistance on HIV/AIDS, provide the framework for the creation of the Global Fund, and focus assistance on orphans vulnerable to this disease.

Unfortunately today I must stand against this bill because it significantly cuts HIV/AIDS funding in my district in Alameda County. In its current form, this bill will force the consolidation and closure of AIDS service organizations who are on the front lines in fighting this disease.

I do believe there are some strengths to this bill. In particular the inclusion of the Minority AIDS Initiative—an initiative created through the leadership of my colleague MAXINE WATERS, the CBC, and President Clinton—should be applauded.

But without changes to the current formulas, or increased appropriations to fund these programs, I cannot support this bill in its current form.

Mr. LANTOS. Mr. Speaker, I rise in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. I fear that this bill due to be reauthorized last year is now in danger of being rushed through to a vote just before a recess before an election.

The bill, in its current form, does not adequately address the challenge of HIV/AIDS. Because tax cuts for the wealthiest Americans have contributed to extraordinary deficits, we are forced to pinch pennies when it comes to saving the lives of millions of Americans. Rather than provide needed increases for the Ryan White program, this bill reduces funding in larger metropolitan areas and redistributes those funds to rural and suburban areas faced with an increase in the number of HIV/AIDS patients.

I am very concerned that all of those in need receive the necessary and appropriate treatment whether they live in urban, suburban, or rural communities. I firmly believe that the localities facing this increasing challenge should get the funds they need to care for their citizens. However, that should not come at the cost of taking away from cities like San Francisco, which has the highest per capita prevalence of people living with AIDS, and other cities such as Los Angeles, Chicago or New York. Saving our neighbors and loved ones from this epidemic should not come from a policy of robbing Peter to pay Paul.

The Ryan White Act and all of those afflicted by HIV/AIDS needs our attention and our support for additional funds. Shortchanging this program insults its namesake, it insults the millions who have died from AIDS, it insults those who are currently living with it day in and day out, and it insults their families. There are millions of Americans who rely on this program to receive the services they so desperately need to live. I recognize that they are not just from San Francisco or New York, but they are also from Dubuque and Omaha, Charleston and Boise. I do not question the need for services and care. Geography should not determine whether you live or die from AIDS and that is why we should do more than simply shift money around.

Mr. Speaker, I had hoped that we would be able to succeed in passing legislation that would help benefit all the victims of this illness. Instead, a bill may pass today that does not accomplish this goal. Rather it will help some and hurt others, especially I fear in the San Francisco Bay area. I urge my colleagues to take the needed time and bring us a bill we can all support wholeheartedly knowing that it will benefit all Americans with HIV/AIDS.

Mr. NADLER. Mr. Speaker, I rise today in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act is the centerpiece of the federal government's response to the HIV and AIDS epidemic. H.R. 6143 woefully under-funds the HIV/AIDS resources the CARE Act provides; this bill is a deeply flawed shadow of what it could and should be.

The Chairman has argued here today that the epicenter of the AIDS epidemic has shifted, and that the number of AIDS cases is on the wane. Therefore, he says, fewer resources are needed to fight the disease, and those funds can be spread around. I don't know where he gets his figures, Mr. Speaker. The Chairman is flatly wrong.

The fact is that New York State has the most HIV cases and the most AIDS cases of any other state in the nation—almost 17 percent of HIV/AIDS cases nationwide. More than half of people living with HIV in the United States reside in five states—New York, Florida, Texas, California, and New Jersey. The fact is that New York City has the oldest, largest, and most complex HIV/AIDS epidemic in the United States. New York City accounts for one of every six reported AIDS cases in the United States, and each year reports more AIDS cases than Los Angeles, San Francisco, Miami, and Washington, D.C. combined. And the fact is that the number of people who so desperately need the services in this bill has been and continues growing.

But the funding has not. The programs the CARE Act covers have been level funded for years, despite increases in healthcare costs and inflation. And this bill unfortunately continues that trend. Under the flawed funding formula in this bill, three of the highest prevalence states in the nation—New York, Florida, and New Jersey—will lose significant funding. The City of New York predicts a $17.8 million loss in the first year alone, and more losses in each of the remaining 4 years of the reauthorization; New York State anticipates a loss of $118 million over the life of this bill.

This will be unspeakably detrimental to the state's ability to care for the HIV/AIDS population. The reductions in funding will require cost containment measures, including deep cuts in covered drugs and services. In the first year alone, this will translate to the elimination of nutritional, housing, mental health, and transportation services, as well as increased out-of-pocket costs for participants. This will also lead to a major reduction and/or removal of entire classes of drugs from the state's pharmaceutical formularies.

We have a choice. We can go back to the table and negotiate a compromise. My friend from New Jersey, Representative PALLONE, has introduced legislation (H.R. 6191) that would temporarily reauthorize the program for one year to allow Congress to continue working on a bill that would not unfairly reduce funds for any state. Additionally, H.R. 6191 would increase authorized appropriation levels for all titles of the CARE Act so we can get the services and treatment to people who need it while we craft a bill that works. This is the bill we should be voting on today.

Mr. Speaker, my district has been on the frontline of the fight of this epidemic for over 20 years. I know a good approach when I see one, and the bill we are debating on the floor today isn't it. I urge a "no" vote on H.R. 6143.

Mr. McGOVERN. Mr. Speaker, it's hard to believe, but it's been 25 years since the first AIDS case was reported in the United States. Growing from a cluster of cases in Los Angeles in 1981, this disease spread throughout every segment of our society—no one was left untouched, and we were all forced to watch helplessly as AIDS transformed into a worldwide pandemic. In all, there have been 1.6 million cases of HIV infection in the United States including over 26,000 in Massachusetts.

Thanks to research and medical advancements, we began to make great strides in HIV treatment. By 1987, the first antiviral drug was approved by the Food and Drug Administration (FDA), and 3 years later, in 1990, Congress passed the Ryan White CARE Act, which helped to improve the quality and availability of care for persons with HIV/AIDS. Gradually, with adequate care and treatment, those infected with HIV began to live longer, healthier lives.

Today, there are over 1 million people living with HIV/AIDS in the United States, the highest number in the history of this disease. But, with these improvements has come a greater need for the health care services and drug treatment provided by the CARE Act.

Each year, 40,000 people are infected with HIV in the United States. But rather than increasing funding for these programs, Congress has flat funded the CARE Act for a number of years. And unfortunately, the bill that this House is considering today, H.R. 6143, which reauthorizes the Ryan White CARE Act, once again fails to provide the necessary funds to meet the needs of this growing population. Instead, it shifts funds around—robbing Peter to pay Paul—while placing an even greater strain on the program's limited resources. As a result, vital medical and supportive services stand to be severely underfunded without any consideration for the human lives at risk.

A number of amendments were offered in Committee to increase funding for Title I, the Emergency Relief Grant Program, and Title II, the Care Grant Program. But, unfortunately, they were defeated by a largely party-line vote.

And, today, rather than allowing these and other amendments to be brought before the full House for consideration, this Republican-controlled Congress has closed off the process, providing us with only a mere up or down vote on this bill.

For these reasons, I oppose H.R. 6143, and I urge my colleagues to join me in voting no.

Mr. DINGELL. Mr. Speaker, I support H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006, but I also support providing significantly more funding for it. Since 1990, the Ryan White funding has been an integral part of our domestic response to the HIV/AIDS epidemic, helping metropolitan areas, States, and territories pay for essential healthcare services and medications for people living with and affected by HIV/AIDS.

This is another program hurt by the majority's budget priorities. For every millionaire that gets a large tax cut, there are many people with HIV/AIDS not getting the help they need. And this underfunding means that the reforms in this bill hurt some States and cities that have borne the brunt of this crisis.

Nonetheless, the bill before us has many improvements, and is worthy of support at this point even though authorization levels are too low. This bill recognizes the changing demographics of the HIV/AIDS epidemic in our Nation. It expands access, improves quality, and provides additional services to help target healthcare services and other support services to communities throughout our Nation that need them most.

The policy of this bill may be adequate, but it is only a paper promise without sufficient funding. As this bill goes to conference, the majority will have one more chance to recognize the human cost of their budget priorities and properly fund this program.

Ms. PELOSI. Mr. Speaker, 19 years ago, I came to Congress to fight AIDS, a disease that has taken nearly 18,000 lives in my city of San Francisco alone.

We have lost friends, family, and loved ones, but we have not lost our will to fight this terrible disease. This year, we mark the 25th anniversary of the first diagnosis of AIDS—a stark reminder that this epidemic is still among us, and that our work is not done.

Yet as we grieve for those we have lost, we are filled with hope as we see the strength of those who are fighting and living full lives with HIV and AIDS. This would not be possible without the help of the Federal Government through initiatives such as the Ryan White CARE Act. The act has been instrumental in our fight to defeat AIDS. It has greatly improved the quality and availability of health care services for people living with and affected by HIV and AIDS. I was proud to be a part of the creation of the Ryan White CARE Act.

Unfortunately, I must rise in opposition to this reauthorization.

There are a number of good provisions in this bill, including the recognition of emerging communities and the use of actual living AIDS counts rather than estimated living AIDS cases. That change will benefit many communities, including my constituents in San Francisco.

However, when it comes to meeting the needs of people living with AIDS, our mantra should be the same as the physicians who care for all patients: first, do no harm. The primary problem with this legislation is that it fails to provide adequate funding for the treatment of HIV/AIDS patients.

Had this Administration and the Republican-controlled Congress made a priority of funding the Ryan White program over the last several years, I would be standing here in strong support of this bill. But they have not, and I cannot support this bill.

Yet funding in this bill simply won't be able to meet the current demand for HIV/AIDS care in the United States. Under this reauthorization, San Francisco, with the highest per capita caseload of people living with AIDS in the country, stands to lose almost $30 million over the next 5 years.

That is a far cry from the bipartisan consensus we were able to achieve on this issue between 1993 and 2001. During that time, funding—adjusted for both inflation and caseload growth—under the Ryan CARE Act increased by 70 percent.

Since 2001, funding has declined by 35 percent.

The problem is not that one part of the country gets too much money and some other parts of the country are left behind. Instead, people suffering from this disease—and those caring for them—are being forced to compete for pieces of an ever-shrinking pie.

If funding for this Act had simply kept pace with the number of people with AIDS and inflation, my city and all other cities and States would be getting increases in funding instead of grappling with how they can stretch—and where they will have to sacrifice—in meeting the growing demand for services.

In fact, the impact of the cuts will be compounded, because in San Francisco, these funds form the basis for matching funds from the city.

Due in no small part to this Federal, State and local investment, more people are living with HIV and AIDS now than dying from it. That is remarkable.

As the epicenter of the epidemic, San Francisco has experienced terrible loss of life—but from that loss, my city has created a standard of care that has been a model for the Nation.

But our problem has not gone away. There are more people living with AIDS in the San Francisco's area than at any point in the epidemic's history.

This legislation has far-reaching implications for the stability of HIV/AIDS funding in our State and cities. The programs funded by the Ryan White CARE Act have literally been lifesavers for people who live with HIV/AIDS.

It has provided critical support to the cities that have been the center of the epidemic, and to States that have been funding critical drug and support programs to treat the disease. This cut in funding to San Francisco means a loss in services for patients receiving primary medical care, a lack of access to counseling, support, outreach services, transitional and emergency housing and emergency payments for health care costs.

Where do these people go? What do we tell them when their ability to receive support to fight HIV/AIDS is cut off?

In prior reauthorizations of the Ryan White CARE Act, the changes that have been made were made at the margins in order to deal with emerging problems and developments; these changes did not, however, disrupt an initiative that was working.

Unlike those past reauthorizations, this bill would have a drastic destabilizing effect on many of the hardest-hit areas of the country, including California.

A basic goal of this reauthorization must be to ensure that the actions we take do not destabilize systems already in place. Unfortunately, the bill fails to meet this goal and jeopardizes the critical funding of areas throughout the country, in general, and the State and cities of California in particular.

In addition, the bill prematurely incorporates HIV reporting into the allocation formula, eliminates the hold harmless provision just when San Francisco and California need it the most, and allows the Administration to devise and implement a whole new funding formula without Congressional approval.

It is for these reasons, I must oppose this bill. And I will submit the entirety of my statement for the record.

The second major problem with this legislation is that there is simply no way to incorporate data on HIV cases into the funding formula on a consistent and comparable basis across jurisdictions. The 2000 reauthorization of the Act included a requirement that HIV cases be incorporated into the funding distribution by no later than 2007. At that time, HIV reporting systems were in various stages of development across the country; although some states and cities had been reporting HIV cases by name since 1985, others had yet to implement an HIV-reporting system at all. Given this landscape, the drafters understood the need to provide sufficient time to allow states and cities to begin collecting HIV cases. At the time, they believed seven years to be adequate for such a transition. As it turns out, it was not.

As HIV reporting systems were developed, variations among these systems across jurisdictions emerged. Some areas reported HIV by the individual's name along with other identifying information. Others, like California, as a means of protecting the individual's confidentiality, opted not to report the person's name at all, and instead included only a unique code identifying the individual. The 2000 reauthorization of the Ryan White Act did not specify which type of reporting system jurisdictions were required to use and nothing in the law prohibited this kind of variation. So long as the Secretary found that the data on HIV cases was "sufficiently accurate and reliable," jurisdictions were free to report cases by name or by code. Thus, whether an area began collecting HIV by name or by code, they were on equally solid ground under the law.

It was not until December 2005, that CDC first gave a clear indication that it would deem only cases reported by name to be "sufficiently accurate and reliable." In a letter to all code-based States, CDC set forth its strong recommendation that those States convert their systems to names-based—it did not, however, establish any sort of legal requirement. At that point, 13 States used some form of a code-based reporting system. In response to CDC's announcement, almost all code-based States began the process of converting their HIV reporting systems to names-based systems.

The reported bill would rely exclusively on names-based HIV and AIDS cases in making funding allocations starting in fiscal year 2011. In order to meet this deadline, and have all of their names-based HIV cases counted for funding purposes, code-based jurisdictions will be required to have completely converted to names-based systems in less than 3 years.

For large and diverse code-based States with several very large cities, like California, this is simply not enough time to make this change. California essentially has to start from scratch. In its code-based system, California currently has approximately 40,000 cases of HIV (non-AIDS). Under California law, these cases cannot simply be re-tallied under the new names-based system. In order to incorporate these cases into the new system, the State must contact each of these 40,000 individuals, and ask them to come in to a testing site to be re-tested. Some of these individuals are homeless. Some are drug-abusers. Many don't speak English. When personnel and resources are already strained, California will simply not be able to get all of these individuals entered into the names-based system in 3 years.

The experience of other large code-based systems provides a sense of the difficulty of this task. New York, for example, converted to a names-based system in 2000 and is now considered by CDC to be mature. However, it is widely acknowledged that New York's current names-based HIV count severely undercounts the true burden of HIV in the State simply because it has not had enough time to find and report all of its HIV cases.

I cannot support legislation that would disadvantage my State and city and take large amounts of dollars away simply because the data system is incomplete. The number of persons with HIV and with need for services remains. They should not lose needed services because of an unrealistic data requirement.

Under the language of the proposal, it is also unclear on what basis the funds will be allocated. GAO and the State of California, both of which have modeled the bill, have quite different case counts for the same State and city. The proposed language says code-based numbers are used to determine funding allocations. HRSA numbers used by GAO in their estimates are not code-based numbers. Those numbers purport to show need—not any scientific way of counting cases and a method which surely varies from jurisdiction to jurisdiction depending on how much the grantee estimated. What assurance is there that the GAO numbers will be used to allocate funds in fiscal year 2007 and the out years? This does not pass the test of good government.

Under the proposed language, the case count used in 2010 and 2011 in making the allocation to San Francisco will be substantially less than the actual number of HIV positive individuals who currently live in San Francisco. That simply is unfair and is not good policy.

Because HIV reporting systems across the country remain in a state of flux, it is critical that this reauthorization protect against severe losses in funding when the bill requires that the funding be based on HIV cases. The most effective way to accomplish this protection is to incorporate a hold-harmless provision for the entire life of the bill. Unfortunately, the current bill protects a jurisdiction's funding for only the first 3 years. This is not enough.

California faces the most drastic cuts at the very time the hold harmless under the bill comes to an end. By California's estimates, the State stands to lose nearly 25 percent of its total Ryan White Care Act funding during the 5th year of the bill alone. Our State simply cannot sustain these kinds of losses.

In year 5, when transition to names-based reporting becomes mandatory, California (and all other jurisdictions moving to names-based reporting) will lose substantially. The amount of loss is difficult to ascertain, because it will depend entirely upon how quickly California and other jurisdictions can transition to names-based reporting.

The elimination of the hold harmless will have a devastating impact on the provision of HIV/AIDS services in San Francisco. The hold harmless was adopted to protect the epicenters of this disease from experiencing drastic reductions in CARE funding from year to year that would disrupt the systems of care in place, and eliminating it now would cause this very consequence. As you may know, the city of San Francisco consistently has invested local funds into the fight against this disease and the care of those living with HIV/AIDS. San Francisco has been conscientiously preparing to absorb cuts as a result of the eventual loss of the hold harmless, but the more than one-third cut in funding proposed is punitive and will eliminate critical care for thousands of people living with HIV/AIDS.

Finally, I cannot support the bill's inclusion of the so-called "severity of need index" (SONI). The bill requires the Secretary to develop a SONI to measure the relative needs of individuals living with HIV/AIDS, but fails to specify the factors that should be incorporated into this index, leaving it entirely up to the Secretary. Further, the bill then permits the Secretary to completely discard the current funding formula and distribute funding on the basis of this SONI beginning as early as FY 2011 without Congressional action. This is unacceptable. Congress—not the Administration—should be solely responsible for making such a drastic shift in the way funds are distributed under the Act.

Mr. GENE GREEN of Texas. I rise in support of this legislation to reauthorize the Ryan White CARE Act. Initially enacted in 1990, the Ryan White CARE Act provides critical medical treatment to individuals living with HIV and AIDS. The Ryan White program is essentially a payer of last resort and specifically targets uninsured and medically underserved individuals living with HIV and AIDS.

In my community in Harris County, our Hospital District utilizes more than $26 million each year to coordinate essential health care and support services for more than 21,000 individuals in our community living with HIV and AIDS. The importance of this program cannot be overestimated; without CARE Act funds, many Americans living with HIV and AIDS would have no other source for treatment.

This reauthorization bill includes an important change in the criteria used to formulate funding under the Ryan White program. Thus far, funding was determined based on a grantee's estimated number of living AIDS cases, with a jurisdiction's number of HIV cases not included in funding determinations.

As the HIV/AIDS epidemic has shifted geographically, our funding formulas must change to meet increased need for care in certain areas. Southern States and rural areas are seeing higher numbers of individuals with HIV, for whom treatment is necessary. I wholeheartedly support the use of HIV counts in CARE Act funding formulas to provide these areas with the support they need to develop appropriate systems of care. However, it is important that the funding formula recognize that urban areas—particularly those in New York—continue to be the epicenter of the AIDS epidemic. Unfortunately, this bill does not provide the necessary assurances that communities with a high prevalence of HIV/AIDS will have the resources to maintain their systems of care.

In this kind of formula fight, the battle lines are drawn geographically rather than ideologically. I appreciate the work of Chairman BARTON, Ranking Member DINGELL, and their staffs, who worked tirelessly for more than 6 months to develop a bi-partisan, consensus bill that sought to address great need in every area of this country. Nevertheless, in this type of bill there are always winners and losers. This bill contains more winners than losers, and my State of Texas comes out a winner, relatively speaking. For that reason, I am happy to support this legislation and encourage my colleagues to do the same.

Mr. CROWLEY. Mr. Speaker, I rise in opposition to the Ryan White HIV/AIDS Treatment Modernization Act of 2006.

Today as we debate the Ryan White HIV/AIDS Treatment Modernization Act of 2006 we must take into account one fact. The fact is that New York is the epicenter of the HIV/AIDS epidemic, and while New York has the highest prevalence of HIV/AIDS in the country, they have made the most progress in battling this disease.

Now, in a normal situation, New York would be rewarded with more funds to battle this epidemic, and be set as an example for the rest of the country, however under this bill they would not be. In fact, the opposite would occur. Under the current proposal, New York City would lose a whopping $17 million the first year, and New York State would lose an estimated total of $78 million over the course of the 4 years of the reauthorization.

My district, in New York has one of the highest prevalence of HIV/AIDS in all of New York City. This bill would take precious funds away from individuals in my districts, as well as New York State, California, New Jersey, and Florida and other states that are on the front line of this fight.

To add insult to injury, the Republican Congress refuses to give this bill the due diligence it deserves. Instead they are debating this bill under Suspension of the rules, with no opportunity for Members to offer amendments and a short debate schedule.

This is unacceptable for New York, this is unacceptable for New Jersey, this is unacceptable for Florida, and most importantly this is unacceptable for the millions of people who will have to suffer as a result.

I urge my colleagues to vote "no" on this legislation. Instead let's continue to negotiate so New York, New Jersey, Florida and other states that stand to lose millions can be spared.

Mr. SOUDER. Mr. Speaker, as the nation's largest AIDS-specific care program, the Ryan White CARE Act plays a critical role in providing HIV/AIDS treatment and support equally to all U.S. citizens needing such medical care. Ryan White, as many of you know, was a fellow Hoosier and a heroic young man and this program that so many depend upon to stay health and alive is a great tribute to him.

Currently, the federal government is funding wasteful and unnecessary programs that would otherwise be held in check if this reauthorization had already been law. This bill would require that 75 percent of CARE Act funds be spent on primary medical care and medication. This is important because in the past, funds were misspent on unnecessary and dubious programs while thousands living with HIV were on waiting lists for AIDS medications.

Let me give a recent example of government waste that would have been better spent treating those with HIV but without access to treatment.

According to the Department of Health and Human Services, $405,000 in federal funds was provided this month to the National Minority AIDS Council for its annual U.S. Conference on AIDS. Held at a beachside resort in Hollywood, Florida, the conference featured a "sizzling" fashion show, beach party, and "Latin Fiesta." Indirect costs are not yet available from HHS regarding the cost of sending 67 employees from the Centers for Disease Control and Prevention, 5 employees from the National Institutes of Health (NIH), and one NIH contractor.

While such spending strikes one as strange, the examples don't end there. The New York Times reported that New York was paying for dog walking and candle-lit dinners with AIDS funds, while other areas of the country do not even have sufficient funds to pay for medications for those living with HIV. Hot lunches, haircuts, art classes, and even tickets to Broadway shows were financed by federal funding.

Indeed, although the federal government spends over $21 billion on HIV/AIDS annually, up to a staggering 59 percent of Americans with HIV are not in regular care. This misallocation of funds is great cause for concern and should motivate Members of Congress to respond by supporting the reauthorization of the Ryan White CARE Act. By doing so, greater oversight in funding would be provided.

The reauthorization of this act would prioritize medical care and treatment over less essential services and programs. I ask my colleagues to support this reauthorization.

Ms. ESHOO. Mr. Speaker, when Congress passed the Ryan White CARE Act in 1990, we sent hope to millions of Americans who were living under a death sentence that came with a diagnosis of HIV or AIDS. In large part because of Ryan White, outcomes have dramatically improved.

This bill fails to uphold the hopeful tradition of the original legislation because it creates a system of winner and losers in the allocation of federal resources. This major reauthorization of our federal HIV/AIDS policy is also being considered under suspension of the rules, prohibiting Members from offering amendments to address the serious deficiencies in the bill.

Last week, I offered an amendment with several of my colleagues from the California, New York and New Jersey delegations to increase the overall authorization levels in the bill which would helps address the needs of communities more recently affected by the epidemic. Our amendment also extended the hold harmless provisions of the bill by two years to ensure that the historic epicenters of the disease do not experience precipitous declines in funding levels from year to year. Our amendment was defeated by a single vote.

Today we can't offer that amendment or any other. Instead, we're left with a "take it or leave it" proposed that doesn't adequately respond to the real needs of people suffering from HIV and AIDS.

Congress has responsibility to address the imminent crisis facing emerging communities, but we can't abandon the infrastructure of care already in place. By eliminating the hold harmless provision after three years in order to free up funding for emerging communities, some localities will experience sharp funding declines.

The bill also doesn't allow sufficient time for states to transit HIV code-based reporting systems to the more efficient names-based system. Although California is making enormous strides to comply, Governor Schwarzenegger reports that the state will likely miss the 2009 deadline, sustaining a loss of up to $50 million, or 23 percent, of its total funding in FY2011. Such a loss has the potential to derail the entire state's HIV/AIDS care system.

Given my serious concerns about the ability of this bill to preserve current infrastructure of care while extending assistance to areas of the country newly affected by the HIV/AIDS epidemic, and with no opportunity to address these concerns with amendments, I reluctantly oppose this bill.

Mrs. LOWEY. Mr. Speaker, I rise in reluctant opposition to the Ryan White Treatment Modernization Act.

Like many of my colleagues in the New York delegation, I strongly support the Ryan White CARE Act and have supported its reauthorization in the past. These programs provide lifesaving medical care, drug treatment, and support services to over 535,000 low-income people living with HIV/AIDS throughout the nation.

Westchester County, in my congressional district has the highest number of persons living with HIV or AIDS of any New York State county outside of New York City. The services provided under the Ryan White CARE Act literally mean the difference between life and death for my constituents living with this devastating disease.

Unfortunately, the bill before us today will jeopardize these services for my constituents and countless other Americans in states that are at the epicenter of this crisis.

Under this bill, New York State stands to lose more than $78 million over four years.

Despite what some say, the AIDS epidemic has not shifted—it has expanded. It simply makes no sense to pit regions of the country against each other by providing vitally needed services to one region at the expense of another.

My colleagues, rushing a bill through the House that will negatively impact the lives of so many individuals living with HIV and AIDS makes no sense. I am a cosponsor of legislation, H.R. 6191, that would temporarily reauthorize the program for one year to allow Congress to continue to negotiate a compromise that would not unfairly result in drastically reduced funds for any state.

I urge the House leadership to immediately consider H.R. 6191 and urge my colleagues to vote against the bill before us.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 6143, Ryan White HIV/AIDS Treatment Modernization Act of 2006. While I fully support this program and believe we must do everything we can to assist those living with and affected by HIV/AIDS, H.R. 6143 will destabilize established systems of care and will be devastating for New York. While the HIV/AIDS epidemic has expanded, more than ½ of all people living with AIDS in the United States reside in just 5 States: New York, California, Florida, Texas, and New Jersey. Under this bill's flawed formula, 3 of the highest prevalence States, including New York, will lose significant funding. New York City predicts a possible $17.8 million loss in the first year of implementation of this bill and potential increasing losses in each of the remaining 4 years of the reauthorization. In total, New York State expects losses of up to $78 million in the first 4 years of reauthorization. Of course, New York is not opposed to other regions of the country receiving more funding, but it should not be at the expense of New York. Instead, we should increase the authorization of appropriations for the program so that we do not pit states against each other.

I urge my colleagues to vote against this bill so that the Committee can find a compromise that will not result in reduced funds for any one State.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 6143, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PALLONE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT REVISION ACT OF 2006

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2464) to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

The Clerk read as follows:

S. 2464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—The term "Fort McDowell Water Rights Settlement Act" means the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101-628; 104 Stat. 4480).

(2) NATION.—The term "Nation" means the Fort McDowell Yavapai Nation, formerly known as the "Fort McDowell Indian Community".

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CANCELLATION OF REPAYMENT OBLIGATION.

(a) CANCELLATION OF OBLIGATION.—The obligation of the Nation to repay the loan made under section 408(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) EFFECT OF ACT.—

(1) RIGHTS OF NATION UNDER FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) EXCEPTION.—The cancellation of the repayment obligation under subsection (a) shall be considered—

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) ELIGIBILITY FOR SERVICES AND BENEFITS.—Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2464, or the Fort McDowell Indian Community Water Rights Settlement Revision Act, is companion legislation to H.R. 5299, a bill I introduced on May 4 of this year. This legislation codifies an important agreement struck between the Fort McDowell Yavapai Indian Community and the Department of the Interior through the Bureau of Reclamation and will provide a financial savings to both parties involved. The House Resources Committee held a legislative hearing on H.R. 5299 on July 12 of this year, at which time both the tribe and the Bureau of Reclamation expressed their strong support for this bill.

This agreement represents the last step to full implementation of the Fort McDowell Indian Community Water Rights Settlement Act of 1990. The 1990 Act requires the Department of the Interior to comply with all applicable environmental laws throughout implementation of the Act and to bear the cost of mitigation associated with that compliance.

Subsequently, the Secretary removed 227 acres originally included in the settlement as a result of review conducted under the National Environmental Policy Act. The Department of the Interior acknowledges that it has not yet complied with its obligation to provide and develop adequate replacement land for the tribe. The Department currently estimates the cost of developing the 227 acres lost through the NEPA process at $5.6 million.

Mr. Speaker, the agreement before us today provides for the cancellation of the Department's obligation to supply the 227 replacement acres currently estimated at the aforementioned $5.6 million in exchange for the tribe being granted loan forgiveness on a 50-year, no-interest loan extended to the tribe as part of the 1990 Act. The Congressional Budget Office estimates the worth of this 50-year loan at $4 million.

Mr. Speaker, this bill makes sense. It saves the Fort McDowell community money. It saves American taxpayers money. I urge its swift passage.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. PALLONE asked and was given permission to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, S. 2464 will allow the Fort McDowell Yavapai Nation and the Department of the Interior to revise their respective responsibilities under the 1990 Fort McDowell Indian Water Rights Settlement Act in a mutually acceptable way.

I want to indicate that I have been actually at the Fort McDowell Reservation and we support this legislation and have no objection to its consideration on the suspension calendar today.

Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from New Jersey for visiting us in Arizona from time to time. I would also note that President Raphael Bear of the Fort McDowell Yavapai community worked very hard on this, coming to see me personally and giving great testimony here on July 12.

Mr. Speaker, I have no additional speakers, would urge passage of this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the Senate bill, S. 2464.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

□ 1515

RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT AMENDMENT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4545) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Los Angeles County Water Supply Augmentation Demonstration Project, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF LOS ANGELES COUNTY WATER SUPPLY AUGMENTATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 16___. LOS ANGELES COUNTY WATER SUPPLY AUGMENTATION DEMONSTRATION PROJECT.

"(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Los Angeles and San Gabriel Rivers Watershed Council, is authorized to participate in the planning, design, construction, and assessment of a neighborhood demonstration project to—

"(1) demonstrate the potential for infiltration of stormwater runoff to recharge groundwater by retrofitting one or more sites in the Los Angeles area with features designed to reflect state-of-the-art best management practices for water conservation, pollution reduction and treatment, and habitat restoration; and

"(2) through predevelopment and postdevelopment monitoring, assess—

"(A) the potential new water supply yield based on increased infiltration; and

"(B) the value of the new water.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—No Federal funds shall be used for the operation and maintenance of the project described in subsection (a). For purposes of this subsection, pre- and post-development monitoring for not more than 2 years before and after project installation for project assessment purposes shall not be considered operation and maintenance.

"(d) SUNSET OF AUTHORITY.— The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of Public Law 102-575 is amended by inserting after the item relating to section 16___ the following:

"Sec. 16 . Los Angeles County Water Supply Augmentation Demonstration Project".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4545 authorizes the Secretary of the Interior, in cooperation with the Los Angeles and San Gabriel Rivers Watershed Council, to participate in the design, planning, and construction of a water recharge demonstration project in Southern California. To meet the needs of future population growth in this arid region, capturing stormwater runoff and recharging groundwater could substantially increase local water supplies.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

We strongly support H.R. 4545, championed by our colleague from Lakewood, California (Ms. LINDA T. SÁNCHEZ). This authorization will authorize Federal financial assistance for a unique water reuse and conservation project in the Los Angeles area. The project will demonstrate that small-scale neighborhood projects can be built to increase local water supplies and reduce urban water pollution. Projects like this can help residents of southern California increase local water supplies and reduce their dependence on imported water from northern California and the Colorado River.

This is an innovative project and a good bill that deserves our support. Again, I want to congratulate my friend, LINDA SÁNCHEZ, for her hard work on this bill.

Mr. HAYWORTH. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I would now yield as much time as she would consume to the gentlewoman who is the sponsor of the bill.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, let me begin by thanking Resources Committee Chairman RICHARD POMBO and Ranking Member NICK RAHALL as well as Water and Power Subcommittee Chairman GEORGE RADANOVICH for recognizing the importance of this bill, H.R. 4545, the Southern California Water Augmentation Study.

I would also like to especially thank my colleague GRACE NAPOLITANO, the ranking member of the Water and Power Subcommittee. She has served in that position with distinction and established herself as an advocate for sound water policy in her home State of California and across the Nation. Representative NAPOLITANO has supported this bill, and she has utilized many efforts in shepherding it through the legislative process.

I became interested in this effort because California and other parts of this country need to move forward on two very important issues: First, we must increase our groundwater drinking supplies, and we can do this by improving the safe infiltration of surface water. And, second, we must reduce urban stormwater runoff that can carry trash and contamination to our beaches and oceans.

The water augmentation study was created to address important economic and scientific questions about water quality and water supply. Simply put, this project is about taking the water that we lose and turning it into water that we can use.

This study will assess the potential of urban stormwater infiltration to augment water supplies. This water augmentation study will determine the benefits, costs, and risks of infiltration. It will help us understand what conditions we need to make infiltration work and assess the potential for larger water supply. At the same time, it will show us how to reduce water pollution and create additional environmental and social benefits.

Mr. Speaker, this bill is designed to make southern California more water self-sufficient and less reliant on imported water from our neighbors in the central and northern parts of our State. I am also very pleased that President Bush has included funding for the water augmentation study in his last three budgets, including this year. This is a bipartisan effort in which there is agreement on the merits of the project throughout our government.

Also, the California staff of the Bureau of Reclamation has been very supportive of this project. In fact, they helped create it in the year 2000, because they see it as helping solve a real problem we face in California and, shall I say, other water-challenged States across the country.

Again, I would like to thank Chairman POMBO and Ranking Member RAHALL, as well as the great staff on the House Resources Committee, and to Representative NAPOLITANO for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

Mr. PALLONE. Mr. Speaker, I have no additional speakers. I would yield back my time.

Mr. HAYWORTH. Likewise, Mr. Speaker, with that note of unanimity, being from a water-challenged State the gentlewoman from California spoke of earlier, I would simply like to say I likewise have no additional speakers.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4545, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the two bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

WOODROW WILSON PRESIDENTIAL LIBRARY AUTHORIZATION ACT

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4846) to authorize a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library, as amended.

The Clerk read as follows:

H.R. 4846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR ESTABLISHMENT OF THE WOODROW WILSON PRESIDENTIAL LIBRARY.

(a) GRANTS AUTHORIZED.—Subject to subsections (b), (c), and (d), the Archivist of the National Archives and Records Administration may make grants to contribute funds for the establishment in Staunton, Virginia, of a library to preserve and make available materials related to the life of President Woodrow Wilson and to provide interpretive and educational services that communicate the meaning of the life of Woodrow Wilson.

(b) LIMITATION.—A grant may be made under subsection (a) only from funds appropriated to the Archivist specifically for that purpose.

(c) CONDITIONS ON GRANTS.—

(1) MATCHING REQUIREMENT.—A grant under subsection (a) may not be made until such time as the entity selected to receive the grant certifies to the Archivist that funds have been raised from non-Federal sources for use to establish the library in an amount equal to at least double the amount of the grant.

(2) RELATION TO OTHER WOODROW WILSON SITES AND MUSEUMS.—The Archivist shall further condition a grant under subsection (a) on the agreement of the grant recipient to operate the resulting library in cooperation with other Federal and non-Federal historic sites, parks, and museums that represent significant locations or events in the life of Woodrow Wilson. Cooperative efforts to promote and interpret the life of Woodrow Wilson may include the use of cooperative agreements, cross references, cross promotion, and shared exhibits.

(d) PROHIBITION OF CONTRIBUTION OF OPERATING FUNDS.—Grant amounts may not be used for the maintenance or operation of the library.

(e) NON-FEDERAL OPERATION.—The Archivist shall have no involvement in the actual operation of the library, except at the request of the non-Federal entity responsible for the operation of the library.

(f) AUTHORITY THROUGH FISCAL YEAR 2011.—The Archivist may not use the authority provided under subsection (a) after September 30, 2011.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I might consume.

Woodrow Wilson was this Nation's 28th President, and today I rise in support of a bill that honors his life and his legacy.

As both a statesman and a scholar, President Wilson was a champion of democracy and freedom. He was a fierce advocate of using diplomacy as a tool for foreign policy, and when he led America to fight against Germany in World War I, he did so saying, "The world must be safe for democracy."

H.R. 4846, as amended, will enable the construction of a Presidential Library and Museum at President Wilson's birthplace in Staunton, Virginia. This facility would provide educational services honoring the ideals and beliefs President Wilson promoted throughout his life, and I urge all Members to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I would yield myself such time as I might consume.

Mr. Speaker, this bill creates, for the first time, a matching grant program administered by the National Archives for the construction of a private Presidential library. I am pleased that the Woodrow Wilson Library Foundation is expanding, and I hope it can develop into a vital research center.

While I fully support the private Presidential libraries and will not oppose this bill, I do, however, want to raise two concerns about this method of funding these libraries.

First, I want us to be clear that we are not establishing a precedent here. Private Presidential libraries have always sought funds from private donors and have been successful in doing so. I do not want passage of this bill to encourage them to turn away from these sources of funding in favor of the Federal Government. The Federal Government simply does not have the resources to support all private Presidential libraries.

Secondly, I have been concerned that this grant would cut into the operating funds of the Archives. The National Archives is the Nation's depository of all valuable and preserved documents and materials created in the course of business conducted by the Federal Government. This is a huge responsibility that must be met with its limited budget.

The bill before us is different from the introduced version, and I want to thank the sponsors of the bill for revising the bill to give the Archivist discretion regarding the provision of the grant. This provision ensures that any grant made to the Woodrow Wilson Library Foundation does not jeopardize any of the Archives' important work because it ensures that any grant to the library must be from funds appropriated specifically for that purpose.

Mr. Speaker, with these expressions of concerns and provisions, I would support this legislation.

I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I would like to yield 4 minutes to the gentleman from the Commonwealth of Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I rise in support of H.R. 4846, the Woodrow Wilson Presidential Library Authorization Act, which will authorize grants from the National Archives for the establishment of a Presidential library to provide educational and interpretive service to honor the life of Woodrow Wilson.

As a statesman, scholar and President, Woodrow Wilson faced economic crisis, democratic decay, and a world war. Presidential historians agree that World War I and President Wilson's leadership radically altered the role of diplomacy as a tool of foreign policy, a policy that established a new path for America's role in promoting democracies throughout the world. So, too, did Wilson's high-minded ideals craft a legacy that shaped the powers and responsibilities of the executive branch in times of war.

Mr. Speaker, as a professor and President of Princeton University, Wilson created a more selective and accountable system for higher education.

By instituting curriculum reform, Wilson revolutionized the roles of teachers and students and quickly made Princeton one of the most renowned universities in the world.

Due to Wilson's legacy at Princeton, I am pleased to have the support of the current Princeton President, Shirley Tilghman, as we establish this library.

H.R. 4846 gives the National Archives the authority to make pass-through grants for the establishment of a Presidential library in Staunton, Virginia, Woodrow Wilson's birthplace, and does not create a new program.

In addition, to ensure that a public-private partnership exits, this legislation mandates that no grant shall be available for the establishment of this library until a private entity has raised at least twice the amount to be allocated by the archives.

Quite frankly, more Federal public-private programs should operate in this manner.

Finally, and to ensure that the Woodrow Wilson Presidential Library is not part of the Presidential library's system, this legislation states that the Federal Government shall have no role or responsibility for the ongoing operation of the library.

I am also pleased to have the support of several other Presidential sites throughout the Commonwealth of Virginia, known as the Birthplace of Presidents, including Monticello, Poplar Forest, Montpelier, Ash-Lawn, and Mount Vernon.

Mr. Speaker, in order to increase the awareness and understanding of the life and principles and accomplishments of the 28th President of the United States, I ask that you join me in voting for this legislation in the 150th anniversary of Woodrow Wilson's birth year.

I would also like to thank the Woodrow Wilson Library Foundation for their help in this cause, including Eric Vettel, Don Wilson, honorary officers, board members, and trustees. I want to thank House leadership for scheduling this bill today, cosponsors, which includes the entire Virginia delegation and the staff of the Government Reform Committee and the Office of Legislative Counsel for their assistance in crafting this bill.

Mr. GOODE. Mr. Speaker, I rise in support of H.R. 4846, which authorizes a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library in Staunton, Virginia.

Thomas Woodrow Wilson was born in Staunton, Virginia on December 28, 1856. He later lived in Charlottesville, Virginia while studying law at the University of Virginia. When elected President of the United States in 1912, Wilson became the eighth person born in Virginia to ascend to the Presidency, more than any other state in the nation.

As President, Wilson promoted numerous social and economic reforms including the Federal Reserve Act of 1913.

H.R. 4846 authorizes a matching grant program to establish the Wilson Library at the President's birthplace in Staunton. I have had the pleasure of visiting the museum there on many occasions and my nephew, Brett, especially enjoyed seeing the fully restored Pierce-Arrow limousine that was used to transport President Wilson from New York to Washington upon his return from France in 1919 after negotiating the Treaty of Versailles.

I commend the gentleman from Virginia, Mr. GOODLATTE, for this legislation and urge my colleagues to support H.R. 4846.

□ 1530

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4846, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4846, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.".

A motion to reconsider was laid on the table.

EXTENDING RELOCATION EXPENSES TEST PROGRAMS FOR FEDERAL EMPLOYEES

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2146) to extend relocation expenses test programs for Federal employees.

The Clerk read as follows:

S. 2146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking "for a period not to exceed 24 months"; and

(2) in subsection (e), by striking "7 years" and inserting "11 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105-264; 112 Stat. 2350).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 2146, which was introduced by Homeland Security and Government Affairs Committee Chairwoman Susan Collins last December.

This legislation would extend the authority for the General Services Administration to conduct relocation expenses test programs for Federal employees for an additional 4 years.

The Customs and Border Patrol agency has long supported this legislation to help them relocate Border Patrol agents in a cost-efficient and timely manner, thereby allowing the transferee to get settled and focused on the new assignment as soon as possible. The capability to efficiently relocate personnel, while simultaneously minimizing costs, would be a significant benefit to the Federal agencies as they continue to recruit and retain a highly skilled workforce.

Mr. Speaker, I would also like to note that the CBO estimates an extension of the pilot program reauthorization would produce savings to the Federal Government of approximately $15 million annually.

It is rare within the Federal personnel world to come across a program that produces a savings for the government and is valued by the workforce.

I urge my colleagues to support S. 2146.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2146. This bill would provide the authority of the General Services Administration to extend pilot programs on the relocation expenses of Federal employees for an additional 4 years. The Federal Government spends more than $800 million each year to relocate its employees, and reducing those expenses has long been a goal of Congress.

Under the pilot program, agencies are given the flexibility to experiment on how to reimburse relocation expenses. Two agencies are currently participating in the pilot program. These agencies generally provide lump-sum payments so employees are not required to keep receipts and then be reimbursed.

This test program has shown promise in reducing relocation expenses so the House should join the Senate in extending this pilot.

I urge my colleagues to support S. 2146.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge Members to support passage of S. 2146, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the Senate bill, S. 2146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF GYNECOLOGIC CANCER AWARENESS MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 473) supporting the goals and ideals of Gynecologic Cancer Awareness Month.

The Clerk read as follows:

H. CON. RES. 473

Whereas the Gynecologic Cancer Foundation marks its 15th anniversary in 2006;

Whereas the Gynecologic Cancer Foundation was founded by the Society of Gynecologic Oncologists in 1991;

Whereas the mission of the Gynecologic Cancer Foundation is to raise awareness about the prevention, early detection, and treatment of reproductive cancers;

Whereas the Gynecologic Cancer Foundation raises funds to support training and research grants;

Whereas over 77,000 American women will be diagnosed with a reproductive cancer in 2006;

Whereas there are screening tests and warning signs for reproductive cancers, and early detection leads to improved survival for all female reproductive cancers;

Whereas gynecologic oncologists are board-certified obstetrician-gynecologists with an additional three to four years in training in the comprehensive care of women with reproductive cancers;

Whereas the Gynecologic Cancer Foundation works with gynecologic oncologists, survivors, and advocates throughout the year to increase knowledge about reproductive cancers, so that these cancers can be prevented or detected at their earliest, most curable stage; and

Whereas September is widely recognized as Gynecologic Cancer Awareness Month: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of Gynecologic Cancer Awareness Month; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe Gynecologic Cancer Awareness Month with appropriate educational programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, research indicates that more than 77,000 women in the United States will be diagnosed with reproductive cancer in 2006. The Gynecologic Cancer Foundation works with oncologists, cancer survivors and advocates so that one day these cancers can be prevented or detected at their earliest stages.

I am pleased to speak on behalf of this resolution honoring the 15th anniversary of the Gynecologic Cancer Foundation as well as this mission to raise awareness about the prevention, early detection, and treatment of reproductive cancers.

I urge all Members to join me in supporting the goals and ideals of Gynecologic Cancer Awareness Month by agreeing to H. Con. Res. 473.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

The mission of the Gynecologic Cancer Foundation is to ensure public awareness, early diagnosis, and proper treatment of gynecologic cancer preventions and to support research and training related to gynecologic cancers.

For 15 years, GCF has advanced this mission by increasing public and private funds that aid in the development and implementation of programs to meet these worthy goals.

This year, over 77,000 American women will be diagnosed with a reproductive cancer. In 2002, more than 27,000 women died from some form of gynecologic cancer. GCF works with gynecologic oncologists, survivors, and advocates throughout the year to increase the public's knowledge about reproductive cancers, so that these cancers can be either prevented or detected at their earliest and most curable stage.

September is Gynecologic Cancer Awareness Month, so it is an appropriate time to recognize the efforts of the GCF, gynecologic oncologists, and all those who work to save lives by educating Americans about gynecologic cancers. This is indeed a worthy piece of legislation.

I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, it is with pride I rise today in support of H. Con. Res. 473, supporting the goals and ideals of Gynecologic Cancer Awareness Month and particularly the Gynecologic Cancer Foundation.

This marks the 15th anniversary in 2006 of the Gynecologic Cancer Foundation. It is that foundation that has such a long and proud history of serving women in America through educational programs and to provide up-to-date information on the prevention and early detection and treatment of these reproductive cancers, cancers that will affect over 77,000 American women this year alone.

It was in 1999 that September was first declared Gynecologic Cancer Awareness Month, and each September since then the Gynecologic Cancer Foundation has embarked on an intensive education program to reach women with an important message:

First, get to know your family history. Second, conduct a cancer-risk assessment. Third, ask questions, educate yourself about these deadly cancers. Last, make an appointment for an annual gynecologic cancer screening test.

Mr. Speaker, every 7 minutes a woman is diagnosed with gynecologic cancer. In 2006, over 77,000 women will be diagnosed with gynecologic cancer; and, unfortunately, over 27,000 women will die, many of them because they didn't have early diagnosis. Too many women are dying because of the lack of early diagnosis. Education and early detection are the keys to saving women's lives and reducing this terrible statistic. If diagnosed in the early stages, the 5-year survival rates for these cancers are over 95 percent.

Mr. Speaker, this is an important awareness program. We have done a wonderful job throughout the years as Americans in shedding light on other deadly diseases, including breast cancer; but this remains a silent killer.

I thank the gentleman from Georgia (Mr. WESTMORELAND). I thank the Speaker of the House, and urge passage of this bill.

Mr. WESTMORELAND. Mr. Speaker, I yield to my friend Dr. GINGREY 1 minute.

Mr. GINGREY. Mr. Speaker, I thank my colleague from Georgia for yielding.

I just wanted to come down quickly and support Representative ISSA and H. Con. Res. 473, this resolution regarding gynecologic cancer.

I spent a lot of years in my former life as a practitioner of the specialty of gynecology and obstetrics, and that dreaded fear of the big C-word, cancer, for women, particularly ovarian cancer that is so deadly. That is why it is so important that this resolution be brought forward to the Congress and bring some recognition to this dreaded disease.

Mr. ISSA and I were talking earlier today about ovarian cancer, in particular, and how difficult it is to detect. It is commonly thought you can do a blood test, but it is not a good screening test for ovarian cancer. There are other things that we can do, and we need to make sure that the American public and our colleagues in the Congress are aware of that. It costs money, certainly, but it saves lives.

I wanted to drop in for a few seconds, and I appreciate the gentleman yielding to me, and I urge Members to support this very, very important resolution.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Concurrent Resolution 473, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 473.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF INFANT MORTALITY AWARENESS MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 402) supporting the goals and ideals of Infant Mortality Awareness Month, as amended.

The Clerk read as follows:

H. RES. 402

Whereas infant mortality refers to the death of a baby before it reaches its first birthday;

Whereas the United States ranks 28th among industrialized nations in the rate of infant mortality;

Whereas in the United States, infant mortality increased in 2002 for the first time in more than four decades;

Whereas in 2002 the rate reached 7 deaths per 1,000 live births, which was the first increase since 1958;

Whereas the recent increase is a significant and troubling public health issue, especially for African American families, Native American families, and Hispanic families;

Whereas the infant mortality rate among African American women is more than double that of Caucasian women, according to a report produced by the National Healthy Start Association and by a related group supported by the health department of Allegheny County, in the State of Pennsylvania;

Whereas the Secretary of Health and Human Services has designated 2010 as the year by which certain objectives should be met with respect to the health status of the people of the United States;

Whereas such objectives, known as Healthy People 2010, include an objective regarding a decrease in the rate of infant mortality;

Whereas September 1, 2007, is the beginning of a period of several months during which there will be several national observances that relate to the issue of infant mortality, including the observance of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month; and

Whereas it would be appropriate to observe September 2007 as Infant Mortality Awareness Month: Now, therefore, be it

Resolved, That the House of Representatives supports the goals and ideals of Infant Mortality Awareness Month in order to—

(1) increase national awareness of infant mortality and its contributing factors; and

(2) facilitate activities that will assist local communities in their efforts to meet the objective, as established by the Secretary of Health and Human Service in Healthy People 2010, that the rate of infant mortality in the United States be reduced to a rate of not more than than 4.5 infant deaths per 1,000 births.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 2002 infant mortality rates increased in the United States for the first time in more than four decades. There are approximately seven deaths per every 1,000 live births, and this recent increase is absolutely a troubling development.

The Secretary of Health and Human Services has designated 2010 as a year by which several health objectives should be met, including objectives to decrease infant mortality rates.

Mr. Speaker, the Nation currently observes the month of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month. It is fitting to observe September of 2006 as Infant Mortality Awareness Month, and I urge my colleagues to support House Resolution 402, as amended, to do just that.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the term "infant mortality rate" is given to the number of infant deaths during the first 12 months of life for every 100,000 births. In the United States, infant mortality increased in 2002 for the first time in more than four decades. The rate reached seven deaths per 1,000 live births, which was the first increase since 1958.

American babies are three times more likely to die during their first month of life than children born in Japan, and newborn mortality is 2½ times higher in the United States than in Finland, Iceland, or Norway. Only Latvia, with six deaths per 1,000 live births, has a higher death rate for newborns than the United States, and Latvia is near the bottom of the list of industrialized nations, tied with Hungary, Malta, Poland, and Slovakia with five deaths per 1,000 births.

□ 1545

Newborn death rates are higher among American minorities and disadvantaged groups. For African Americans, the mortality rate is nearly double that of the United States as a whole, with 9.3 deaths per 1,000 births.

The primary causes of infant mortality are premature birth and low birth weight. A common reason for low birth weight infant mortality includes respiratory distress syndrome, which may involve a collapsed lung, low oxygen absorption, and high carbon dioxide level.

All children, regardless of where they are born and regardless of their race or ethnic group, deserve a healthy start in life. Mr. Speaker, I have always been told that if infant mortality rates are high, it means that the quality of life is low. If infant mortality rates are low, then it means that the quality of life is high.

It is pretty obvious, Mr. Speaker, that we need to do more to deal effectively across the board with the quality of life for people in our country, a great Nation, in an effort to make it even greater.

I strongly support this resolution and urge all of my colleagues to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield 3 minutes to my distinguished colleague from Georgia, Dr. GINGREY.

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding. I know I talk slow, but I hope I won't take 3 minutes. But I appreciate the opportunity.

I mentioned just a moment ago that my specialty was gynecology, but there is another part to that, and it is the obstetrical part, the birth and babies part. So it is an honor and a pleasure to be here and to support H. Res. 402; and I want to thank my physician colleague in this House and another OB/GYN, Dr. MIKE BURGESS, Representative BURGESS from Texas, who also practiced OB/GYN for 17 years, for bringing this resolution; and, also, of course, my colleague from Georgia, Representative WESTMORELAND; and my good friend from Chicago, Illinois, Mr. DAVIS.

Mr. DAVIS just said it perfectly. When you lose babies in the first year of life at the rate of 7 per 1,000 live births and we are 28th among industrialized nations and we brag about the fact that we have the greatest health care system in the world, there is something wrong with that picture. And, as he pointed out, it is even worse for African American minorities; and the big problem, of course, is lack of prenatal care. Deaths occur because of Sudden Infant Death Syndrome. We are still struggling to figure out why that occurs, but we clearly know why prematurity occurs, low birth weight babies that Representative DAVIS was talking about, and we can do something about that.

So this resolution is very timely, supporting the goals and ideals of Infant Mortality Awareness Month; and I just want to thank the gentleman for letting me put in my 2 cents worth in regard to this very, very important issue.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Resolution 402, as amended.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING THE 225TH ANNIVERSARY OF THE AMERICAN AND FRENCH VICTORY AT YORKTOWN DURING THE REVOLUTIONARY WAR

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 748) recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War.

The Clerk read as follows:

H. RES. 748

Whereas at Yorktown, Virginia, on October 19, 1781, General George Washington and the American and French armies received the surrender of Lieutenant General Charles Cornwallis and nearly 7,100 British soldiers and sailors, ending nine days of siege operations against the British army;

Whereas the victory at Yorktown concluded the last major battle of the American Revolution, effectively ending the war and securing for the colonies their independence by providing a military conclusion to the political declaration issued five years earlier;

Whereas Virginia, as the largest and most populous of the original 13 colonies and the home of General Washington, Thomas Jefferson, Patrick Henry, Thomas Nelson, Jr., and other leaders of the American Revolution, is blessed with a rich history of noteworthy contributions to the struggle to secure liberty and democracy;

Whereas in 1983 the Virginia General Assembly designated the 19th day of October of each year to be recognized and celebrated as Yorktown Day throughout the Commonwealth of Virginia; and

Whereas the 2006 observance of Yorktown Day celebrates the 225th anniversary of the American and French victory at Yorktown: Now, therefore, be it

Resolved, That the House of Representatives recognizes the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War and reminds the American people of the debt the United States owes to its armed forces and the important role Yorktown and the Commonwealth of Virginia played in securing their liberty.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

On October 19, 1781, Mr. Speaker, Lieutenant General Charles Cornwallis and nearly 7,100 British soldiers surrendered to General George Washington in Yorktown, Virginia. This surrender almost 225 years ago ended the American and French 9-day siege against the British troops, and it signaled the end of the last major battle of the American Revolution.

This day in history also solidified the political declaration of independence made by the colonies 5 years later, and it opened the door to America becoming the democracy our forefathers envisioned.

We are most fortunate to live in this Nation, and I urge all Members to join me in supporting this resolution recognizing the 225th anniversary of the American and French Victory at Yorktown.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Yorktown was established by Virginia's colonial government in 1691 to regulate trade and to collect taxes on both imports and exports for Great Britain. Over time, the waterfront with wharves, docks, storehouses, and businesses developed. On the bluff above the waterfront, stately homes lined Main Street. Taverns and shops were scattered throughout the town. By the early 1700s, Yorktown had emerged as a major Virginia port and economic center.

Today, Yorktown is best known as the site where the British army under General Charles Lord Cornwallis was forced to surrender on October 19, 1781, to General George Washington's combined American and French army. Upon hearing of their defeat, British Prime Minister Frederick Lord North is reputed to have said, "Oh, God, it's all over." And it was. The victory secured independence for the United States and significantly changed the course of world history.

H. Res. 748 recognizes the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War; and I strongly support its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as she may consume to my distinguished colleague from the Commonwealth of Virginia, Mrs. DAVIS.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of my resolution, H. Res. 748, recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War.

I am very proud to represent America's First Congressional District. While next year my district will be host to the 400th anniversary celebration of the founding of Jamestown, this month marks another significant anniversary in our Nation's history: the victory at Yorktown.

It is a privilege every year on October 19 to celebrate Yorktown Day. The Revolution secured independence for the United States and significantly changed the course of world history. The American Revolution took place from Maine to Florida and as far west as Arkansas and Louisiana, but it was Yorktown battlefield that saw the final battle of the American Revolution, with the surrender of General Cornwallis's British army to General George Washington's American-French allied army in October, 1781.

By the end of September, 1781, Washington's army of 17,600 Continental soldiers and French allies had surrounded Cornwallis' 8,300 British, German, and Loyalist troops and laid siege to Yorktown, leading to the surrender of Cornwallis on October 19, 1781. And my colleague from Illinois said it best when he quoted Prime Minister Frederick

Lord North when he said, "Oh, God, it's all over." The allied victory at Yorktown effectively ended the war.

In 1931, Dr. Ray Lyman Wilbur, Secretary of the Interior, commented, "To declare independence is one thing; to achieve it is another. Here it was actually achieved . . . The victory at Yorktown gave us that independence which the American patriots had boldly proclaimed to the world."

Mr. Speaker, it is that independence that we so cherish and enjoy here in the United States of America today. It is our freedoms that our wonderful men and women in the military continue to fight for today, and it started back in 1781 with the victory at Yorktown.

Mr. Speaker, with that, I urge all of my colleagues to support this resolution honoring a significant historical event in our Nation's history.

Mr. WESTMORELAND. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 748.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 222) supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day, as amended.

The Clerk read as follows:

H. CON. RES. 222

Whereas each year, approximately one million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby;

Whereas it is a great tragedy to lose the life of a child;

Whereas even the shortest lives are still valuable, and the grief of those who mourn the loss of these lives should not be trivialized;

Whereas during the past 3 years, Governors of all 50 States have signed proclamations designating October 15 as Pregnancy and Infant Loss Remembrance Day;

Whereas the legislatures of the States of Arkansas, Kansas, Kentucky, Louisiana, Missouri, New York, Rhode Island, and South Dakota have passed concurrent resolutions recognizing October 15th of each year as Pregnancy and Infant Loss Remembrance Day;

Whereas the observance of Pregnancy and Infant Loss Remembrance Day may provide validation to those who have suffered a loss through miscarriage, stillbirth, or other complications;

Whereas recognizing Pregnancy and Infant Loss Remembrance Day would enable the people of the United States to consider how, as individuals and communities, they can meet the needs of bereaved mothers, fathers, and family members, and work to prevent the causes of these deaths; and

Whereas October 15th of each year is an appropriate day to observe National Pregnancy and Infant Loss Remembrance Day: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is an enormous tragedy to lose the life of a child, and it is a sad statistic that each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby.

As this resolution states, even the shortest of lives are of great value, and the grief of the parents who lose their children cannot be underestimated. The Governors of all 50 States have joined together in designating October 15, 2006, as Pregnancy and Infant Loss Remembrance Day; and I hope all Members will join me in supporting the goals and ideal of this day as well.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when any baby or child dies, there is deep grief for the hopes, dreams, and wishes that will never be. Left behind are a sense of loss and a need for understanding.

Every year, many lives are touched by miscarriage or the death of an infant or child. According to a 1996 study by the Center for Disease Control, 16 percent of the more than 6 million pregnancies that year ended in either a miscarriage or a stillbirth, and 26,784 births ended in infant death.

Pregnancy and Infant Loss Day, which will be held on October 15, will assist in bringing the process of healing to families and will help to heal families who are coping with and recovering from a miscarriage, stillbirth, or the loss of an infant.

Families will always struggle to cope with the devastating crisis of a miscarriage or loss of an infant child. Parents often cry, feel ill or depressed, or have other emotional responses for months or years after a death. The pain is a normal part of grieving. Parents often want to talk about their pain and are pleased when others take the time to listen. People who come into contact with a grieving family have a role in helping to resolve the family's grief. The role of each person will be determined by his or her relationship with the family and the family's stage of grief. As a community, we should remember that no one can take the pain away from a grieving family. We can, however, provide comfort, sympathy, and understanding.

There will always be the need for compassionate support for grieving families, and I hope that all Americans will take the time on October 15 to show their compassion for families that have experienced the loss of an infant or a child.

I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to my friend and a distinguished member of this House from the State of Iowa (Mr. LATHAM).

□ 1600

Mr. LATHAM. Mr. Speaker, each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth or the death of a newborn baby.

Most Americans are not aware of this startling statistic, because many of those affected grieve in silence, sometimes never coming to terms with their loss.

We can help by giving all parents, grandparents, siblings, relatives and friends a special day of remembrance. In addition, bringing attention to this issue will foster greater understanding in our communities of how to meet the needs of bereaved family members and focus attention on efforts to prevent pregnancy loss and newborn deaths.

The Governors of all 50 States have signed proclamations recognizing October 15 as Pregnancy and Infant Loss Remembrance Day, and the legislatures of at least eight States have passed resolutions recognizing this day each year on a permanent basis.

Congress can bring even greater national awareness to this important issue by proclaiming its support for Pregnancy and Infant Loss Remembrance Day. Taking this action will mean something special to millions of

Americans that have been affected, especially the mothers.

I commend the resolution's 54 bipartisan cosponsors and the many citizens throughout the country and in my home State of Iowa whose efforts have made consideration of this resolution possible

Mr. Speaker, I urge all Members to support the adoption of this resolution which will offer the support to individuals and families who have lost a child through miscarriage, stillbirth or other complications.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me time.

I too want to thank Representative LATHAM for bringing this resolution to the floor and stressing the importance to make people understand that a million babies lost a year, in addition to probably another million or so that are aborted deliberately, is a lot of lost lives.

Mr. Speaker, I think the importance of this resolution is to let people know that when couples have a miscarriage, it is a child. It might be for some people, well, it is just a miscarriage. They were only 6 weeks or they were only 9 weeks, and they did not even know whether it was a boy or girl.

But in the minds of that couple in many instances it is their very first pregnancy, and they are already thinking about that little boy or the little girl and what the name is going to be and the clothes that they are going to pick out and the joys they are going to have sending that child to school and raising it and seeing it play sports and become an adult some day and contribute to our great society.

We tend to forget that. And this was brought home to me pretty vividly recently when my daughter-in-law, pregnant with their first child, found out at 10 weeks that the baby did not have a heartbeat. And so that baby was lost. And she went on, of course, and miscarried. And that loss will be with them forever. And so I think it is just so important for us all to realize that when somebody, when you hear about somebody having a miscarriage, do not think, well, it was just a miscarriage, it is not like losing a child or an older child, which of course I do not know that anything compares to that.

But this is a significant loss. And that is why this resolution today is so important. I thank the gentleman for yielding. I thank Congressman LATHAM for bringing it forward and Congressman DAVIS as well.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I rise today to thank Mr. LATHAM and both the majority and the minority for presenting this resolution today.

I do not talk about a situation that occurred over 22 years ago in my family. Actually it was 22 years, 2 months ago that my wife and I lost our child at 3 months to crib death.

I am sure you have got to believe that 22 years should be able to cover up the pain and the hurt and the scar. But it does not. And though we have been blessed with five healthy children, we will always have that missing spot that that little 3-month-old baby filled.

But I want to thank you for today, and I stand up here today and speak of this matter to represent the men and women who have gone through what my family has gone through, and thank you for this.

If I may leave you with one message: more important than us grieving for our losses of those young ones that have died and are not here today, the best way for us to really remember them is to appreciate and worship and thank God for the blessings of having healthy children and babies that we can take care of.

Because they truly are the best memorial for our babies that we have lost, by preserving and protecting the treasures that God has given us in healthy children.

Mr. PAUL. Mr. Speaker, I am pleased to support H. Con. Res. 222, a resolution commending the goals and ideals of National Pregnancy and Infant Loss Remembrance Day. As a practicing OB/GYN for almost 40 years, I know there are few things more devastating than losing a child to medical complications such as a miscarriage or a stillbirth. Americans should take every opportunity to provide comfort and support to people who have suffered such a grievous loss.

I also wish to pay tribute to the efforts of Mrs. Robyn Bear, who played an instrumental role in bringing this issue before Congress. Mrs. Bear's story is an inspirational example of how a dedicated individual can make something good come from even the most tragic circumstances. After suffering six first trimester miscarriages between 1997 and 1999, Mrs. Bear began working to create a support system for parents who lost their children because of medical complications during or shortly after pregnancy. Largely due to her efforts, Governors of all 50 States have signed proclamations recognizing National Pregnancy and Infant Loss Remembrance Day. Mrs. Bear has also been instrumental in founding several online support groups for families that have suffered the loss of an unborn or newborn child. Mrs. Bear's efforts were also the inspiration for this legislation. I am pleased to let my colleagues know that today Mrs. Bear is the proud mother of a 6-year old girl and 3-year old twins.

In conclusion, Mr. Speaker, I once again urge my colleagues to support this bill. I also extend my thanks to Mrs. Robyn Bear for all her efforts to help parents who have lost a child due to a miscarriage, stillbirth, or other medical complications.

Mr. WESTMORELAND. Mr. Speaker, I have no further speakers. I want to urge all Members to support the adoption of House Concurrent Resolution 222, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 222, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING COLUMBUS NORTHERN LITTLE LEAGUE BASEBALL TEAM ON ITS 2006 LITTLE LEAGUE WORLD SERIES VICTORY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 991) congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The Clerk read as follows:

H. RES. 991

Whereas on Monday, August 28, 2006, the Columbus Northern Little League baseball team from Columbus, Georgia, defeated the Japanese Little League team by a score of 2-1 to win the 2006 Little League World Series Championship at South Williamsport, Pennsylvania;

Whereas, although Columbus Northern had taken 1 loss in the series, they did not give up, and although the Championship game was delayed a day by rain, the Columbus Northern team still kept pressing hard to come from behind to win the Championship game;

Whereas a team from the State of Georgia had not won the world title in more than 20 years;

Whereas the 2006 Columbus Northern Little League World Championship team consists of players Kyle Carter, Brady Hamilton, Matthew Hollis, Matthew Kuhlenberg, Josh Lester, Ryan Lang, Mason Meyers, J.T. Phillips, Kyle Rovig, Patrick Stallings, and Cody Walker;

Whereas the 2006 Columbus Northern Little League World Championship team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lynne Phillips, and President Curt Thompson;

Whereas the championship victory of the Columbus Northern Little League Baseball Team sets an example of sportsmanship, dedication, and a "never give up" spirit for men and women all across the country; and

Whereas the achievement of the Columbus Northern Little League Baseball Team is the cause of enormous pride for the Nation, the State of Georgia, and the city of Columbus: Now, therefore, be it

Resolved, That the House of Representatives congratulates the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to offer House Resolution 991, to congratulate the boys of Columbus Northern of winning the Little League World Series. Thousands upon thousands of kids across the Nation take to the baseball fields each year to enjoy America's pastime.

The best of the best get a chance to compete for the title of U.S. Champion. The team that claims that mantle gets the chance to represent the Nation in the world championship game. This year, the American champions hailed from Columbus in Georgia's Eighth Congressional District.

While all of my colleagues from Georgia are certainly proud that the world champions are from our State, all of the Members of the House can take pride in their significant accomplishment.

Columbus Northern fought hard through the American playoffs. They lost one game, but they did not lose their fighting spirit. They came back with a vengeance and captured the American championship. Then they faced a strong Japanese team in the grand finale in Williamsport, Pennsylvania.

It was a defensive struggle, and pitcher Kyle Carter held the Japanese batters to one run, and catcher Cody Walker provided the winning margin, belting a two-run homer.

The boys of Northern Columbus showed that they are winners not only on the field, but also off the field. They demonstrated sportsmanship and Southern hospitality after the game by going to the Japanese dugout and inviting their opponents to run the victory lap around the field with them.

A historical perspective puts the significance of this victory into better focus. Though this country is the home of baseball, it is not often that the American Little League team hoists the world championship trophy.

Since 1980, only eight U.S. teams have won. I might add here, Mr. Speaker, that two of those teams hailed from Georgia. For Georgia, this victory shows the world that our athletes and coaches are among the best that play the game. The coaches and players of Columbus Northern can take pride in knowing that they have become the symbol of Georgia's athletic prowess.

But even more important than that, the boys of Columbus Northern will have memories to last a lifetime. They have had the extraordinary opportunity to live the dream of every American boy who has ever slipped on a glove or swung a bat.

Mr. Speaker, I urge my colleagues to join me in congratulating Columbus Northern, the American and World Champions, by supporting House Resolution 991.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me congratulate Mr. WESTMORELAND and all of his neighbors and friends and residents of Columbus. I can imagine the tremendous sense of pride that that entire community feels and how proud they are of the accomplishments of their young people.

Mr. Speaker, Little League Baseball is the world's largest organized youth sports program, with nearly 2 million Little Leaguers playing, and more than a million adult volunteers throughout the United States and in dozen of other countries. No other youth support comes close to having the same level of participation.

On August 28, 2006, the Columbus Northern Little League team defeated the Kawaguchi Little League team of Japan by a score of 2–1. Both teams played an excellent game and represented their country and their league well.

In the end, the Columbus Northern Little League team concluded its season with an impressive record of 20 wins and only one loss. Columbus Northern is Georgia's second team to win the Little League World Series.

The 11 young men of the Columbus Northern team should be proud of their great accomplishment. Pitcher Lyle Carter made history by striking out 11 batters and became the first pitcher in history to win four times in the Little League World Series.

Cody Walker knocked a two-out pitch over the right field fence for the two runs that won the game over Japan.

Manager Randy Morris and Coach Richard Carter deserve recognition for guiding these young and committed players to victory.

Mr. Speaker, while we congratulate the Columbus Northern team, and while I urge passage of H. Res. 991, I can tell you there is no better sight to see during spring or summer, when you can see groups of young people out participating in an organized sport with their parents and neighbors and friends watching.

I guarantee you, Mr. Speaker, if we had more Little League teams, we would have fewer young people in juvenile delinquency settings, and our prisons could get emptied down, if not out.

Again I commend the Columbus Northern team and especially all of the coaches and volunteers and people of the community who really made it possible.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I would like to thank my colleague for those kind words and remarks. The gentleman is exactly right about the number of youth that should be playing Little League.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank my colleague. I am sitting here listening to the two gentlemen speak; I am ready to grab my bat and glove and hat and furthermore take me off the streets so I can go out and play ball again.

But they are absolutely right. This is a fantastic achievement from this team from Columbus, Georgia. I am especially proud to share a few moments, because I have part of Columbus in my district. This team is from Representative WESTMORELAND's district, but what a great community Columbus is, Muscogee County, and the great people there. I know they are so proud of this young ball team and the coaches.

Of course we have already mentioned names. I am sure that one of those coaches decided to ask that team from Japan to join in that victory lap. That is the kind of sportsmanship that is developed by these men and women that volunteer their time to work with our youth and achieve such great results.

My colleague from Georgia, Congressman WESTMORELAND, mentioned that we had another team from Georgia. Indeed, back in 1983, and my nurse, I was, of course, in medical practice at the time. Her son was the third baseman on that team.

And he today is a medical doctor, a radiologist. But he was a great little ball player. And I think one of the players on that team was a dominant pitcher just like in this year, that led them to victory. He ultimately was a major league baseball pitcher.

But what happens with most of these kids, of course, is that they go on to other careers, like Adam Olmsted. Ken and Lynn's son is, as I say, a doctor now. And they go on to very successful careers. And it is not often that they go on to become Major League Baseball players.

But the ideals, the sportsmanship, the determination, the relationship they have with their teammates is the thing that they learn, that they take with them through life. And it makes their lives successful no matter what endeavor they pursue.

So we have honored these young players at Georgia Tech halftime, University of Georgia halftime. I want to say to any of them that go on and play college baseball, do not go to Auburn or Alabama just to cross the river. Stay in Columbus, go to LaGrange College, University of Georgia, Bulldogs, Georgia Tech, Kennesaw State University. We have got some great baseball teams in Georgia, and that is where we want them to play.

□ 1615

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to reclaim my time and then to yield such time as he might need and use to another son of Georgia (Mr. BISHOP).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BISHOP of Georgia. Mr. Speaker, I thank my colleague for yielding.

I rise today certainly in support of H. Res. 991, with my other colleagues from Georgia, and with great pride of the 2006 Little League World Champions, the Northern Little League team of Columbus, Georgia.

The victory by our Northern Little Leaguers over the undefeated Kawaguchi City team representing the country of Japan makes them only the second team from Georgia to win a World Championship. While a team from Marietta, Georgia won in 1983, our team is only the second team from Georgia to ever qualify for this event in the entire 60-year history, and we are very proud of that.

As a Member of Congress representing Columbus and Muscogee County, where most of the young men live, I cannot tell you how proud we are of these fine, young men and the character and discipline that they exhibited.

The entire city, the surrounding area, our State and, indeed, people all over the country were thrilled by the success of our young people. The Northern Little League players are not only world champions, they are certainly hometown heroes, and they are celebrities. You should have seen them with the class and dignity as they spoke with the media, as they commended their opponents and as they very dutifully signed the thousands of autographs surrounding the celebration of their victory.

These young men represented the city of Columbus, they represented the State of Georgia, and they represented the United States of America in the finest tradition of Little League and what it stands for and for what it represents: teamwork, sportsmanship, and camaraderie. We are proud of them.

The spirit of sportsmanship was no more apparent than it was this year. After they won the game, and you have heard, the entire Columbus team walked over to the opponents' dugout and beckoned for them to join them in taking the victory lap around the field. It really brought goose bumps and tears to our eyes to see side by side those two teams scoop up dirt from the infield to keep as souvenirs.

I also want to pay tribute to the parents and the coaches of these young men. Any parent of a Little League baseball player, for that matter, football, soccer or other sports, has to know and appreciate the love and the commitment that is needed.

Let me pay tribute to the dedicated fans in Columbus, the hundreds of whom took the 900-mile trip to Williamsport from Columbus to support our team, as well as the other Little League teams in the Columbus area, and the many volunteers, sponsors and supporters who have dedicated themselves to Little League sports year after year.

Throughout the World Series, it was clear that Northern was well-schooled and well-prepared which, in large part, points to the hard work and the dedication of the team's manager, Randy Morris, and coach, Richard Carter.

It was the team itself who had to put it all together on the field, and I would like to pay special tribute to each one of the team members individually, including Brady Hamilton, No. 6; Ryan Lang, No. 18; Josh Lester, No. 4, the most valuable player; Matthew Hollis, No. 10; Patrick Stallings, No. 25; Mason Meyers, No. 16; Kyle Rovig, No. 8; Matthew Kuhlenberg, No. 7; Cody Walker, No. 21; Kyle Carter, No. 19; and J.T. Phillips, No. 22.

Babe Ruth once said that, "Baseball was, is and always will be to me the best game in the world." Indeed, for the millions of Little League fans around the world, the 2006 Little League Championship game will go down as one of the best single games in the history of the event.

We are so proud of our Little Leaguers. Northern Little League, congratulations for a job well done.

Mr. WESTMORELAND. Mr. Speaker, I have no more speakers. I want to urge all Members to support the adoption of H. Res. 991, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 991.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5108) to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the "Lance Corporal Robert A. Martinez Post Office Building".

The Clerk read as follows:

H.R. 5108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, shall be known and designated as the "Lance Corporal Robert A. Martinez Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lance Corporal Robert A. Martinez Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a native Texan, Robert Martinez, known as Robbie, was a young Marine with the 2nd Battalion, 7th Marine Regiment, 1st Marine Division. He was based at the Marine Corps Air Ground and Combat Center in Twentynine Palms, California.

Lance Corporal Martinez was a dedicated soldier who wanted nothing more than to serve his country and make a difference in the world. Upon commencement of his senior year of high school, he had already signed up for the Marines. Two days after his high school graduation, in 2003, he left for basic training.

Before his second deployment, Lance Corporal Martinez was stationed for 7 months in Iraq on the border of Syria. It was late in his second deployment to Iraq in the city of Fallujah when he and nine fellow Marines were killed by an improvised explosive device. The date of this attack was December 1, 2005; and, tragically, he was only weeks from returning home to his family and friends.

In honor of this soldier's great courage and patriotism, which will not be forgotten, I ask all Members to join me in supporting H.R. 5108.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 5108, introduced by Representative TED POE, designates the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the Lance Corporal Robert A. Martinez Post Office Building.

This measure was unanimously reported by the Government Reform Committee on September 21, 2006.

A native of Texas, Robert Martinez was a young Marine serving his second deployment to Iraq where he was killed by an improvised explosive device on December 1, 2005, while conducting combat operations in Fallujah, Iraq.

Mr. Speaker, here is another instance where a young person who had completed one tour of duty, engaged in his second tour, gave the very best and the most that one could possibly give, and that is his life, for the benefit of creating, hopefully, a different and a better world. I can think of no better way to remember him than to have people in his community and in his hometown know of his diligence, of his exploits and of his courage than to name a post office in his honor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

Mr. WESTMORELAND. Mr. Speaker, I yield as much time as he may consume to my good friend and distinguished judge from the sovereign State of Texas (Mr. POE).

Mr. POE. Mr. Speaker, I appreciate the opportunity to speak on this very important bill. I appreciate my friend from Georgia and friend from Illinois for helping sponsor this bill.

Mr. Speaker, we name buildings and monuments and libraries and roads after Presidents and generals, statesmen. But, today, I hope that we name a post office after a young 20-year-old who wore the American military uniform.

Mr. Speaker, the great General Douglas MacArthur during World War II once commented, "I have just returned from visiting the Marines at the front, and there is not a finer organization in the world" than the Marine Corps.

Lance Corporal Robert "Robbie" Alexander Martinez was a member of this fine fighting organization; and, as mentioned, he was killed in December, 2005, while fighting and serving our Nation in Iraq. He volunteered to join the Marines, and he volunteered to go to Iraq.

He was a member of the 2nd Battalion, 7th Marine Regiment, the 1st Marine Division, based at the Marine Air Corps Ground and Combat Center, Twentynine Palms, California.

Lance Corporal Martinez was 20 years of age when he died. He was on his second tour of Iraq, and he had spent 7 months on the Syrian border. He went to Iraq and Fallujah after 2004, and then he and nine other Marines were killed last December when a roadside bomb exploded next to them.

Lance Corporal Martinez was scheduled to come home to Texas within a week of his death, but at the last minute his tour was extended for over a month and a half.

Mr. Speaker, one out of 10 people wearing the United States military uniform are from the State of Texas, and enlistments and volunteers among those with Hispanic surname is extremely high.

Just before his death, Robert Martinez had called his mother and asked her to buy him a diamond ring because he was going to propose to his girlfriend, Taylor Wilkenson, as soon as he got back. He called her his "love at first sight."

He went to a little, small high school, Cleveland High School in Cleveland, Texas, and he graduated there in 2003. While in high school, he was known as the peacemaker. By the time he started his senior year, he had already signed up for the Marine Corps, but they would not take him until he was old enough. His pre-enlistment at the age of 17 would be activated as soon as he graduated from high school.

He was an outstanding baseball pitcher at Cleveland High School and dreamed of getting a degree in education and being a high school baseball coach, but he put all those dreams on hold so he could join the United States Marine Corps. He went to basic training 2 days after his high school graduation.

Lance Corporal Martinez's stepfather, Jeremy Hunt, called Robbie his "diamond in the rough" and one of the greatest things that ever came into the life of his family. He loved being in the United States Marine Corps, and he was proud telling folks he was just a Marine. He knew there was a reason for resolving the situation in Iraq, and he looked forward to coming back to Texas.

While overseas, he requested bags and bags of candy and care packages, but this candy was not for him because he would split it up and give it out to little kids in Iraq.

Robbie's mother, Kelly Hunt, said their 14-year-old son Mikie wanted to be in the Marine Corps just like his brother Robbie.

President Ronald Reagan once said, "Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the Marines don't have that problem." Fine words from our former President.

Lance Corporal Martinez was working to make a difference in the world when he gave his life, and his bravery and dedication, his patriotism will not ever be forgotten by his friends, certainly not by his family, and all freedom-loving people throughout this world.

His Nation made the call, and he responded without hesitation, and he served his country with honor and distinction. He wanted to be in the Marines since he was 12 years of age.

So, Mr. Speaker, I ask for the adoption of this bill to name this small post office in Cleveland, Texas, after one of the sons of America.

Mr. WESTMORELAND. Mr. Speaker, we have no other speakers, and I urge all Members to support the passage of H.R. 5108. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 5108.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1630

OLDER AMERICANS ACT AMENDMENTS OF 2006

Mr. McKEON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6197) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

The Clerk read as follows:

H.R. 6197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Americans Act Amendments of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISION

Sec. 101. Definitions.

TITLE II—ADMINISTRATION ON AGING

Sec. 201. Elder abuse prevention and services.
Sec. 202. Functions of the Assistant Secretary.
Sec. 203. Federal agency consultation.
Sec. 204. Administration.
Sec. 205. Evaluation.
Sec. 206. Reports.
Sec. 207. Contracting and grant authority; private pay relationships; appropriate use of funds.
Sec. 208. Nutrition education.
Sec. 209. Pension counseling and information programs.
Sec. 210. Authorization of appropriations.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 301. Purpose; administration.
Sec. 302. Definitions.
Sec. 303. Authorization of appropriations; uses of funds.
Sec. 304. Allotments.

Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Payments.
Sec. 309. Nutrition services incentive program.
Sec. 310. Consumer contributions.
Sec. 311. Supportive services and senior centers.
Sec. 312. Nutrition service.
Sec. 313. Congregate nutrition program.
Sec. 314. Home delivered nutrition services.
Sec. 315. Criteria.
Sec. 316. Nutrition.
Sec. 317. Study of nutrition projects.
Sec. 318. Sense of Congress recognizing the contribution of nutrition to the health of older adults.
Sec. 319. Improving indoor air quality in buildings where older individuals congregate.
Sec. 320. Caregiver support program definitions.
Sec. 321. Caregiver support program.
Sec. 322. National innovation.

TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

Sec. 401. Title.
Sec. 402. Grant programs.
Sec. 403. Career preparation for the field of aging.
Sec. 404. Health care service demonstration projects in rural areas.
Sec. 405. Technical assistance and innovation to improve transportation for older individuals.
Sec. 406. Demonstration, support, and research projects for multigenerational activities and civic engagement activities.
Sec. 407. Native American programs.
Sec. 408. Multidisciplinary centers and multidisciplinary systems.
Sec. 409. Community innovations for aging in place.
Sec. 410. Responsibilities of Assistant Secretary.

TITLE V—OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

Sec. 501. Community Service Senior Opportunities Act.
Sec. 502. Effective date.

TITLE VI—NATIVE AMERICANS

Sec. 601. Clarification of maintenance requirement.
Sec. 602. Native Americans caregiver support program.

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

Sec. 701. Vulnerable elder rights protection activities.
Sec. 702. Elder abuse, neglect, and exploitation.
Sec. 703. Native American organization provisions.
Sec. 704. Elder justice programs.
Sec. 705. Rule of construction.

TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL

Sec. 801. Short title.
Sec. 802. Establishment and membership.
Sec. 803. Duties of the Council.
Sec. 804. Coordination with existing interagency coordination entities.
Sec. 805. Assistance of staff.
Sec. 806. Powers of the Council.
Sec. 807. Report.
Sec. 808. Termination.
Sec. 809. Authorization of appropriations.

TITLE IX—CONFORMING AMENDMENTS

Sec. 901. Conforming amendments to other Acts.

TITLE I—GENERAL PROVISION

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by striking paragraph (10) and inserting the following:

"(10)(A) The term 'assistive device' includes an assistive technology device.

"(B) The terms 'assistive technology', 'assistive technology device', and 'assistive technology service' have the meanings given such terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).";

(2) by striking paragraph (12)(D) and inserting the following:

"(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;";

(3) by striking paragraph (24) and inserting the following:

"(24)(A) The term 'exploitation' means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

"(B) In subparagraph (A), the term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an older individual.";

(4) in paragraph (29)(E)—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) older individuals at risk for institutional placement.";

(5) in paragraph (32)(D), by inserting ", including an assisted living facility," after "home";

(6) by striking paragraph (34) and inserting the following:

"(34) The term 'neglect' means—

"(A) the failure of a caregiver (as defined in paragraph (18)(B)) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

"(B) self-neglect."; and

(7) by adding at the end the following:

"(44) The term 'Aging and Disability Resource Center' means an entity established by a State as part of the State system of long-term care, to provide a coordinated system for providing—

"(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;

"(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

"(C) consumers access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

"(45) The term 'at risk for institutional placement' means, with respect to an older individual, that such individual is unable to perform at least 2 activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision) and is determined by the State involved to be in need of placement in a long-term care facility.

"(46) The term 'civic engagement' means an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

"(47) The term 'elder justice'—

"(A) used with respect to older individuals, collectively, means efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy; and

"(B) used with respect to an individual who is an older individual, means the recognition of the individual's rights, including the right to be free of abuse, neglect, and exploitation.

"(48) The term 'fiduciary'—

"(A) means a person or entity with the legal responsibility—

"(i) to make decisions on behalf of and for the benefit of another person; and

"(ii) to act in good faith and with fairness; and

"(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

"(49) The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

"(50) The term 'long-term care' means any service, care, or item (including an assistive device), including a disease prevention and health promotion service, an in-home service, and a case management service—

"(A) intended to assist individuals in coping with, and to the extent practicable compensate for, a functional impairment in carrying out activities of daily living;

"(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

"(C) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

"(51) The term 'self-directed care' means an approach to providing services (including programs, benefits, supports, and technology) under this Act intended to assist an individual with activities of daily living, in which—

"(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

"(B) such individual is provided with such information and assistance as are necessary and appropriate to enable such individual to make informed decisions about the individual's care options;

"(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability to direct and control the individual's receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved;

"(D) based on the assessment made under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual's family, caregiver (as defined in paragraph (18)(B)), or legal representative—

"(i) a plan of services for such individual that specifies which services such individual will be responsible for directing;

"(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

"(iii) a budget for such services; and

"(E) the area agency on aging or State agency provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

"(52) The term 'self-neglect' means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

"(A) obtaining essential food, clothing, shelter, and medical care;

"(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

"(C) managing one's own financial affairs.

"(53) The term 'State system of long-term care' means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.

"(54) The term 'integrated long-term care'—

"(A) means items and services that consist of—

"(i) with respect to long-term care—

"(I) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and

"(II) any other supports, items, or services that are available under any federally funded long-term care program; and

"(ii) with respect to other health care, items and services covered under—

"(I) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(II) the State plan for medical assistance under the Medicaid program; or

"(III) any other federally funded health care program; and

"(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.".

(b) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by redesignating paragraphs (1) through (54) as paragraphs (45), (7), (50), (39), (26), (27), (54), (13), (48), (8), (29), (14), (1), (2), (3), (5), (6), (10), (30), (37), (11), (15), (16), (18), (21), (22), (23), (24), (28), (31), (33), (35), (36), (38), (40), (41), (42), (43), (44), (51), (53), (19), (49), (4), (9), (12), (17), (20), (25), (34), (46), (47), (52), and (32), respectively; and

(2) so that paragraphs (1) through (54), as so redesignated in paragraph (1), appear in numerical order.

TITLE II—ADMINISTRATION ON AGING

SEC. 201. ELDER ABUSE PREVENTION AND SERVICES.

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(e)(1) The Assistant Secretary is authorized to designate within the Administration a person to have responsibility for elder abuse prevention and services.

"(2) It shall be the duty of the Assistant Secretary, acting through the person designated to have responsibility for elder abuse prevention and services—

"(A) to develop objectives, priorities, policy, and a long-term plan for—

"(i) facilitating the development, implementation, and continuous improvement of a coordinated, multidisciplinary elder justice system in the United States;

"(ii) providing Federal leadership to support State efforts in carrying out elder justice programs and activities relating to—

"(I) elder abuse prevention, detection, treatment, intervention, and response;

"(II) training of individuals regarding the matters described in subclause (I); and

"(III) the development of a State comprehensive elder justice system, as defined in section 752(b);

"(iii) establishing Federal guidelines and disseminating best practices for uniform data collection and reporting by States;

"(iv) working with States, the Department of Justice, and other Federal entities to annually collect, maintain, and disseminate data relating to elder abuse, neglect, and exploitation, to the extent practicable;

"(v) establishing an information clearinghouse to collect, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and communities to carry out evidence-based programs to prevent and address elder abuse, neglect, and exploitation;

"(vi) conducting research related to elder abuse, neglect, and exploitation;

"(vii) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in title VII;

"(viii) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings; and

"(ix) promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State and local levels; and

"(B) to assist States and other eligible entities under title VII to develop strategic plans to better coordinate elder justice activities, research, and training.

"(3) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 752.

"(f)(1) The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of mental health services authorized under this Act.

"(2) It shall be the duty of the Assistant Secretary, acting through the individual designated under paragraph (1), to develop objectives, priorities, and a long-term plan for supporting State and local efforts involving education about and prevention, detection, and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction.".

SEC. 202. FUNCTIONS OF THE ASSISTANT SECRETARY.

Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting "assistive technology," after "housing,";

(B) by striking paragraph (12) and inserting the following:

"(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services and the heads of other Federal entities to implement and build awareness of programs providing benefits affecting older individuals; and

"(B) carry on a continuing evaluation of the programs and activities related to the objectives of this Act, with particular attention to the impact of the programs and activities carried out under—

"(i) titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.);

"(ii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

"(iii) the National Housing Act (12 U.S.C. 1701 et seq.) relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;";

(C) by striking paragraph (20) and inserting the following:

"(20)(A) encourage, and provide technical assistance to, States, area agencies on aging, and service providers to carry out outreach and benefits enrollment assistance to inform and enroll older individuals with greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including—

"(i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;

"(ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);

"(iii) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(iv) benefits under any other applicable program; and

"(B) at the election of the Assistant Secretary and in cooperation with related Federal agency partners administering the Federal programs, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

"(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

"(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

"(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as benefits enrollment centers for the programs;

"(iv) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals with greatest economic need in the programs for which the individuals are eligible; and

"(v) provide, in collaboration with related Federal agency partners administering the

Federal programs, training and technical assistance on effective outreach, screening, enrollment, and follow-up strategies;";

(D) in paragraph (26)—

(i) in subsection (D)—

(I) by striking "gaps in"; and

(II) by inserting "(including services that would permit such individuals to receive long-term care in home and community-based settings)" after "individuals"; and

(ii) in subsection (E), by striking "and" at the end;

(E) in paragraph (27)—

(i) in subparagraph (B), by adding "and" at the end; and

(ii) by striking subparagraph (D); and

(F) by adding at the end the following:

"(28) make available to States, area agencies on aging, and service providers information and technical assistance to support the provision of evidence-based disease prevention and health promotion services.";

(2) by striking subsections (b) and (c), and inserting the following:

"(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels that enable older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, the Assistant Secretary shall, consistent with the applicable provisions of this title—

"(1) collaborate, coordinate, and consult with other Federal entities responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from other Federal entities;

"(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

"(A) respond to the needs and preferences of older individuals and family caregivers; and

"(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(3) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;

"(4) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, and other heads of Federal entities as appropriate, the provision of long-term care in home and community-based settings, including the provision of such care through self-directed care models that—

"(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) respond to the needs and preferences of such individual and provide the option—

"(i) for the individual to direct and control the receipt of supportive services provided; or

"(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual's behalf, in order to represent or advise the individual in financial or service coordination matters (referred to in this paragraph as a 'representative' of the individual), to direct and control the receipt of those services; and

"(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

"(5) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

"(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care;

"(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

"(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2);

"(6) promote, in coordination with other appropriate Federal agencies—

"(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

"(B) the availability of information and resources to assist in such planning;

"(7) ensure access to, and the dissemination of, information about all long-term care options and service providers, including the availability of integrated long-term care;

"(8) implement in all States Aging and Disability Resource Centers—

"(A) to serve as visible and trusted sources of information on the full range of long-term care options, including both institutional and home and community-based care, which are available in the community;

"(B) to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their care options;

"(C) to provide coordinated and streamlined access to all publicly supported long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

"(D) to help individuals to plan ahead for their future long-term care needs; and

"(E) to assist (in coordination with the entities carrying out the health insurance information, counseling, and assistance program (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4)) in the States) beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

"(9) establish, either directly or through grants or contracts, national technical assistance programs to assist State agencies, area agencies on aging, and community-based service providers funded under this Act in implementing—

"(A) home and community-based long-term care systems, including evidence-based programs; and

"(B) evidence-based disease prevention and health promotion services programs;

"(10) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their State systems of long-term care fulfill the objectives described in this subsection; and

"(11) conduct such other activities as the Assistant Secretary determines to be appropriate.

"(c) The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

"(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

"(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern, including the engagement of older individuals in the activities of public and nonprofit organizations such as community-based organizations, including faith-based organizations; and

"(3) encourage other community capacity-building initiatives involving older individuals, with particular attention to initiatives that demonstrate effectiveness and cost savings in meeting critical needs."; and

(3) in subsection (e)(1)(A), by striking the semicolon at the end and inserting a period.

SEC. 203. FEDERAL AGENCY CONSULTATION.

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(1) in subsection (a)(3)(A)—

(A) by striking "(with particular attention to low-income minority older individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) by striking "section 507" and inserting "section 518";

(2) in subsection (b)—

(A) in paragraph (17), by striking "and" at the end;

(B) in paragraph (18), by striking the period and inserting ", and"; and

(C) by adding at the end the following:

"(19) sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004)."; and

(3) by adding at the end the following:

"(c)(1) The Secretary, in collaboration with the Federal officials specified in paragraph (2), shall establish an Interagency Coordinating Committee on Aging (referred to in this subsection as the 'Committee') focusing on the coordination of agencies with respect to aging issues.

"(2) The officials referred to in paragraph (1) shall include the Secretary of Labor and the Secretary of Housing and Urban Development, and may include, at the direction of the President, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Homeland Security, the Commissioner of Social Security, and such other Federal officials as the President may direct. An official described in this paragraph may appoint a designee to carry out the official's duties under paragraph (1).

"(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for 1 term, and the Secretary of Housing and Urban Development shall serve as the chairperson for the following term. After that following term, the Committee shall select a chairperson from among the members of the Committee, and any member may serve as the chairperson. No member may serve as the chairperson for more than 1 consecutive term.

"(4) For purposes of this subsection, a term shall be a period of 2 calendar years.

"(5) The Committee shall meet not less often than once each year.

"(6) The Committee shall—

"(A) share information with and establish an ongoing system to improve coordination among Federal agencies with responsibility for programs and services for older individuals and recommend improvements to such system with an emphasis on—

"(i) improving access to programs and services for older individuals;

"(ii) maximizing the impact of federally funded programs and services for older individuals by increasing the efficiency, effectiveness, and delivery of such programs and services;

"(iii) planning and preparing for the impact of demographic changes on programs and services for older individuals; and

"(iv) reducing or eliminating areas of overlap and duplication by Federal agencies in the provision and accessibility of such programs and services;

"(B) identify, promote, and implement (as appropriate), best practices and evidence-based program and service models to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

"(i) consumer-directed care models for home and community-based care and supportive services that link housing, health care, and other supportive services and that facilitate aging in place, enabling older individuals to remain in their homes and communities as the individuals age; and

"(ii) innovations in technology applications (including assistive technology devices and assistive technology services) that give older individuals access to information on available services or that help in providing services to older individuals;

"(C) collect and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information;

"(D) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet data needs;

"(E) actively seek input from and consult with nongovernmental experts and organizations, including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (F);

"(F) identify any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

"(G) work with States to better provide housing, health care, and other supportive services to older individuals by—

"(i) holding meetings with State agencies;

"(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

"(iii) working with States to designate liaisons, from the State agencies, to the Committee.

"(7) Not later than 90 days following the end of each term, the Committee shall prepare and submit to the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

"(A) describes the activities and accomplishments of the Committee in—

"(i) enhancing the overall coordination of federally funded programs and services for older individuals; and

"(ii) meeting the requirements of paragraph (6);

"(B) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Committee determines to be appropriate), to the access and use by older individuals of programs and services administered by such agency; and

"(C) makes such recommendations as the chairman determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

"(8) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.".

SEC. 204. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (C), by adding "and" at the end;

(ii) in subparagraph (D), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (E); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

"(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;";

(II) by amending clause (iii) to read as follows:

"(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Food Guidance System of the Department of Agriculture, and advances in nutrition science;";

(III) in clause (vii), by striking "and" at the end; and

(IV) by striking clause (viii) and inserting the following:

"(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under title III, including strategies for increasing the consumption of whole grains, lowfat dairy products, fruits, and vegetables;

"(ix) developing and disseminating guidelines for conducting nutrient analyses of meals provided under subparts 1 and 2 of part C of title III, including guidelines for averaging key nutrients over an appropriate period of time; and

"(x) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (ix)."; and

(ii) by amending subparagraph (C)(i) to read as follows:

"(i) have expertise in nutrition, energy balance, and meal planning; and".

SEC. 205. EVALUATION.

The first sentence of section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended to read as follows: "From the total amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not to exceed ½ of 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts.".

SEC. 206. REPORTS.

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking "Labor" and inserting "the Workforce"; and

(2) in subparagraph (C), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions".

SEC. 207. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended to read as follows:

"SEC. 212. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

"(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent a recipient of a grant or a contract under this Act (other than title V) from entering into an agreement with a profitmaking organization for the recipient to provide services to individuals or entities not otherwise receiving services under this Act, provided that—

"(1) if funds provided under this Act to such recipient are initially used by the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guarantees that the cost is reimbursed to the recipient;

"(2) if such agreement provides for the provision of 1 or more services, of the type provided under this Act by or on behalf of such recipient, to an individual or entity seeking to receive such services—

"(A) the individuals and entities may only purchase such services at their fair market rate;

"(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)), are reimbursed to such recipient; and

"(C) the recipient reports the rates for providing such services under such agreement in accordance with subsection (c) and the rates are consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or area agency on aging (as applicable); and

"(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient's costs is used to provide, or support the provision of, services under this Act.

"(b) ENSURING APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

"(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs incurred;

"(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an amount that exceeds the fair market value of the services subject to such agreement;

"(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or

"(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.

"(c) MONITORING AND REPORTING.—To ensure that any agreement described in subsection (a) complies with the requirements of this section and other applicable provisions of this Act, the Assistant Secretary shall develop and implement uniform monitoring procedures and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 306(a)(13) in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements per State, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

"(d) TIMELY REIMBURSEMENT.—All reimbursements made under this section shall be made in a timely manner, according to standards specified by the Assistant Secretary.

"(e) COST.—In this section, the term 'cost' means an expense, including an administrative expense, incurred by a recipient in developing or carrying out an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.".

SEC. 208. NUTRITION EDUCATION.

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

"SEC. 214. NUTRITION EDUCATION.

"The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

"(1) are designed for older individuals; and

"(2) include—

"(A) nutrition education;

"(B) physical activity; and

"(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through nutrition education and nutrition assessment and counseling, in accordance with section 339(2)(J).".

SEC. 209. PENSION COUNSELING AND INFORMATION PROGRAMS.

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e–1) is amended—

(1) in subsection (e)(1)(J), by striking "and low income retirees" and inserting ", low-income retirees, and older individuals with limited English proficiency";

(2) in subsection (f), by striking paragraph (2) and inserting the following:

"(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency and other populations that are identified as in need of special outreach."; and

(3) in subsection (h)(2), by inserting "(including individuals with limited English proficiency)" after "individuals".

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—

(1) in subsection (a), by striking "2001, 2002, 2003, 2004, and 2005" and inserting "2007, 2008, 2009, 2010, and 2011."; and

(2) in subsections (b) and (c), by striking "year" and all that follows through "years", and inserting "years 2007, 2008, 2009, 2010, and 2011".

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 301. PURPOSE; ADMINISTRATION.

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) organizations that have experience in providing training, placement, and stipends for volunteers or participants who are older individuals (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.".

SEC. 302. DEFINITIONS.

Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(1) by adding at the end the following:

"(4) The term 'family caregiver' means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer's disease or a related disorder with neurological and organic brain dysfunction.";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (2), and (3), respectively; and

(3) by moving paragraph (4), as so redesignated, to the end of the section.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

(1) in subsections (a)(1), (b), and (d), by striking "year 2001" and all that follows through "years" each place it appears, and inserting "years 2007, 2008, 2009, 2010, and 2011"; and

(2) in subsection (e)—

(A) in paragraph (1), by striking "$125,000,000" and all that follows and inserting "$160,000,000 for fiscal year 2007.";

(B) in paragraph (2), by striking "such sums" and all that follows and inserting "$166,500,000 for fiscal year 2008, $173,000,000 for fiscal year 2009, $180,000,000 for fiscal year 2010, and $187,000,000 for fiscal year 2011."; and

(C) in paragraph (3)—

(i) by striking "(2)—" and all that follows through "1 percent" and inserting "(2), not more than 1 percent";

(ii) by striking "shall" and inserting "may"; and

(iii) by striking "section 376" and inserting "section 411(a)(11)".

SEC. 304. ALLOTMENTS.

Section 304(a)(3)(D) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(3)(D)) is amended to read as follows:

"(D)(i) No State shall be allotted less than the total amount allotted to the State for fiscal year 2006.

"(ii) No State shall receive a percentage increase in an allotment, above the State's fiscal year 2006 allotment, that is less than—

"(I) for fiscal year 2007, 20 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

"(II) for fiscal year 2008, 15 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

"(III) for fiscal year 2009, 10 percent of the percentage increase above the fiscal year 2006 allotments for all of the States; and

"(IV) For fiscal year 2010, 5 percent of the percentage increase above the fiscal year 2006 allotments for all of the States.".

SEC. 305. ORGANIZATION.

Section 305(a) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)) is amended—

(1) in paragraph (1)(E)—

(A) by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" each place it appears and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) by striking "and" at the end;

(2) in paragraph (2)—

(A) in subparagraph (E), by striking ", with particular attention to low-income minority individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) in subparagraph (G), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) the State agency shall, consistent with this section, promote the development and implementation of a State system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by—

"(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

"(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any

State rules, regulations, and policies related to long-term care;

"(C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—

"(i) respond to the needs and preferences of older individuals and family caregivers;

"(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

"(iii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(D) implementing (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

"(E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

"(i) the need to plan in advance for long-term care; and

"(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources.".

SEC. 306. AREA PLANS.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)";

(ii) by striking "(with particular attention to low-income minority individuals)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(iii) by inserting "the number of older individuals at risk for institutional placement residing in such area," after "individuals) residing in such area,";

(B) in paragraph (2)(A)—

(i) by inserting after "transportation," the following: "health services (including mental health services),"; and

(ii) by inserting after "information and assistance" the following: "(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)";

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

"(i)(I) provide assurances that the area agency on aging will—

"(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

"(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

"(II) include proposed methods to achieve the objectives described in items (aa) and (bb) of subclause (I);"; and

(II) in clause (ii), by inserting ", older individuals with limited English proficiency," after "low-income minority individuals" each place it appears; and

(ii) in subparagraph (B)—

(I) by moving the left margin of each of subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) of clause (i), 2 ems to the left; and

(II) in clause (i)—

(aa) in subclause (V), by striking "with limited English-speaking ability; and" and inserting "with limited English proficiency;";

(bb) in subclause (VI), by striking "or related" and inserting "and related"; and

(cc) by adding at the end the following:

"(VII) older individuals at risk for institutional placement; and";

(D) in paragraph (5), by inserting "and individuals at risk for institutional placement" after "severe disabilities";

(E) in paragraph (6)—

(i) in subparagraph (C)—

(I) in clause (i), by striking "and" at the end;

(II) in clause (ii), by adding "and" at the end; and

(III) by inserting after clause (ii) the following:

"(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;";

(ii) in subparagraph (D)—

(I) by inserting "family caregivers of such individuals," after "Act,"; and

(II) by inserting "service providers, representatives of the business community," after "individuals,"; and

(iii) by amending subparagraph (F) to read as follows:

"(F) in coordination with the State agency and with the State agency responsible for mental health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental health services (including mental health screenings) provided with funds expended by the area agency on aging with mental health services provided by community health centers and by other public agencies and nonprofit private organizations;";

(F) in paragraph (7), to read as follows:

"(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

"(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

"(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

"(i) respond to the needs and preferences of older individuals and family caregivers;

"(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

"(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

"(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

"(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

"(i) the need to plan in advance for long-term care; and

"(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;";

(G) by striking paragraph (14) and the 2 paragraphs (15);

(H) by redesignating paragraph (16) as paragraph (14); and

(I) by adding at the end the following:

"(15) provide assurances that funds received under this title will be used—

"(A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and

"(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;

"(16) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care; and

"(17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(3) by inserting after subsection (a) the following:

"(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

"(2) Such assessment may include—

"(A) the projected change in the number of older individuals in the planning and service area;

"(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

"(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

"(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

"(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

"(A) health and human services;

"(B) land use;

"(C) housing;

"(D) transportation;

"(E) public safety;

"(F) workforce and economic development;

"(G) recreation;

"(H) education;

"(I) civic engagement;

"(J) emergency preparedness; and

"(K) any other service as determined by such agency.".

SEC. 307. STATE PLANS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (2)(C), by striking "section 306(b)" and inserting "section 306(c)";

(2) in paragraph (4), by striking ", with particular attention to low-income minority individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)";

(3) by striking paragraph (15);

(4) by redesignating paragraph (14) as paragraph (15);

(5) by inserting after paragraph (13) the following:

"(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

"(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.";

(6) in paragraph (16)(A)—

(A) in clauses (ii) and (iii), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" each place it appears and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(B) in clause (vi), by striking "or related" and inserting "and related"; and

(7) by adding at the end the following:

"(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.

"(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

"(B) Such assessment may include—

"(i) the projected change in the number of older individuals in the State;

"(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

"(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

"(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for supportive services.

"(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

"(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.".

SEC. 308. PAYMENTS.

Section 309(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3029(b)(2)) is amended by striking "the non-Federal share required prior to fiscal year 1981" and inserting "10 percent of the cost of the services specified in such section 304(d)(1)(D)".

SEC. 309. NUTRITION SERVICES INCENTIVE PROGRAM.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (b), by adding at the end the following:

"(3) State agencies that elect to make grants and enter into contracts for purposes of this section shall promptly and equitably disburse amounts received under this subsection to the recipients of the grants and contracts.";

(2) in subsection (c)—

(A) in paragraph (1), by inserting "(including bonus commodities)" after "commodities";

(B) in paragraph (2), by inserting "(including bonus commodities)" after "commodities";

(C) in paragraph (3), by inserting "(including bonus commodities)" after "products"; and

(D) by adding at the end the following:

"(4) Among the commodities provided under this subsection, the Secretary of Agriculture shall give special emphasis to foods of high nutritional value to support the health of older individuals. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions respecting the provision of commodities under this subsection.";

(3) in subsection (d), to read as follows:

"(d)(1) Amounts provided under subsection (b) shall be available only for the purchase, by State agencies, recipients of grants and contracts from the State agencies (as applicable), and title VI grantees, of United States agricultural commodities and other foods for their respective nutrition projects, subject to paragraph (2).

"(2) An entity specified in paragraph (1) may, at the option of such entity, use part or all of the amounts received by the entity under subsection (b) to pay a school food authority (within the meaning of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to obtain United States agricultural commodities for such entity's nutrition projects, in accordance with an agreement between the entity and the school food authority, under which such payments—

"(A) shall cover the cost of such commodities; and

"(B) may cover related expenses incurred by the school food authority, including the cost of transporting, distributing, processing, storing, and handling such commodities.";

(4) in subsection (e), by striking "2001" and inserting "2007"; and

(5) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking "the Secretary of Agriculture and the Secretary of Health and Human Services" and inserting "the Assistant Secretary and the Secretary of Agriculture"; and

(B) by striking paragraphs (1) and (2) and inserting the following:

"(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and

"(2) the foods available to such State agencies, area agencies on aging, and providers under subsection (c).".

SEC. 310. CONSUMER CONTRIBUTIONS.

Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030c-2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "provided that" and inserting "if"; and

(ii) by adding at the end the following: "Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line, at contribution levels based on the actual cost of services."; and

(B) in paragraph (4)(E), by inserting "and to supplement (not supplant) funds received under this Act" after "given";

(2) in subsection (c)(2), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)"; and

(3) in subsection (d), by striking "with particular attention to low-income and minority older individuals and older individuals residing in rural areas" and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)".

SEC. 311. SUPPORTIVE SERVICES AND SENIOR CENTERS.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended

(1) in paragraph (8), by inserting "(including mental health screening)" after "screening";

(2) in paragraph (11), by striking "services" and inserting "provision of services and assistive devices (including provision of assistive technology services and assistive technology devices)";

(3) in paragraph (14)(B) by inserting "(including mental health)" after "health";

(4) in paragraph (21)—

(A) by striking "school-age children" and inserting "students"; and

(B) by inserting "services for older individuals with limited English proficiency and" after "including";

(5) in paragraph (22) by striking the period at the end and inserting a semicolon;

(6) by redesignating paragraph (23) as paragraph (25); and

(7) by inserting after paragraph (22) the following:

"(23) services designed to support States, area agencies on aging, and local service providers in carrying out and coordinating activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment;

"(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and".

SEC. 312. NUTRITION SERVICE.

After the part heading of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), insert the following:

"SEC. 330. PURPOSES.

"The purposes of this part are—

"(1) to reduce hunger and food insecurity;

"(2) to promote socialization of older individuals; and

"(3) to promote the health and well-being of older individuals by assisting such individuals to gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior.".

SEC. 313. CONGREGATE NUTRITION PROGRAM.

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by striking "projects—" and inserting "projects that—";

(2) in paragraph (1), by striking "which,";

(3) in paragraph (2), by striking "which"; and

(4) by striking paragraph (3), and inserting the following:

"(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants.".

SEC. 314. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended to read as follows:

"SEC. 336. PROGRAM AUTHORIZED.

"The Assistant Secretary shall establish and carry out a program to make grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals that provide—

"(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental foods and any additional meals that the recipient of a grant or contract under this subpart elects to provide; and

"(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.".

SEC. 315. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended to read as follows:

"SEC. 337. CRITERIA.

"The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.".

SEC. 316. NUTRITION.

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

"(1) solicit the expertise of a dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), to read as follows:

"(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and"; and

(ii) in clause (ii)(I), by striking "daily recommended dietary allowances as" and inserting "dietary reference intakes";

(B) in subparagraph (D), by inserting "joint" after "encourages";

(C) in subparagraph (G), to read as follows:

"(G) ensures that meal providers solicit the advice and expertise of—

"(i) a dietitian or other individual described in paragraph (1),

"(ii) meal participants, and

"(iii) other individuals knowledgeable with regard to the needs of older individuals,";

(D) in subparagraph (H), by striking "and accompany";

(E) in subparagraph (I), by striking "and" at the end; and

(F) by striking subparagraph (J) and inserting the following:

"(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate, and

"(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals' communities.".

SEC. 317. STUDY OF NUTRITION PROJECTS.

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary for Aging shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized by such Act.

(2) STUDY.—Such study shall, to the extent data are available, include—

(A) an evaluation of the effect of the nutrition projects authorized by such Act on—

(i) improvement of the health status, including nutritional status, of participants in the projects;

(ii) prevention of hunger and food insecurity of the participants; and

(iii) continuation of the ability of the participants to live independently;

(B) a cost-benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how and recommendations for how nutrition projects authorized by such Act may be modified to improve the outcomes described in subparagraph (A), including recommendations for improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a)(1) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 318. SENSE OF CONGRESS RECOGNIZING THE CONTRIBUTION OF NUTRITION TO THE HEALTH OF OLDER ADULTS.

(a) FINDINGS.—Congress finds that—

(1) good nutrition is vital to good health, and a diet based on the Dietary Guidelines for Americans may reduce the risk of chronic diseases such as cardiovascular disease, osteoporosis, diabetes, macular degeneration, and cancer;

(2) the American Dietetic Association and the American Academy of Family Physicians have estimated that the percentage of older adults who are malnourished is estimated at 20 to 60 percent for those who are in home care and at 40 to 85 percent for those who are in nursing homes;

(3) the Institute of Medicine of the National Academy of Sciences has estimated that approximately 40 percent of community-residing persons age 65 and older have inadequate nutrient intakes;

(4) older adults are susceptible to nutrient deficiencies for a number of reasons, including a reduced capacity to absorb and utilize nutrients, difficulty chewing, and loss of appetite;

(5) while diet is the preferred source of nutrition, evidence suggests that the use of a single daily multivitamin-mineral supplement may be an effective way to address nutritional gaps that exist among the elderly population, especially the poor; and

(6) the Dietary Guidelines for Americans state that multivitamin-mineral supplements may be useful when they fill a specific identified nutrient gap that cannot be or is not otherwise being met by the individual's intake of food.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) meal programs funded by the Older Americans Act of 1965 contribute to the nutritional health of older adults;

(2) when the nutritional needs of older adults are not fully met by diet, use of a single, daily multivitamin-mineral supplement may help prevent nutrition deficiencies common in many older adults;

(3) use of a single, daily multivitamin-mineral supplement can be a safe and inexpensive strategy to help ensure the nutritional health of older adults; and

(4) nutrition service providers under the Older Americans Act of 1965 should consider whether individuals participating in congregate and home-delivered meal programs would benefit from a single, daily multivitamin-mineral supplement that is in compliance with all applicable government quality standards and provides at least ⅔ of the essential vitamins and minerals at 100 percent of the daily value levels as determined by the Commissioner of Food and Drugs.

SEC. 319. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONGREGATE.

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

"(c) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.".

SEC. 320. CAREGIVER SUPPORT PROGRAM DEFINITIONS.

Section 372 of the National Family Caregiver Support Act (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting "or who is an individual with a disability" after "age";

(2) in paragraph (3)—

(A) by striking "a child by blood or marriage" and inserting "a child by blood, marriage, or adoption"; and

(B) by striking "60" and inserting "55";

(3) by inserting before "In this subpart" the following: "(a) In General.—";

(4) by striking paragraph (2);

(5) by redesignating paragraph (3) as paragraph (2);

(6) by adding at the end the following:

"(b) Rule.—In providing services under this subpart—

"(1) for family caregivers who provide care for individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction, the State involved shall give priority to caregivers who provide care for older individuals with such disease or disorder; and

"(2) for grandparents or older individuals who are relative caregivers, the State involved shall give priority to caregivers who provide care for children with severe disabilities.".

SEC. 321. CAREGIVER SUPPORT PROGRAM.

Section 373 of the National Family Caregiver Support Act (42 U.S.C. 3030s-1) is amended—

(1) in subsection (b)(3), by striking "caregivers to assist" and all that follows through the end and inserting the following: "assist the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;",

(2) in subsection (c)—

(A) in paragraph (1)(B), by striking "subparagraph (A)(i) or (B) of section 102(28)" and inserting "subparagraph (A)(i) or (B) of section 102(22)"; and

(B) by striking paragraph (2) and inserting the following:

"(2) Priority.—In providing services under this subpart, the State, in addition to giving the priority described in section 372(b), shall give priority—

"(A) to caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals); and

"(B) to older individuals providing care to individuals with severe disabilities, including children with severe disabilities.";

(3) in subsection (d), to read as follows:

"(d) Use of Volunteers.—In carrying out this subpart, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.";

(4) in subsection (e)(3), by adding at the end the following: "The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.";

(5) in subsection (f)(1), by striking "2001 through 2005" and inserting "2007, 2008, 2009, 2010, and 2011"; and

(6) in subsection (g)(2)(C), by inserting "of a child who is not more than 18 years of age" before the period at the end.

SEC. 322. NATIONAL INNOVATION.

Subpart 2 of part E of title III of the Older Americans Act of 1965 (42 U.S.C. 3030s–11 et seq.) is repealed.

TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

SEC. 401. TITLE.

The Older Americans Act of 1965 is amended by inserting before section 401 (42 U.S.C. 3031) the following:

"TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY".

SEC. 402. GRANT PROGRAMS.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) by redesignating paragraph (9) as paragraph (13); and

(C) by inserting after paragraph (8) the following:

"(9) planning activities to prepare communities for the aging of the population, which activities may include—

"(A) efforts to assess the aging population;

"(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

"(C) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;

"(10) the development, implementation, and assessment of technology-based service models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies that may remotely connect family and professional caregivers to frail older individuals residing in home and community-based settings or rural areas;

"(11) conducting activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals through activities that include program evaluation, training, technical assistance, and research, including—

"(A) programs addressing unique issues faced by rural caregivers;

"(B) programs focusing on the needs of older individuals with cognitive impairment such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their caregivers; and

"(C) programs supporting caregivers in the role they play in providing disease prevention and health promotion services;

"(12) building public awareness of cognitive impairments such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, depression, and mental disorders; and"; and

(2) in subsection (b), by striking "year" and all that follows through "years" and inserting "years 2007, 2008, 2009, 2010, and 2011".

SEC. 403. CAREER PREPARATION FOR THE FIELD OF AGING.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

"(a) Grants.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, and Hispanic Centers of Excellence in Applied Gerontology, to provide education and training that prepares students for careers in the field of aging.".

SEC. 404. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended—

(1) in subsection (a), by inserting "mental health services," after "care,"; and

(2) in subsection (b)(1)(B)(i), by inserting "mental health," after "health,".

SEC. 405. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended to read as follows:

"SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

"(a) In General.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

"(b) Use of Funds.—

"(1) In general.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

"(2) Specific activities.—In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

"(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

"(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

"(C) developing models and best practices for providing comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

"(D) providing special services to link older individuals to transportation services not provided under title III.

"(c) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term 'economically sustainable transportation' means demand responsive transportation for older individuals—

"(1) that may be provided through volunteers; and

"(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.".

SEC. 406. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

"SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL AND CIVIC ENGAGEMENT ACTIVITIES.

"(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to carry out projects to—

"(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to meet critical community needs, and use the full range of time, skills, and experience of older individuals, including demonstration and support projects that—

"(A) provide support for grandparents and other older individuals who are relative caregivers raising children (such as kinship navigator programs); or

"(B) involve volunteers who are older individuals who provide support and information to families who have a child with a disability or chronic illness, or other families in need of such family support; and

"(2) coordinate multigenerational activities and civic engagement activities, promote volunteerism, and facilitate development of and participation in multigenerational activities and civic engagement activities.

"(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under this section to—

"(1) carry out a project described in subsection (a); and

"(2) evaluate the project in accordance with subsection (f).

"(c) PREFERENCE.—In awarding grants and entering into contracts to carry out a project described in subsection (a), the Assistant Secretary shall give preference to—

"(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

"(2) eligible organizations proposing multigenerational activity projects that will serve older individuals and communities with the greatest need (with particular attention to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

"(3) eligible organizations proposing civic engagement projects that will serve communities with the greatest need; and

"(4) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and nonprofit organizations.

"(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

"(1) to carry out activities described in subsection (a)(1), shall be organizations that provide opportunities for older individuals to participate in activities described in subsection (a)(1); and

"(2) to carry out activities described in subsection (a)(2), shall be organizations with the capacity to conduct the coordination, promotion, and facilitation described in subsection (a)(2), through the use of multigenerational coordinators.

"(f) LOCAL EVALUATION AND REPORT.—

"(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a project described in subsection (a) shall evaluate the multigenerational activities or civic engagement activities carried out under the project to determine—

"(A) the effectiveness of the activities involved;

"(B) the impact of such activities on the community being served and the organization providing the activities; and

"(C) the impact of such activities on older individuals involved in such project.

"(2) REPORT.—The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

"(g) REPORT TO CONGRESS.—Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

"(1) the names or descriptive titles of the projects funded under subsection (a);

"(2) a description of the nature and operation of the projects;

"(3) the names and addresses of organizations that conducted the projects;

"(4) in the case of projects carried out under subsection (a)(1), a description of the methods and success of the projects in recruiting older individuals as employees and as volunteers to participate in the projects;

"(5) in the case of projects carried out under subsection (a)(1), a description of the success of the projects in retaining older individuals participating in the projects as employees and as volunteers;

"(6) in the case of projects carried out under subsection (a)(1), the rate of turnover of older individual employees and volunteers in the projects;

"(7) a strategy for disseminating the findings resulting from the projects described in paragraph (1); and

"(8) any policy change recommendations relating to the projects.

"(h) DEFINITIONS.—As used in this section:

"(1) MULTIGENERATIONAL ACTIVITY.—The term 'multigenerational activity' means an activity that provides an opportunity for interaction between 2 or more individuals of different generations, including activities connecting older individuals and youth in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, a library program, or a family support program.

"(2) MULTIGENERATIONAL COORDINATOR.—The term 'multigenerational coordinator' means a person who—

"(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

"(B) nurtures productive, sustainable working relationships between—

"(i) individuals from the generations with older individuals; and

"(ii) individuals in younger generations.".

SEC. 407. NATIVE AMERICAN PROGRAMS.

Section 418(a)(2)(B)(i) of the Older Americans Act of 1965 (42 U.S.C. 3032g(a)(2)(B)(i)) is amended by inserting "(including mental health)" after "health".

SEC. 408. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.

Section 419 of the Older Americans Act of 1965 (42 U.S.C. 3032h) is amended—

(1) by striking the title and inserting the following:

"SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.";

(2)(A) in subsection (b)(2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) in subsection (c)(2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively; and

(C) by aligning the margins of the clauses described in subparagraphs (A) and (B) with the margins of clause (iv) of section 418(a)(2)(A) of such Act;

(3)(A) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act;

(4) in subsection (a), by striking "(a)" and all that follows through "The" and inserting the following:

"(a) MULTIDISCIPLINARY CENTERS.—

"(1) PROGRAM AUTHORIZED.—The";

(5) in subsection (b)—

(A) by striking the following:

"(b) USE OF FUNDS.—" and inserting the following:

"(2) USE OF FUNDS.—"; and

(B) by striking "subsection (a)" each place it appears and inserting "paragraph (1)";

(6) in subsection (c)—

(A) by striking the following:

"(c) DATA.—" and inserting the following:

"(3) DATA.—";

(B) by striking "subsection (a)" and inserting "paragraph (1)";

(C) by striking "such subsection" and inserting "such paragraph";

(D) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(E) by striking "this section" and inserting "this subsection";

(7) in subsection (a) (as so redesignated)—

(A) in paragraph (1), by inserting "diverse populations of older individuals residing in urban communities," after "minority populations,";

(B) in paragraph (2)(B)—

(C)(i) in clause (v), by inserting ", including information about best practices in long-term care service delivery, housing, and transportation" before the semicolon at the end:

(ii) in clause (vi)—

(I) by striking "consultation and";

(II) by inserting "and other technical assistance" after "information"; and

(III) by striking "and" at the end;

(iii) in clause (vii), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(viii) provide training and technical assistance to support the provision of community-based mental health services for older individuals."; and

(8) by adding at the end the following:

"(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.—

"(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

"(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

"(B) programs to—

"(i) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

"(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

"(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

"(3) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

"(A) that are medically underserved; and

"(B) in which there are large numbers of older individuals.

"(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this subsection, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

"(A) coordinate services described in subparagraphs (A) and (B) of paragraph (1) with such services or similar or related services of other community agencies, and voluntary organizations; and

"(B) to the greatest extent practicable, integrate outreach and educational activities with such activities of existing (as of the date of the integration) social service and health care (including mental health) providers serving older individuals in the planning and service area involved.

"(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this subsection shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in subparagraphs (A) and (B) of paragraph (1).

"(6) DEFINITION.—In this subsection, the term 'mental health screening and treatment services' means patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals, that are—

"(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

"(B) coordinated and integrated with the services of social service and health care (including mental health) providers in an area in order to—

"(i) improve patient outcomes; and

"(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.".

SEC. 409. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

"SEC. 422. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity'—

"(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

"(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

"(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

"(B) does not include an entity providing housing under the congregate housing services program carried out under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) or the multifamily service coordinator program carried out under section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)).

"(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'Naturally Occurring Retirement Community' means a community with a concentrated population of older individuals, which may include a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood composed of age-integrated housing—

"(A) where—

"(i) 40 percent of the heads of households are older individuals; or

"(ii) a critical mass of older individuals exists, based on local factors that, taken in total, allow an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

"(B) that is not an institutional care or assisted living setting.

"(b) GRANTS.—

"(1) IN GENERAL.—The Assistant Secretary shall make grants, on a competitive basis, to eligible entities to develop and carry out model aging in place projects. The projects shall promote aging in place for older individuals (including such individuals who reside in Naturally Occurring Retirement Communities), in order to sustain the independence of older individuals. A recipient of a grant under this subsection shall identify innovative strategies for providing, and linking older individuals to programs and services that provide, comprehensive and coordinated health and social services to sustain the quality of life of older individuals and support aging in place.

"(2) GRANT PERIODS.—The Assistant Secretary shall make the grants for periods of 3 years.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

"(2) CONTENTS.—The application shall include—

"(A) a detailed description of the entity's experience in providing services to older individuals in age-integrated settings;

"(B) a definition of the contiguous service area and a description of the project area in which the older individuals reside or carry out activities to sustain their well-being;

"(C) the results of a needs assessment that identifies—

"(i) existing (as of the date of the assessment) community-based health and social services available to individuals residing in the project area;

"(ii) the strengths and gaps of such existing services in the project area;

"(iii) the needs of older individuals who reside in the project area; and

"(iv) services not being delivered that would promote aging in place and contribute to the well-being of older individuals residing in the project area;

"(D) a plan for the development and implementation of an innovative model for service coordination and delivery within the project area;

"(E) a description of how the plan described in subparagraph (D) will enhance existing services described in subparagraph (C)(i) and support the goal of this section to promote aging in place;

"(F) a description of proposed actions by the entity to prevent the duplication of services funded under a provision of this Act, other than this section, and a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and area agencies on aging with planning and service areas in the project area;

"(G) an assurance that the entity will seek to establish cooperative relationships with interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

"(H) a description of the entity's protocol for referral of residents who may require long-term care services, including coordination with local agencies, including area agencies on aging and Aging and Disability Resource Centers that serve as single points of entry to public services;

"(I) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

"(J) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

"(K) a plan for long-term sustainability of the project.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

"(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

"(i) case management, case assistance, and social work services;

"(ii) health care management and health care assistance, including disease prevention and health promotion services;

"(iii) education, socialization, and recreational activities; and

"(iv) volunteer opportunities for project participants;

"(B) conduct outreach to older individuals within the project area; and

"(C) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery and coordination of community-based health and social services, including those identified in subparagraph (A)(iv), which may include mental health services, for eligible older individuals.

"(2) COORDINATION.—An eligible entity receiving a grant under subsection (b) for a project shall coordinate activities with organizations providing services funded under title III to support such services for or facilitate the delivery of such services to eligible older individuals served by the project.

"(3) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve a community of low-income individuals and operate or locate the project and services in or in close proximity to a location where a large concentration of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

"(4) SUPPLEMENT NOT SUPPLANT.—Funds made available to an eligible entity under subsection (b) shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

"(e) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

"(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to)—

"(A) provide technical assistance to recipients of grants under subsection (b); and

"(B) carry out other duties, as determined by the Assistant Secretary.

"(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

"(A) has experience and expertise in providing technical assistance to a range of entities serving older individuals and experience evaluating and reporting on programs; and

"(B) has demonstrated knowledge of and expertise in community-based health and social services.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

"(f) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

"(1) the findings resulting from the evaluations of the model projects conducted under this section;

"(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

"(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.".

SEC. 410. RESPONSIBILITIES OF ASSISTANT SECRETARY.

Section 432(c)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3033a(c)(2)(B)) is amended by inserting ", including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in such services, projects, and programs and in the strategic plan of the Administration" before the period at the end.

TITLE V—OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 501. COMMUNITY SERVICE SENIOR OPPORTUNITIES ACT.

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) is amended to read as follows:

"TITLE V—COMMUNITY SERVICE SENIOR OPPORTUNITIES ACT

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Community Service Senior Opportunities Act'.

"SEC. 502. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT OF PROGRAM.—To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this title as the 'Secretary') may establish an older American community service employment program.

"(2) USE OF APPROPRIATED AMOUNTS.—Amounts appropriated to carry out this title shall be used only to carry out the provisions contained in this title.

"(b) GRANT AUTHORITY.—

"(1) PROJECTS.—To carry out this title, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments made under section 506, and in accordance with section 514. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

"(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

"(B)(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

"(ii) if such project is carried out by a tribal organization that receives a grant under this subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501);

"(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

"(i) 27 months; or

"(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 513(a)(2)(D) that justify such an extended period for the program year involved;

"(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

"(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

"(F) will provide community service employment and other authorized activities for eligible individuals;

"(G)(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

"(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits);

"(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

"(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

"(H) will coordinate activities with training and other services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

"(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

"(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this title will be paid wages that shall not be lower than whichever is the highest of—

"(i) the minimum wage that would be applicable to such a participant under the Fair

Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

“(ii) the State or local minimum wage for the most nearly comparable covered employment; or

“(iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

“(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

“(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this title; in accordance with rules issued by the Secretary;

“(M) will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

“(N)(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

“(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

“(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

“(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

“(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

“(i) clarifying the law with respect to political activities allowable and unallowable under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project; and

“(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

“(Q) will provide to the Secretary the description and information described in—

“(i) paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)); and

“(ii) paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998; and

“(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees, and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

“(2) REGULATIONS.—The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this title.

“(3) ASSESSMENT AND SERVICE STRATEGIES.—

“(A) PREPARED UNDER THIS ACT.—An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d)).

“(B) PREPARED UNDER WORKFORCE INVESTMENT ACT OF 1998.—An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) for an eligible individual may be used to comply with the requirement specified in subparagraph (A).

“(c) FEDERAL SHARE AND USE OF FUNDS.—

“(1) FEDERAL SHARE.—The Secretary may pay a Federal share not to exceed 90 percent of the cost of any project for which a grant is made under subsection (b), except that the Secretary may pay all of such cost if such project is—

“(A) an emergency or disaster project; or

“(B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

“(2) NON-FEDERAL SHARE.—The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

“(3) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative costs of such project, except that—

“(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

“(B) if the grantee under subsection (b) demonstrates to the Secretary that—

“(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

“(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available to pay the administrative costs is not increased; or

“(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the administrative costs to an amount not to exceed 15 percent of the grant amount.

“(4) ADMINISTRATIVE COSTS.—For purposes of this title, administrative costs are the costs, both personnel-related and nonpersonnel-related and both direct and indirect, associated with the following:

“(A) The costs of performing general administrative functions and of providing for the coordination of functions, such as the costs of—

“(i) accounting, budgeting, and financial and cash management;

“(ii) procurement and purchasing;

“(iii) property management;

“(iv) personnel management;

“(v) payroll functions;

“(vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

“(vii) audits;

“(viii) general legal services;

“(ix) developing systems and procedures, including information systems, required for administrative functions;

“(x) preparing administrative reports; and

“(xi) other activities necessary for the general administration of government funds and associated programs.

“(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

“(C) The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

“(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

“(E) The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.

“(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

“(5) NON-FEDERAL SHARE OF ADMINISTRATIVE COSTS.—To the extent practicable, an entity that carries out a project under this title shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

“(6) USE OF FUNDS FOR WAGES AND BENEFITS AND PROGRAMMATIC ACTIVITY COSTS.—

“(A) IN GENERAL.—Amounts made available for a project under this title that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

"(i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not part of an accumulated sick leave program, except that no amounts provided under this title may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

"(ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition), which may be provided prior to or subsequent to placement and which may be provided on the job, in a classroom setting, or pursuant to other appropriate arrangements;

"(iii) job placement assistance, including job development and job search assistance;

"(iv) participant supportive services to enable a participant to successfully participate in a project under this title, which may include the payment of reasonable costs of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

"(v) outreach, recruitment and selection, intake, orientation, and assessments.

"(B) USE OF FUNDS FOR WAGES AND BENEFITS.—From the funds made available through a grant made under subsection (b), a grantee under this title—

"(i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this title; or

"(ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

"(C) REQUEST TO USE ADDITIONAL FUNDS FOR PROGRAMMATIC ACTIVITY COSTS.—

"(i) IN GENERAL.—A grantee may submit to the Secretary a request for approval—

"(I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

"(II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

"(III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

"(IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

"(ii) CONTENTS.—In submitting the request the grantee shall include in the request—

"(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

"(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

"(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

"(iii) SUBMISSION.—The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

"(D) REPORT.—Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee's use of funds for activities described in clauses (i) through (v) of subparagraph (A).

"(d) PROJECT DESCRIPTION.—Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project; 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this title.

"(e) PILOT, DEMONSTRATION, AND EVALUATION PROJECTS.—

"(1) IN GENERAL.—The Secretary, in addition to exercising any other authority contained in this title, shall use funds reserved under section 506(a)(1) to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this title.

"(2) PROJECTS.—Such projects may include—

"(A) activities linking businesses and eligible individuals, including activities providing assistance to participants transitioning from subsidized activities to private sector employment;

"(B) demonstration projects and pilot projects designed to—

"(i) attract more eligible individuals into the labor force;

"(ii) improve the provision of services to eligible individuals under one-stop delivery systems established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(iii) enhance the technological skills of eligible individuals; and

"(iv) provide incentives to grantees under this title for exemplary performance and incentives to businesses to promote their participation in the program under this title;

"(C) demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

"(D) provision of training and technical assistance to support any project funded under this title;

"(E) dissemination of best practices relating to employment of eligible individuals; and

"(F) evaluation of the activities authorized under this title.

"(3) CONSULTATION.—To the extent practicable, entities carrying out projects under this subsection shall consult with appropriate area agencies on aging and with other appropriate agencies and entities to promote coordination of activities under this title.

"SEC. 503. ADMINISTRATION.

"(a) STATE PLAN.—

"(1) GOVERNOR.—For a State to be eligible to receive an allotment under section 506, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this title as the 'State plan') that outlines a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this title. The plan shall contain such provisions as the Secretary may require, consistent with this title, including a description of the process used to ensure the participation of individuals described in paragraph (2). Not less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

"(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

"(A) individuals representing the State agency and the area agencies on aging in the State, and the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

"(B) individuals representing public and nonprofit private agencies and organizations providing employment services, including each grantee operating a project under this title in the State; and

"(C) individuals representing social service organizations providing services to older individuals, grantees under title III of this Act, affected communities, unemployed older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

"(3) COMMENTS.—Any State plan submitted by the Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (7), and a summary of the comments.

"(4) PLAN PROVISIONS.—The State plan shall identify and address—

"(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

“(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

“(C) the relative distribution of—

“(i) eligible individuals who are individuals with greatest economic need;

“(ii) eligible individuals who are minority individuals;

“(iii) eligible individuals who are limited English proficient; and

“(iv) eligible individuals who are individuals with greatest social need;

“(D) the current and projected employment opportunities in the State (such as by providing information available under section 15 of the Wagner-Peyser Act (29 U.S.C. 491-2) by occupation), and the type of skills possessed by local eligible individuals;

“(E) the localities and populations for which projects of the type authorized by this title are most needed; and

“(F) plans for facilitating the coordination of activities of grantees in the State under this title with activities carried out in the State under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

“(5) Governor’s recommendations.—Before a proposal for a grant under this title for any fiscal year is submitted to the Secretary, the Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit to the Secretary—

“(A) recommendations regarding the anticipated effect of each such proposal upon the overall distribution of enrollment positions under this title in the State (including such distribution among urban and rural areas), taking into account the total number of positions to be provided by all grantees in the State;

“(B) any recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

“(C) in the case of any increase in funding that may be available for use in the State under this title for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year to underserved areas.

“(6) Disruptions.—In developing a plan or considering a recommendation under this subsection, the Governor shall avoid disruptions in the provision of services for participants to the greatest possible extent.

“(7) Determination; review.—

“(A) Determination.—In order to effectively carry out this title, each State shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

“(B) Review.—The Secretary may review, on the Secretary’s own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects and services under this title in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

“(8) Exemption.—The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 506(a)(3) may not be required to participate in the State planning processes described in this section but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Island and Asian Americans, respectively.

“(b) Coordination With Other Federal Programs.—

“(1) In general.—The Secretary and the Assistant Secretary shall coordinate the program carried out under this title with programs carried out under other titles of this Act, to increase employment opportunities available to older individuals.

“(2) Programs.—

“(A) In general.—The Secretary shall coordinate programs carried out under this title with the program carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this title with the administration of other titles of this Act by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services.

“(B) Use of funds.—

“(i) Prohibition.—Funds appropriated to carry out this title may not be used to carry out any program under the Workforce Investment Act of 1998, the Community Services Block Grant Act, the Rehabilitation Act of 1973, the Carl D. Perkins Career and Technical Education Act of 2006, the National and Community Service Act of 1990, or the Domestic Volunteer Service Act of 1973.

“(ii) Joint activities.—Clause (i) shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out section 511.

“(3) Informational materials on age discrimination.—The Secretary shall distribute to grantees under this title, for distribution to program participants, and at no cost to grantees or participants, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies that the Secretary determines are designed to help participants identify age discrimination and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

“(c) Use of Services, Equipment, Personnel, and Facilities.—In carrying out this title, the Secretary may use the services, equipment, personnel, and facilities of Federal and other agencies, with their consent, with or without reimbursement, and on a similar basis cooperate with other public and nonprofit private agencies and organizations in the use of services, equipment, and facilities.

“(d) Payments.—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

“(e) No Delegation of Functions.—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

“(f) Compliance.—

“(1) Monitoring.—The Secretary shall monitor projects for which grants are made under this title to determine whether the grantees are complying with rules and regulations issued to carry out this title (including the statewide planning, consultation, and coordination requirements of this title).

“(2) Compliance with uniform cost principles and administrative requirements.—Each grantee that receives funds under this title shall comply with the applicable uniform cost principles and appropriate administrative requirements for grants and contracts that are applicable to the type of entity that receives funds, as issued as circulars or rules of the Office of Management and Budget.

“(3) Reports.—Each grantee described in paragraph (2) shall prepare and submit a report in such manner and containing such information as the Secretary may require regarding activities carried out under this title.

“(4) Records.—Each grantee described in paragraph (2) shall keep records that

“(A) are sufficient to permit the preparation of reports required by this title;

“(B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and

“(C) contain any other information that the Secretary determines to be appropriate.

“(g) Evaluations.—The Secretary shall establish by rule and implement a process to evaluate, in accordance with section 513, the performance of projects carried out and services provided under this title. The Secretary shall report to Congress, and make available to the public, the results of each such evaluation and shall use such evaluation to improve services delivered by, or the operation of, projects carried out under this title.

“SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.

“(a) Inapplicability of Certain Provisions Covering Federal Employees.—Eligible individuals who are participants in any project funded under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to part III of title 5, United States Code.

“(b) Workers’ Compensation.—No grant or subgrant shall be made and no contract or subcontract shall be entered into under this title with an entity who is, or whose employees are, under State law, exempted from operation of the State workers’ compensation law, generally applicable to employees, unless the entity shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the grant, subgrant, contract, or subcontract shall enjoy workers’ compensation coverage equal to that provided by law for covered employment.

“SEC. 505. INTERAGENCY COOPERATION.

“(a) Consultation With the Assistant Secretary.—The Secretary shall consult with and obtain the written views of the Assistant Secretary before issuing rules and before establishing general policy in the administration of this title.

“(b) Consultation With Heads of Other Agencies.—The Secretary shall consult and cooperate with the Secretary of Health and Human Services (acting through officers including the Director of the Office of Community Services), and the heads of other Federal agencies that carry out programs related to the program carried out under this title, in order to achieve optimal coordination of the program carried out under this title with such related programs. Each head of a Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

"(c) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall promote and coordinate efforts to carry out projects under this title jointly with programs, projects, or activities carried out under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c)) of such Act (29 U.S.C. 2864(c)), that provide training and employment opportunities to eligible individuals.

"(2) COORDINATION WITH CERTAIN ACTIVITIES.—The Secretary shall consult with the Secretary of Education to promote and coordinate efforts to carry out projects under this title jointly with activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

"SEC. 506. DISTRIBUTION OF ASSISTANCE.

"(a) RESERVATIONS.—

"(1) RESERVATION FOR PILOT DEMONSTRATION AND EVALUATION PROJECTS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary may first reserve not more than 1.5 percent to carry out demonstration projects, pilot projects, and evaluation projects under section 502(e).

"(2) RESERVATION FOR TERRITORIES.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve 0.75 percent, of which—

"(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent of the funds so reserved; and

"(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent of the funds so reserved.

"(3) RESERVATION FOR ORGANIZATIONS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve such amount as may be necessary to make national grants to public or nonprofit national Indian aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Indians and to national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Pacific Island and Asian Americans.

"(b) STATE ALLOTMENTS.—The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

"(c) DIVISION BETWEEN NATIONAL GRANTS AND GRANTS TO STATES.—The funds appropriated to carry out this title for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a) shall be divided by the Secretary between national grants and grants to States as follows:

"(1) RESERVATION OF FUNDS FOR FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

"(A) IN GENERAL.—The Secretary shall reserve the amount of funds necessary to maintain the fiscal year 2000 level of activities supported by grantees that operate under this title under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under this title, in proportion to their respective fiscal year 2000 levels of activities.

"(B) INSUFFICIENT APPROPRIATIONS.—If in any fiscal year the funds appropriated to carry out this title are insufficient to satisfy the requirement specified in subparagraph (A), then the amount described in subparagraph (A) shall be reduced proportionally.

"(2) FUNDING IN EXCESS OF FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

"(A) UP TO $35,000,000.—The amount of funds remaining (if any) after the application of paragraph (1), but not to exceed $35,000,000, shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

"(B) OVER $35,000,000.—The amount of funds remaining (if any) after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

"(d) ALLOTMENTS FOR NATIONAL GRANTS.—From funds available under subsection (c) for national grants, the Secretary shall allot for public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary in each State, an amount that bears the same ratio to such funds as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

"(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

"(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

"(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this title under national grants from the Secretary in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

"(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for grantees that operate under this title under national grants from the Secretary in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

"(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

"(e) ALLOTMENTS FOR GRANTS TO STATES.—From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such amount as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

"(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

"(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

"(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

"(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities; no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in all of the States.

"(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

"(f) ALLOTMENT PERCENTAGE.—For purposes of subsections (d) and (e) and this subsection—

"(1) the allotment percentage of each State shall be 100 percent less that percentage that bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the allotment percentage shall be not more than 75 percent and not less than 33 percent; and

"(B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

"(2) the number of individuals age 55 or older in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

"(3) for the purpose of determining the allotment percentage, the term 'United States' means the 50 States, and the District of Columbia.

"(g) DEFINITIONS.—In this section:

"(1) COST PER AUTHORIZED POSITION.—The term 'cost per authorized position' means the sum of—

"(A) the hourly minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

"(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits; and

"(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

"(2) FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—The term 'fiscal year 2000 level of activities' means—

"(A) with respect to public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary, their level of activities for fiscal year 2000; and

"(B) with respect to State grantees, their level of activities for fiscal year 2000.

"(3) GRANTS TO STATES.—The term 'grants to States' means grants made under this title by the Secretary to the States.

"(4) Level of Activities.—The term 'level of activities' means the number of authorized positions multiplied by the cost per authorized position.

"(5) National Grants.—The term 'national grants' means grants made under this title by the Secretary to public and nonprofit private agency and organization grantees that operate under this title.

"(6) State.—The term 'State' does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

"SEC. 507. EQUITABLE DISTRIBUTION.

"(a) Interstate Allocation.—In making grants under section 502(b) from allotments made under section 506, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

"(b) Intrastate Allocation.—The amount allocated for projects within each State under section 506 shall be allocated among areas in the State in an equitable manner, taking into consideration the State priorities set out in the State plan in effect under section 503(a).

"SEC. 508. REPORT.

"To carry out the Secretary's responsibilities for reporting in section 503(g), the Secretary shall require the State agency for each State that receives funds under this title to prepare and submit a report at the beginning of each fiscal year on such State's compliance with section 507(b). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allocated to each such project under section 506.

"SEC. 509. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.

"Funds received by eligible individuals from projects carried out under the program established under this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other individuals, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"SEC. 510. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.

"Eligible individuals under this title may be considered by local workforce investment boards and one-stop operators established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) to satisfy the requirements for receiving services under such title I that are applicable to adults.

"SEC. 511. COORDINATION WITH THE WORKFORCE INVESTMENT ACT OF 1998.

"(a) Partners.—Grantees under this title shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

"(b) Coordination.—In local workforce investment areas where more than 1 grantee under this title provides services, the grantees shall—

"(1) coordinate their activities related to the one-stop delivery systems; and

"(2) be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c)).

"SEC. 512. TREATMENT OF ASSISTANCE.

"Assistance provided under this title shall not be considered to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).

"SEC. 513. PERFORMANCE.

"(a) Measures and Indicators.—

"(1) Establishment and implementation of measures and indicators.—The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this title, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this title. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this title without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

"(2) Content.—

"(A) Composition of measures and indicators.—

"(i) Measures.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

"(ii) Additional indicators.—The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2).

"(B) Continuous improvement.—The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

"(C) Expected levels of performance.—The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning the levels with all grantees, the Secretary shall make available for public review the final negotiated expected levels of performance for each grantee, including any comments submitted by the grantee regarding the grantee's satisfaction with the negotiated levels.

"(D) Adjustment.—The expected levels of performance described in subparagraph (C) applicable to a grantee shall be adjusted after the agreement under subparagraph (C) has been reached only with respect to the following factors:

"(i) High rates of unemployment or of poverty or participation in the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the areas served by a grantee, relative to other areas of the State involved or Nation.

"(ii) Significant downturns in the areas served by the grantee or in the national economy.

"(iii) Significant numbers or proportions of participants with 1 or more barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, served by a grantee relative to such numbers or proportions for grantees serving other areas of the State or Nation.

"(iv) Changes in Federal, State, or local minimum wage requirements.

"(v) Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

"(E) Placement.—

"(i) Level of performance.—For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (ii) (adjusted in accordance with subparagraph (D)) for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B).

"(ii) Required placement percentages.—The minimum percentage for the expected level of performance for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B) is—

"(I) 21 percent for fiscal year 2007;

"(II) 22 percent for fiscal year 2008;

"(III) 23 percent for fiscal year 2009;

"(IV) 24 percent for fiscal year 2010; and

"(V) 25 percent for fiscal year 2011.

"(3) Limitation.—An agreement to be evaluated on the core measures of performance and to report information on the additional indicators of performance shall be a requirement for application for, and a condition of, all grants authorized by this title.

"(b) Indicators of Performance.

"(1) Core indicators.—The core indicators of performance described in subsection (a)(2)(A)(i) shall consist of—

"(A) hours (in the aggregate) of community service employment;

"(B) entry into unsubsidized employment;

"(C) retention in unsubsidized employment for 6 months;

"(D) earnings; and

"(E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) Additional indicators. The additional indicators of performance described in subsection (a)(2)(A)(ii) shall consist of

"(A) retention in unsubsidized employment for 1 year;

"(B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;

"(C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

"(3) Definitions of indicators. The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in paragraphs (1) and (2).

"(c) Evaluation.—The Secretary shall

"(1) annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)); and

"(2) annually publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance.

"(d) TECHNICAL ASSISTANCE AND CORRECTIVE EFFORTS.—

"(1) INITIAL DETERMINATIONS.—

"(A) IN GENERAL.—As soon as practicable after July 1, 2007, the Secretary shall determine if a grantee under this title has, for program year 2006—

"(i) met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and

"(ii) achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).

"(B) TECHNICAL ASSISTANCE.—If the Secretary determines that the grantee, for program year 2006—

"(i) failed to meet the expected levels of performance described in subparagraph (A)(i); or

"(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),

the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance and achieve the applicable percentage.

"(2) NATIONAL GRANTEES.—

"(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 502(b) in accordance with section 514 has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

"(B) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

"(i) IN GENERAL.—If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

"(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

"(iii) RECOMPETITION.—Any grantee who has failed to meet the expected levels of performance for 4 consecutive years (beginning with program year 2007) shall not be allowed to compete in the subsequent grant competition under section 514 following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

"(3) STATE GRANTEES.—

"(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a State grantee allotted funds under section 506(e) has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

"(B) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

"(i) IN GENERAL.—If the Secretary determines that a State fails to meet the expected levels of performance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

"(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

"(iii) COMPETITION.—If the Secretary determines that the State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years (beginning with program year 2007), the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 506(e) for the first full program year following the Secretary's determination.

"(4) SPECIAL RULE FOR ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007.

"(e) IMPACT ON GRANT COMPETITION.—The Secretary may not publish a notice announcing a grant competition under this title, and solicit proposals for grants, until the day that is the later of—

"(1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and

"(2) January 1, 2010.

"SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.

"(a) PROGRAM AUTHORIZED.—

"(1) INITIAL APPROVAL OF GRANT APPLICATIONS.—From the funds available for national grants under section 506(d), the Secretary shall award grants under section 502(b) to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out projects under this title for a period of 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this title until the day described in section 513(e).

"(2) CONTINUATION OF APPROVAL BASED ON PERFORMANCE.—If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 513(d)(2)(A) for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 502(b) to such recipient to continue such project beyond such 4-year period for 1 additional year without regard to such process.

"(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under section 502(b) in accordance with subsections (a), (c), and (d).

"(c) CRITERIA.—For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

"(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

"(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

"(4) The applicant's prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this title and the applicant's ability to address core indicators of performance and additional indicators of performance under this title and under other Federal or State programs in the case of an applicant that has not previously received a grant under this title.

"(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, into unsubsidized employment.

"(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

"(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

"(8) The applicant's ability to administer a project that provides community service.

"(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

"(10) Any additional criteria that the Secretary considers to be appropriate in order to minimize disruption in services for participants.

"(d) RESPONSIBILITY TESTS.—

"(1) IN GENERAL.—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

"(2) REVIEW.—As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant's history with regard to the management of other grants.

"(3) FAILURE TO SATISFY TEST.—The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

"(4) TEST.—The responsibility tests include review of the following factors:

"(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

"(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

"(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

"(D) Willful obstruction of the audit process.

"(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

"(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

"(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

"(H) Failure to submit required reports.

"(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

"(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

"(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A-133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

"(L) Failure to audit a subrecipient within the required period.

"(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious.

"(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

"(5) DETERMINATION.—Applicants that are determined to be not responsible shall not be selected as grantees.

"(6) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996, including the amendments made by that Act.

"(e) GRANTEES SERVING INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.—

"(1) DEFINITION.—In this subsection, the term 'individuals with barriers to employment' means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

"(2) SPECIAL CONSIDERATION.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

"(f) MINORITY-SERVING GRANTEES.—The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

"SEC. 515. REPORT ON SERVICE TO MINORITY INDIVIDUALS.

"(a) IN GENERAL.—The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this title.

"(b) CONTENTS.—

"(1) ORGANIZATION AND DATA.—Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this title, by service area, and in the aggregate, beginning with data that applies to program year 2005.

"(2) EFFORTS.—The report shall also include a description of each grantee's efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

"(3) RELATED MATTERS.—The report shall also include—

"(A) an assessment of individual grantees based on the criteria established under subsection (c);

"(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

"(C) information on factors affecting participation rates among such minority individuals; and

"(D) recommendations for increasing participation of minority individuals in the program.

"(c) CRITERIA.—The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 502(a)(1).

"(d) SUBMISSION.—The Secretary shall annually submit such a report to the appropriate committees of Congress.

"SEC. 516. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) the older American community service employment program described in this title was established with the intent of placing older individuals in community service positions and providing job training; and

"(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011.

"(b) OBLIGATION.—Amounts appropriated under this section for any fiscal year shall be available for obligation during the annual period that begins on July 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency that receives funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

"(c) RECAPTURING FUNDS.—At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

"(1) incentive grants to entities that are State grantees or national grantees under section 502(b);

"(2) technical assistance; or

"(3) grants or contracts for any other activity under this title.

"SEC. 518. DEFINITIONS AND RULE.

"(a) DEFINITIONS.—For purposes of this title:

"(1) COMMUNITY SERVICE.—The term 'community service' means—

"(A) social, health, welfare, and educational services (including literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;

"(B) conservation, maintenance, or restoration of natural resources;

"(C) community betterment or beautification;

"(D) antipollution and environmental quality efforts;

"(E) weatherization activities;

"(F) economic development; and

"(G) such other services essential and necessary to the community as the Secretary determines by rule to be appropriate.

"(2) COMMUNITY SERVICE EMPLOYMENT.—The term 'community service employment' means part-time, temporary employment paid with grant funds in projects described in section 502(b)(1)(D), through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

"(3) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), excluding any income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

"(B) PARTICIPATION.—

"(i) EXCLUSION.—Notwithstanding any other provision of this paragraph, the term 'eligible individual' does not include an individual who has participated in projects under this title for a period of 48 months in the aggregate (whether or not consecutive) after July 1, 2007 unless the period was increased as described in clause (ii).

"(ii) INCREASED PERIODS OF PARTICIPATION.—The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who—

"(I) have a severe disability;

"(II) are frail or are age 75 or older;

"(III) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(IV) live in an area with persistent unemployment and are individuals with severely limited employment prospects; or

"(V) have limited English proficiency or low literacy skills.

"(4) INCOME.—In this section, the term 'income' means income received during the 12-month period (or, at the option of the grantee involved, the annualized income for the 6-month period) ending on the date an eligible individual submits an application to participate in a project carried out under this title by such grantee.

"(5) PACIFIC ISLAND AND ASIAN AMERICANS.—The term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

"(6) PROGRAM.—The term 'program' means the older American community service employment program established under this title.

"(7) SUPPORTIVE SERVICES.—The term 'supportive services' means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

"(8) UNEMPLOYED.—The term 'unemployed', used with respect to a person or individual, means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.

"(b) RULE.—Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this title if the individual—

"(1) is 65 years of age or older; or

"(2)(A) has a disability;

"(B) has limited English proficiency or low literacy skills;

"(C) resides in a rural area;

"(D) is a veteran;

"(E) has low employment prospects;

"(F) has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); or

"(G) is homeless or at risk for homelessness.".

SEC. 502. EFFECTIVE DATE.

(a) IN GENERAL.—Title V of the Older Americans Act of 1965 (as amended by section 501) takes effect July 1, 2007.

(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.—

(1) REGULATIONS.—Effective on the date of enactment of this Act, the Secretary of Labor may issue rules and regulations authorized in such title V.

(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 (as so amended), in preparation for program year 2007.

TITLE VI—NATIVE AMERICANS

SEC. 601. CLARIFICATION OF MAINTENANCE REQUIREMENT.

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e–1) is amended by adding at the end the following:

"(c) CLARIFICATION.—

"(1) DEFINITION.—In this subsection, the term 'covered year' means fiscal year 2006 or a subsequent fiscal year.

"(2) CONSORTIA OF TRIBAL ORGANIZATIONS.—If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of subsections (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each covered year for which the tribal organization submits an application under this part, even if the tribal organization submits—

"(A) a separate application from the remaining members of the consortium; or

"(B) an application as 1 of the remaining members of the consortium.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants awarded under part A of title VI of the Older Americans Act of 1965 (42 U.S.C. 3057b et seq.) during the grant period beginning April 1, 2008, and all subsequent grant periods.

SEC. 602. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking "2001" and inserting "2007"; and

(2) in paragraph (2), by striking "$5,000,000" and all that follows through the period at the end and inserting "$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011.".

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SEC. 701. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking "2001" each place it appears and inserting "2007".

SEC. 702. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058i) is amended—

(1) in subsection (a), by striking "programs for the prevention of" and inserting "programs to address";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "programs for" and all that follows through "including—" and inserting the following: "programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—";

(B) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(C) by inserting after paragraph (1) the following:

"(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;";

(D) in paragraph (8), as redesignated by subparagraph (B), by striking "and" at the end;

(E) in paragraph (9), as redesignated by subparagraph (B), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

"(10) examining various types of shelters serving older individuals (in this paragraph referred to as 'safe havens'), and testing various safe haven models for establishing safe havens (at home or elsewhere), that recognize autonomy and self-determination, and fully protect the due process rights of older individuals;

"(11) supporting multidisciplinary elder justice activities, such as—

"(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

"(B) establishing a State coordinating council, which shall identify the individual State's needs and provide the Assistant Secretary with information and recommendations relating to efforts by the State to combat elder abuse, neglect, and exploitation;

"(C) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State (referred to in some States as 'State Working Groups');

"(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of States and communities (other than the ones in which the review teams were used); and

"(E) developing best practices, for use in long-term care facilities, that reduce the risk of elder abuse for residents, including the risk of resident-to-resident abuse; and

"(12) addressing underserved populations of older individuals, such as—

"(A) older individuals living in rural locations;

"(B) older individuals in minority populations; or

"(C) low-income older individuals.";

(3) in subsection (e)(2)—

(A) by striking "subsection (b)(8)(B)(i)" and inserting "subsection (b)(9)(B)(i)"; and

(B) by striking "subsection (b)(8)(B)(ii)" and inserting "subsection (b)(9)(B)(ii)"; and

(4) by adding at the end of the section the following:

"(h) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities carried out under this section.

"(i) EVALUATING PROGRAMS.—The Assistant Secretary shall evaluate the activities carried out under this section, using funds made available under section 206(g).

"(j) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds made available to carry out this section, an entity shall comply with all applicable laws, regulations, and guidelines.".

SEC. 703. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Section 751 of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—

"(A) establishing a coordinating council, which shall identify the needs of an individual Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing entity of the Native American group to combat elder abuse, neglect, and exploitation;

"(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and

"(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups (other than the ones in which the review teams were used).";

(2) in subsection (b), by striking "this subtitle" and inserting "this section"; and

(3) in subsection (d)—

(A) by striking "this section" and inserting "this subtitle"; and

(B) by striking "2001" and inserting "2007".

SEC. 704. ELDER JUSTICE PROGRAMS.

Subtitle B of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle B—Native American Organization and Elder Justice Provisions";

and

(2) by inserting after section 751 the following:

"SEC. 752. GRANTS TO PROMOTE COMPREHENSIVE STATE ELDER JUSTICE SYSTEMS.

"(a) PURPOSE AND AUTHORITY.—For each fiscal year, the Assistant Secretary may make grants to States, on a competitive basis, in accordance with this section, to promote the development and implementation, within each such State, of a comprehensive elder justice system, as defined in subsection (b).

"(b) COMPREHENSIVE ELDER JUSTICE SYSTEM DEFINED.—In this section, the term 'comprehensive elder justice system' means an integrated, multidisciplinary, and collaborative system for preventing, detecting, and addressing elder abuse, neglect, and exploitation in a manner that—

"(1) provides for widespread, convenient public access to the range of available elder justice information, programs, and services;

"(2) coordinates the efforts of public health, social service, and law enforcement authorities, as well as other appropriate public and private entities, to identify and diminish duplication and gaps in the system;

"(3) provides a uniform method for the standardization, collection, management, analysis, and reporting of data; and

"(4) provides such other elements as the Assistant Secretary determines appropriate.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section for a fiscal year, a State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.

"(d) AMOUNT OF GRANTS.—The amount of a grant to a State with an application approved under this section for a fiscal year shall be such amount as the Assistant Secretary determines appropriate.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use funds made available through such grant to promote the development and implementation of a comprehensive elder justice system by—

"(A) establishing formal working relationships among public and private providers of elder justice programs, service providers, and stakeholders in order to create a unified elder justice network across such State to coordinate programmatic efforts;

"(B) facilitating and supporting the development of a management information system and standard data elements;

"(C) providing for appropriate education (including educating the public about the range of available elder justice information, programs, and services), training, and technical assistance; and

"(D) taking such other steps as the Assistant Secretary determines appropriate.

"(2) MAINTENANCE OF EFFORT.—Funds made available to States pursuant to this section shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in paragraph (1).".

SEC. 705. RULE OF CONSTRUCTION.

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058bb et seq.) is amended by adding at the end the following:

"SEC. 765. RULE OF CONSTRUCTION.

"Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual's religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

"(1) is contemporaneously expressed by the older individual—

"(A) either orally or in writing;

"(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

"(C) when the older individual is competent to make the decision;

"(2) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

"(3) may be unambiguously deduced from the older individual's life history.".

TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL

SEC. 801. SHORT TITLE.

This title may be cited as the "Tom Osborne Federal Youth Coordination Act".

SEC. 802. ESTABLISHMENT AND MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Federal Youth Development Council (in this title referred to as the "Council").

(b) MEMBERS AND TERMS.—

(1) FEDERAL EMPLOYEE MEMBERS.—The members of the Council shall include the Attorney General, the Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Education, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Defense, the Director of National Drug Control Policy, and the Chief Executive Officer of the Corporation for National and Community Service, or a designee of each such individual who holds significant decision-making authority, and other Federal officials as directed by the President.

(2) ADDITIONAL MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include any additional members as the President shall appoint from among representatives of community-based organizations, including faith-based organizations, child and youth focused foundations, institutions of higher education, non-profit organizations, youth service providers, State and local government, and youth in disadvantaged situations.

(B) CONSULTATION.—In making the appointments under this paragraph, the President, as determined appropriate by the President, shall consult with—

(i) the Speaker of the House of Representatives, who shall take into account the recommendations of the majority leader and the minority leader of the House of Representatives; and

(ii) the president pro tempore of the Senate, who shall take into account the recommendations of the majority leader and the minority leader of the Senate.

(3) LENGTH OF TERM.—Each member of the Council shall serve for the life of the Council.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) NO COMPENSATION FOR SERVICE ON COUNCIL.—Each member of the Council appointed under section 802 who is not an officer or employee of the United States shall not receive pay by reason of the member's service on the Council, and shall not be considered an employee of the Federal Government by reason of such service. Each member of the Council who is an officer or employee of the United States shall serve without compensation in addition to that received for the member's service as an officer or employee of the United States.

(2) TRAVEL AND TRANSPORTATION EXPENSES.—Each member of the Council may be allowed travel or transportation expenses in accordance with section 5703 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Council.

(d) CHAIRPERSON.—The Chairperson of the Council shall be the Secretary of Health and Human Services.

(e) MEETINGS.—The Council shall meet at the call of the Chairperson, not less frequently than 4 times each year. The first meeting shall be not less than 4 months after the date of enactment of this Act.

SEC. 803. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The duties of the Council shall be to provide advice and recommendations, including—

(1) ensuring communication among agencies administering programs designed to serve youth, especially those in disadvantaged situations;

(2) assessing the needs of youth, especially those in disadvantaged situations, and those who work with youth, and the quantity and quality of Federal programs offering services, supports, and opportunities to help youth in their educational, social, emotional, physical, vocational, and civic development, in coordination with the Federal Interagency Forum on Child and Family Statistics;

(3) recommending quantifiable goals and objectives for such programs;

(4) making recommendations for the allocation of resources in support of such goals and objectives;

(5) identifying possible areas of overlap or duplication in the purpose and operation of programs serving youth and recommending ways to better facilitate the coordination and consultation among, and improve the efficiency and effectiveness of, such programs;

(6) identifying target populations of youth who are disproportionately at risk and assisting agencies in focusing additional resources on such youth;

(7) developing a plan, including common indicators of youth well-being that are consistent with the indicators tracked by the Federal Interagency Forum on Child and Family Statistics, and assisting Federal agencies, at the request of 1 or more such agencies, in coordinating to achieve the goals and objectives described in paragraph (3);

(8) assisting Federal agencies, at the request of 1 or more such agencies, in collaborating on—

(A) model programs and demonstration projects focusing on special populations, including youth in foster care and migrant youth;

(B) projects to promote parental involvement; and

(C) projects that work to involve young people in service programs;

(9) soliciting and documenting ongoing input and recommendations from—

(A) youth, especially youth in disadvantaged situations;

(B) national youth development experts, researchers, parents, community-based organizations, including faith-based organizations, foundations, business leaders, youth service providers, and teachers; and

(C) State and local government agencies, particularly agencies serving children and youth; and

(10) working with Federal agencies—

(A) to promote high-quality research and evaluation, identify and replicate model programs and promising practices, and provide technical assistance relating to the needs of youth; and

(B) to coordinate the collection and dissemination of youth services-related data and research.

(b) TECHNICAL ASSISTANCE.—The Council may provide technical assistance to a State at the request of a State to support a State-funded council for coordinating State youth efforts.

SEC. 804. COORDINATION WITH EXISTING INTERAGENCY COORDINATION ENTITIES.

In carrying out the duties described in section 803, the Council shall coordinate the efforts of the Council with other Federal, State, and local coordinating entities in order to complement and not duplicate efforts, including the following:

(1) Coordinating with the Federal Interagency Forum on Child and Family Statistics, established under Executive Order 13045 (42 U.S.C. 4321 note; relating to protection of children from environmental health risks and safety risks), on matters pertaining to data collection.

(2) Coordinating with the United States Interagency Council on Homelessness, established under section 201 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311), on matters pertaining to homelessness.

(3) Coordinating with the Coordinating Council on Juvenile Justice and Delinquency Prevention, established under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616), on matters pertaining to programs for at-risk youth.

SEC. 805. ASSISTANCE OF STAFF.

(a) DESIGNATION OF INDIVIDUAL.—The Chairperson is authorized to designate an individual to have responsibility for assisting in carrying out the duties of the Council under this title.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the department or agency to the Council to assist in carrying out the Council's duties under this title.

SEC. 806. POWERS OF THE COUNCIL.

(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(b) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this title.

SEC. 807. REPORT.

(a) INTERIM REPORT.—Not later than 1 year after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress an interim report of the findings of the Council.

(b) FINAL REPORT.—Not later than 2 years after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress a final report of the Council's findings and recommendations, which report shall—

(1) include a comprehensive list of recent research and statistical reporting by various Federal agencies on the overall well-being of youth;

(2) include the assessment of the needs of youth and those who serve youth;

(3) include a summary of the plan described in section 803(a)(7);

(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communication among the various Federal programs and agencies serving youth, as the Chairperson determines appropriate;

(5) include recommendations to better integrate and coordinate policies across agencies at the Federal, State, and local levels, including any recommendations the Chairperson determines appropriate, if any, for legislation and administrative actions;

(6) include a summary of actions the Council has taken at the request of Federal agencies to facilitate collaboration and coordination on youth serving programs and the results of those collaborations, if available;

(7) include a summary of the action the Council has taken at the request of States to provide technical assistance under section 803(b), if applicable; and

(8) include a summary of the input and recommendations from the groups identified in section 803(a)(9).

SEC. 808. TERMINATION.

The Council shall terminate 60 days after transmitting the final report under section 807(b).

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $1,000,000 for each of the fiscal years 2007 and 2008.

TITLE IX—CONFORMING AMENDMENTS

SEC. 901. CONFORMING AMENDMENTS TO OTHER ACTS.

(a) OLDER AMERICANS ACT AMENDMENTS OF 1987.—Section 205(1) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended by striking "section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17))" and inserting "section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)".

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(6) of the Energy Conservation and Production Act (42 U.S.C. 6862(6)) is amended by striking "paragraphs (4), (5), and (6), respectively, of section 102" and inserting "section 102".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. McKEON) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. McKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act Amendments of 2006, and I ask my colleagues to join me in supporting this important reauthorization. More than 49 million Americans and counting are over the age of 60. It is the fastest-growing segment of our population. In fact, by the year 2050, that number will reach nearly 90 million and comprise almost a quarter of our population.

Therefore, supporting the needs of seniors is as important as ever, and to do that we must ensure the long-term stability of programs on which they depend. The House-Senate agreement to reauthorize the Older Americans Act has been struck with these priorities in mind, and I commend my committee colleagues, subcommittee chairman Mr. TIBERI, Ranking Member Mr. HINOJOSA, and Mr. MILLER, the ranking member of the full committee, for joining me in forging this agreement in a remarkably bipartisan way. On the other side of the Capitol, Senators ENZI and DEWINE were instrumental in crafting this legislation as well.

I have been here long enough to remember past reauthorizations of the Older Americans Act, and, trust me, there was nothing remarkable or bipartisan about them. In a year when opportunities to reach across party lines are at a premium, this process has been refreshing.

Initially established in 1965, the Older Americans Act is no longer the 1960s-era social program it once was. Rather, it has been transformed into the first stop for seniors to identify home- and community-based long-term care options as well as other supportive services that could help prevent or delay expensive institutional care and generate significant savings in Federal entitlement programs. And H.R. 6197 builds on that progress.

Specifically, the bipartisan reauthorization will promote consumer choice as well as home- and community-based supports to help older individuals avoid institutional care; strengthen health and nutrition programs while ensuring no State loses a dime as they operate these programs; improves educational and volunteer services; encourages wealthier seniors to pay for many of their program benefits, maximizing the taxpayer investment for low-income seniors; increases the Federal, State, and local coordination; and reforms employment-based training for older Americans.

Within these employment-based training programs, to reflect the changing nature of the Older Americans Act and our senior population, I am also pleased this House-Senate agreement requires Federal grant competitions and encourages grantees to establish partnerships with private-sector businesses. These partnerships will help provide participants on-the-job training and aid individuals in achieving their goal of attaining unsubsidized employment.

At the same time, the agreement does not lose sight of the valuable community service aspect of the program and requires at least half of all subsidized employment-based training to provide a community service.

I would also like to commend my committee colleague, Mr. OSBORNE, for his work on this legislation, the Federal Youth Coordination Act, that we have been able to incorporate into this agreement. Over the last four decades, there has been a growing Federal involvement and a rapid growth in funds aimed to address numerous problems of youth, from substance abuse and violence to teen pregnancy and hunger. Mr. OSBORNE has taken the lead in the effort to evaluate, coordinate, and improve these programs. Under his legislation, the Federal Youth Development Council will be charged with doing just that.

At a time when so many in Washington feel the need to establish new program after new program, I appreciate this effort to take a step back and review what is already out there before we add even more layers of bureaucracy.

Mr. Speaker, as I did in June, when the House passed its initial version of this Older Americans Act reauthorization, I close by thanking all Americans who work or volunteer to support our country's senior citizens. This strong and vital network is made possible because of selfless volunteers who deliver meals to homebound seniors, offer companionship, assist with activities of daily living, and provide many other necessary supports that help older Americans remain healthy and fulfilled.

This House-Senate agreement is designed to support them, and I believe it is a positive reflection of their good work. And with that, I urge my colleagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act Amendments of 2006. This bipartisan, bicameral legislation addresses one of the top priorities of the aging community, as articulated in last December's White House Conference on Aging: the reauthorization of the Older Americans Act.

I would like to commend the staff on both sides of the aisle and both sides of the Capitol for their diligent work to get this bill ready for our consideration. It took a great deal of patience and perseverance. I would especially like to commend the efforts of Kate Houston on the majority side for all of her hard work and service to this committee. On this side of the aisle, I would especially like to thank Ricardo Martinez for his work in keeping the process moving forward.

Aging is a fact of life. However, through the establishment of Social Security, Medicare, and the enactment of the Older Americans Act, living in poverty no longer is a fact of aging. From 1959 to 2002, the percentage of older people living in poverty fell from 35 percent down to 10 percent.

The Older Americans Act of 1965 is the landmark legislation that articulated our core values as a Nation. The act begins with a declaration of objectives which includes the following: "Retirement in health, honor, dignity, after years of contribution to the economy." This is a statement of our national obligation to older Americans.

The Older Americans Act represents our commitment to meeting that obligation. This law provides for supportive services, such as transportation, housekeeping, and personal care. It provides nutrition services both in the home and in community settings. It provides preventive health services and supports family caregivers. Finally, it protects the rights of vulnerable older Americans by combating consumer fraud and protecting seniors from abuse.

The bill before us reauthorizes all of the core programs in the Older Americans Act. It promotes greater access to services for individuals who are more comfortable in a language other than English. It maintains the structure of the Senior Community Service Employment program and reaffirms the dual purpose of the program's employment and community service. It provides for greater flexibility to provide additional training to hard-to-serve populations to improve their employment outcomes.

It strengthens the very successful family caregivers program. It provides greater choices in health nutrition education so that our seniors can remain at home and in their communities. It promotes financial literacy for family caregivers and seniors so that older Americans' physical and mental health is not jeopardized by poor financial health. It strengthens our system of protecting older Americans from abuse.

Finally, it recognizes that seniors are a growing resource for the aging network and for our communities in general. We must continue to look for ways to leverage our older citizens' talents and desires to continue to make a difference.

This legislation has the support of the aging community. More than anything else, they are asking us to complete this work before we leave town in the next few days. Today, we move one step closer to this goal. It is my hope that once we send this legislation to the President for his signature, we will not relegate the Older Americans Act to the back burner. I hope that our resources will match our rhetoric and the policy goals laid out in this legislation.

As we have worked in a bipartisan manner to craft a reauthorization bill, I hope that as we move forward with the appropriations process, when we return after the elections, we will remember that the Older Americans Act programs are cost effective. We know that every dollar spent providing a meal or supporting seniors so that they can remain at home and in their communities not only improves their quality of life but saves entitlement spending on long-term care. Mr. Speaker, that is the genius of the Older Americans Act. It is incumbent upon all of us to step up and invest in these programs.

It has been a pleasure working with my friend and colleague, the chairman of our Select Education Committee, PAT TIBERI from Ohio. He is fair and listens and is willing to find a way to make things work, as we found in this legislation. I urge all my colleagues to support this legislation. It is something we can be proud of.

Mr. Speaker, I reserve the balance of my time.

Mr. McKEON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TIBERI), the subcommittee chairman.

Mr. TIBERI. Mr. Speaker, I want to thank Chairman McKEON and Mr. HINOJOSA for all the work they both have done to make this an even better product today. Your leadership has been crucial to this process.

I am proud, Mr. Speaker, of the bipartisan and bicameral process from both sides of the Capitol in coming up with a piece of legislation during this time of year that can be supported by the majority of both parties and a majority here in the United States House of Representatives.

This has been a product of many months of hard work to reauthorize the Older Americans Act, and the chairman and the ranking member of the subcommittee overviewed the legislation quite well, so I will not repeat what they said. But we heard from national, State, and local stakeholders, we heard from constituents and seniors themselves, and today we have a product that the vast aging network in America can be proud of as this reauthorization passes this House today.

This process has been an open and bipartisan process from the beginning, and this piece of legislation is better for that. I want to thank Mr. HINOJOSA for being a devoted partner in this process. His friendship and hard work and that of his staff have been much appreciated by myself and my team.

I also want to acknowledge the great work of Kate Houston, Stephanie Milburn, Rich Stombres, and a staff member of mine who is now in law school, Angela Kelmack, for her hard work as well. I appreciate all the hard work of all of our members who have contributed to this process, the members of the committee and the cosponsors.

Again, this is a proud day for older Americans. On to the Senate, after we urge our colleagues to pass this bill on the House floor today.

Mr. HINOJOSA. Mr. Speaker, I wish to yield 4 minutes to the gentleman from Illinois (Mr. DAVIS), who serves on the Education Committee and the Government Reform Committee and is a valued and very important member of our committee.

☐ 1645

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Texas for yielding. I also want to commend Chairman McKEON and Ranking Member MILLER for the tremendous display of bipartisanship which brought this legislation to the floor. I also want to congratulate Chairman TIBERI and Ranking Member HINOJOSA for the tremendous work they were able to do in subcommittee and all of the processing that actually took place.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act. I was very pleased to see the interests that I expressed included in the final outcome of the legislation. We were able to see kinship caregivers have an opportunity to participate at an earlier age, reduced from 60 to 55. We were also able to work with Mr. EHLERS and make sure that there was serious consideration given to the mental health needs of seniors.

It is obviously a very good piece of legislation, and it is a good note for us to be preparing to leave on, because it means that we have looked after the interests of those in our society reaching their golden years. I have been told that you can measure the greatness of a society by how well it takes care of its young, how well it takes care of its old, and how well it takes care of those who have difficulty looking after themselves. This legislation does indeed look after the older members of our society.

I thank again the Education Committee for an outstanding job, and I want to thank my staff person who worked with the committee, Dr. Jill Hunter-Williams, to make sure our interests were totally displayed. It has been a pleasure to see the process.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I mentioned earlier in my comments that added to the Older Americans Act we have included a bill that is sponsored by our colleague here, Mr. OSBORNE. I failed to mention that this committee that this legislation establishes, the Federal Youth Coordination Act, establishes a Youth Coordinating Council. This council that this legislation sets up will be named the Tom Osborne Coordinating Council. Mr. OSBORNE will be leaving the committee and the Congress at the end of this session. We will miss him greatly.

Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Thank you, Mr. Chairman, for those kind words, and thank you so much for your assistance in this matter. I would like to also thank Subcommittee Chairman Tiberi and Mr. HINOJOSA for their work.

I would like to particularly address title VIII of the Older Americans Act, entitled "The Federal Youth Coordination Act," which has been referred to previously. I, along with PETE HOEKSTRA, Mr. PAYNE and Mr. FORD, introduced the Federal Youth Coordination Act at the request of many organizations such as America's Promise, American Youth Policy Forum, Campfire USA, Learn and Serve America, Volunteers of America, Big Brothers and Big Sisters, and the Child Welfare League of America.

These groups were united in feeling that something needed to be done concerning the large number of youth-serving programs in the Federal Government. So these groups believe that young people could be better served if Federal youth-serving programs were coordinated, better targeted and streamlined; and we really appreciated their help.

The Federal Youth Coordination Act establishes a council chaired by the Secretary of Health and Human Services composed of representatives of youth-serving agencies within the Federal Government. These 150-odd youth serving programs are spread over 12 agencies, so as you might suppose, they have kind of grown like Topsy. Sometimes they duplicate. Sometimes they are not very efficient; sometimes they are. So this council simply tries to coordinate these different programs.

The purpose is, number one, to eliminate duplication and waste, which sometimes we have in government.

Second is to ensure that each program has measurable, quantifiable goals. When appropriators or other people evaluate a program, how do they know it is accomplishing what it was designed to do? So often there is something called "mission creep," where a program is established to serve one particular program, and it isn't long before it is off in another direction.

Third, to verify that each program serves the purpose for which it was intended.

Fourth, to ensure communication between agencies regarding youth-serving programs.

The council must meet quarterly and file an interim and a final report with congressional committees with jurisdiction over youth-serving programs. The report will provide critical information about programs in order to serve more children more effectively.

The council will also provide help to States that request aid in coordinating youth-serving programs at the State level.

I would especially like to thank Majority Mr. Leader BOEHNER, Chairman MCKEON, and Ranking Member MILLER for all of their help; also members of the staff, Whitney Rhoades, Kate Houston, Rich Stombres, Susan Ross, Denise Forte and Brady Young; also over in the Senate side, NORM COLEMAN, DEBBIE STABENOW and their Senate staffers. And especially I would like to mention Erin Duncan on my staff, who spent the better part of 2 years working on this legislation.

So, again, Mr. Chairman, thank you so much for your help. I think this will be a great program for so many young people, and we appreciate all that you have done.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, I want to say that it was a pleasure to work with our chairman, Mr. BUCK MCKEON, and with our ranking member, GEORGE MILLER, on this legislation. I appreciate all of the effort that they made so that we wound up with an excellent piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to recognize the hard work of my staff, Kate Houston, Stephanie Milburn, Rich Stombres and Taylor Hansen for the work they have done on this, along with the Democratic staffers on the other side of the aisle.

Mr. HOLT. Mr. Speaker, I rise in support of the reauthorization of the Older American Act. I would like to thank Congressmen BUCK MCKEON, PAT TIBERI, GEORGE MILLER and RUBEN HINOJOSA for their hard work reauthorizing this act.

Since originally enacted in 1965, the Older Americans Act has been an important vehicle by which senior citizens in need have received nutritional support, community service employment, pension counseling services, protections against neglect and abuse, and many other services.

Nutrition services through Title III of the Older Americans Act, such as the "Meals on Wheels" program, are essential in helping senior citizens who cannot prepare their own food to still have access to convenient and nutritious meals. The program serves those most in need, such as the aged, the less affluent, those who live alone, and members of minority groups.

I was pleased that I was able to amend the Seniors Independence Act during mark-up to stop the Department of Labor from using an unfair calculation of income to determine eligibility for Title V seniors community service employment programs, SCSEP. In January 2005, the Department of Labor issued a "Training and Employment Guidance Letter" that unilaterally changed the eligibility criteria for Title V. Instead of discounting certain forms of income like veterans' compensation, Social Security Disability Insurance, unemployment compensation, and a portion of traditional Social Security benefits, the new regulation mandated inclusion of that income, thus making fewer seniors eligible for vital services.

It would be inconsistent to state that the program targets persons with greatest economic need and persons who are disabled, and then use their Social Security income or disability benefits to exclude them from participation. It would also be a mistake to hold someone's service in the Armed Forces against them in determining their eligibility for employment assistance. The amendment that I offered in the Education and the Workforce Committee restores the eligibility criteria to the pre-2005 levels, and it was unanimously agreed to. I thank Chairman MCKEON and the rest of the committee for their help and cooperation on this issue.

Further I have advocated for Naturally Occurring Retirement Communities, NORCs, to be included in the legislation. NORCs supported by the older Americans act would provide technical assistance to target supportive services to assist the millions of older adults living in naturally occurring retirement communities throughout the country to maintain their independence and quality of life.

NORC supportive service programs are intended to increase efficiencies in the delivery of services to large populations of older adults living on their own and to reduce redundancies in the delivery of those services. They are also intended to empower older adults, and the communities within which they live, to determine the types of programs and services that they wish to receive—thus building supportive and responsive communities.

For millions of older adults, NORCs are becoming the retirement homes of choice and necessity. According to AARP, upwards of one-third of the older adult population is living in a NORC setting. With the retirement of the baby boomers only a few years away, and, according to AARP, the intention of Americans 45 and older to age in place in similar fashion, we can expect NORC and NORC-like communities to grow in abundance.

I am pleased the bill authorizes the Assistant Secretary to support efforts underway to develop innovative models providing for the efficient delivery of services to communities where older individuals are aging in place such as NORCs.

Mr. Speaker, the Seniors Independence Act of 2006 reauthorizes vital services for some of the most vulnerable Americans, and those in greatest need. I rise in support of this legislation and I urge its passage by this body.

Mr. TOWNS. Mr. Speaker, today I rise in strong support of the reauthorization of the Older American Act of 2006. For the past 40 years, millions of senior citizens have benefited from the support and nutritional services provided by this law which promotes the dignity and independence of older people and meet the challenges associated with the aging.

Seniors are the fastest growing population group in the United States. In 2000, there were an estimated 35 million people age 65 and older, representing about 13 percent of the population. It is predicted that by 2030, this number will double to 70 million people; and about 20 percent, or 1 in 5 Americans, will be age 65 and older. According to the New York State Office for the Aging, the 60 and older population will grow by 40 percent over the next 30 years due, in large part, to the influx of baby boomers. As the elderly population increases, more services will be required to ensure their independence.

I will continue to ensure that necessary funds are allocated, so that New York is not penalized because of the redistribution of funds to "high growth" States. We must not allow meals and services to be taken away from elderly people in one State to give to elderly people in another State.

I hope my colleagues will join me in preserving this much-needed program for American seniors everywhere.

Mr. McKEON. Mr. Speaker, I submit for the RECORD the following correspondence between Chairman BILL THOMAS of the Committee on Ways and Means and myself.

SEPTEMBER 28, 2006.

Hon. HOWARD P. "BUCK" McKEON,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN McKEON: I am writing in regard to H.R. 6197, the "Older Americans Act Amendments of 2006," which was referred to the Committee on Education and the Workforce and is scheduled for floor consideration on Thursday, September 28, 2006.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning the Social Security Act. Section 203 of the bill impacts the Social Security Administration and the U.S. Department of Health and Human Services, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this bill for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 6197, and would ask that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

SEPTEMBER 28, 2006.

Chairman BILL THOMAS,
Committee on Ways and Means, Longworth HOB, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your recent letter regarding the consideration of H.R. 6197, the "Older Americans Act Amendments of 2006, Section 203 of the bill establishes the Interagency Coordinating Committee on Aging to improve coordination among agencies with responsibility for programs and services for older individuals. The coordinating committee impacts the Social Security Administration and the U.S. Department of Health and Human Services, and thus falls within the shared jurisdiction of our two committees.

I appreciate your assistance in expediting the consideration of this bill and your willingness to forgo action on this bill. I agree that this procedure in no way diminishes or alters the jurisdictional interest of the Committee on Ways and Means and I support your request for conferees on those provisions within your committee's jurisdiction. Finally, I will include your letter and this response in the Congressional Record during consideration of H.R. 6197 on the House floor.

Sincerely,

HOWARD P. "BUCK" McKEON,
Chairman.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. McKEON) that the House suspend the rules and pass the bill, H.R. 6197.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6197.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. PUTNAM (during consideration of H.R. 6197), from the Committee on Rules, submitted a privileged report (Rept. No. 109-696) on the resolution (H. Res. 1052) providing for consideration of the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 4954, SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

Mr. KING of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4954) to improve maritime and cargo security through advanced layered defenses, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Thompson of Mississippi moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4954 be instructed to agree to the following provisions of the Senate amendment:

(1) Title V (relating to the Rail Security Act of 2006).

(2) Title VI (relating to the National Alert System).

(3) Title VII (relating to mass transit security).

(4) Title IX (relating to improved motor carrier, bus, and hazardous material security).

(5) The following sections of title XI:

(A) Section 1101 (relating to certain TSA personnel limitations not to apply).

(B) Section 1102 (relating to the Rural Policing Institute).

(C) Section 1103 (relating to evacuation in emergencies).

(D) Section 1104 (relating to health and safety during disasters).

(E) Section 1116 (relating to methamphetamine and methamphetamine precursor chemicals).

Mr. THOMPSON of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York

(Mr. KING) each will control 30 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this motion to instruct conferees. By passing this motion, we will ensure that the House conferees take seriously our Nation's efforts to secure the national transportation infrastructure.

We have seen a lot of piecemeal legislation coming out of the House of Representatives. Just last week, Republicans tried to shortchange the American people on border security by authorizing a fence without sufficient funds to build it. Some folks seem to think that piecemeal legislation will do just fine in time for the election. We have a chance here today to ensure that piecemeal and politics do not prevail over security and doing what is right by the American people.

We have the choice: we can partially secure or fully secure the national transportation infrastructure. This choice should be a no-brainer. That is why I encourage this body to support this motion to instruct. This motion incorporates many of the important security measures passed by the Senate, but neglected by the House.

Among other things, Mr. Speaker, this motion would instruct conferees to support improvements to security for America's seaports and mass transit and rail systems. We know about the very real threat to our rail and mass transit systems. We remember what happened in Tokyo, Mumbai, London, and Spain. We mourn the hundreds of innocent civilians that have been killed and wounded by terrorist attacks on a major rail system.

But despite all of this, Mr. Speaker, the 109th Congress has not adequately focused on rail and public transportation security. Similarly, the administration has not yet accepted that rail and public transportation is a Federal responsibility.

At a congressional hearing on March 29, Tracey Henke of DHS told Members of Congress that "aviation security by law is a Federal responsibility. That is not the case for transit security." Quite simply, this administration has flawed vision of securing America.

The Senate has offered us a way to solve some of these issues, and the sensible thing to do is to support these solutions. It helps our communities for Congress to support vulnerability assessments for freight and passenger rail transportation.

It is good policy to require the submission of prioritized recommendations for improving rail security in a report to Congress. It makes good sense for the government to use this information as a basis for allocating grants and establishing security improvement priorities, and it makes sense to study the costs and feasibility of required security screening for passengers, baggage, and cargo on passenger trains.

It is also good for our Nation's security, Mr. Speaker, to create a rail security R&D program to improve freight and intercity passenger rail security. It makes sense to reduce the vulnerability of train stations and equipment to explosives and hazardous chemical, biological and radioactive substances.

Democrats, Mr. Speaker, offered many of these provisions in the Rail and Public Transportation Security Act of 2006, and I am glad to see that they found their way to the floor today.

Another transportation mode that we should instruct conferees on is aviation security. London officials thwarted the terrorist plot to destroy 10 planes bound for this country. Next time we might not be so lucky. We know that aviation remains a major target for terrorists, so we should absolutely ensure that the House conferees do not ignore improvements to aviation security. Anything less would shortchange our communities and their safety.

This motion to instruct, Mr. Speaker, would instruct conferees to retain language adopted in the Senate that will ensure that TSA has enough screeners to keep our aviation system secure.

☐ 1700

There is little justification for an arbitrary 45,000 screener cap. Such a cap ties the hands of TSA just as it is trying to expand its activities in the airport to include behavioral recognition and the checking of identification against boarding passes. TSA should not be boot-strapped by this arbitrary cap.

The Senate approach of dealing with this issue is an important one that we should accept.

In sum, Mr. Speaker, this motion instructs conferees to take a total and complete approach to transportation and maritime security. Mr. Speaker, we cannot continue to piecemeal security legislation. Just as we can't secure our borders with a small fence, we can't secure our homeland without focusing on all major threats. But how can we go back to our constituents and say we didn't secure America's transportation system when we had a chance? This body can do better, and this motion will make sure we put America's security first. I urge all Members to support it.

I reserve the balance of my time.

Mr. KING of New York. Mr. Speaker, I rise in opposition to the motion to instruct. But let me say at the outset that I commend the gentleman from Mississippi for the cooperation he has given throughout this legislative process.

I want to commend Ms. HARMAN, Ms. SANCHEZ, and certainly Mr. LUNGREN, who are the prime movers of this legislation at the subcommittee and committee level.

Several points have to be made. The first is port security bill is completed. None of the items referenced by the gentleman from Mississippi relate to port security. Port security matters have been resolved.

Among other things, the port security legislation will provide $400 million in grants for U.S. ports.

It requires scanning of all containers coming to the U.S. for radiation at the Nation's 22 top ports, which covers 98 percent of containers entering the United States.

It sets a firm timetable for implementing the Transportation Worker Identification Card, TWIC, and requires a pilot program to scan 100 percent of cargo at three foreign seaports. Using the results of this pilot, the bill requires a widespread implementation.

Mr. Speaker, many of the items or a number of the items referenced in the motion to instruct, taken by themselves, many Members on this side, including myself, would agree to. Also, for instance, with reference to title 6 in the National Alert System, we have reached agreement on that, and that will be included in the final legislation.

On matters such as 1103, that is redundant in certain respects with the FEMA reforms which have been already approved by the conference committee and are included in the Homeland Security appropriations bill. There are other matters such as section 1104, which I strongly support and I am still hoping can be included in the final package. We are working toward that, and we are negotiating. There are other items also that are still on the table and we are trying to find accord on.

Having said that, I think it is important to note, for instance, with the transportation provisions that they even added on to the port security bill and yet in some cases they can be redundant. It should be noted, for instance, that through the transit security grant we have provided $375 million to the country's rail, mass transit, ferry, and inner city bus systems across the country and this year voted to appropriate $200 million in grants specifically targeting mass transit agencies. Since 9/11, we granted more than $11 billion, $11.5 billion, in homeland security assistance. Much of this has gone to transit.

The point is, Mr. Speaker, if there were more time, there are a number of these items which I could support, I know many members of the committee on our side could support, but we cannot allow the perfect to be the enemy of the good.

We have a port security bill. Those of us who went through the trauma of

Dubai Ports know the way the country came to a fevered pitch, and rightly so, over the issue of our Nation's security. We have addressed that. We passed legislation on this floor by a vote of 421–2, legislation that was worked on at a tremendous pace by Mr. LUNGREN, Ms. HARMAN, Ms. SANCHEZ. That went through. It was a truly bipartisan effort.

We have now reached the one-half yard line on that legislation. Let us not allow other issues, as important as they may be, to stop us from getting across the goal line with port security, comprehensive port security legislation which the American people have asked for. They demand it.

We have satisfied that request. This is excellent legislation. It is bipartisan legislation. We should be all proud of it. Let us not allow other issues to impede that, especially when a number of those issues I believe still can be resolved. But we don't want to, again, put the final product in jeopardy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 3 minutes to the gentlewoman from California, an original person promoting port security, Ms. HARMAN.

Ms. HARMAN. I thank the gentleman for yielding and commend him for his enormous leadership as ranking member on the Homeland Security Committee. I am proud to serve on that committee.

Mr. Speaker, nearly 6 months ago, I stood here with our colleagues and called the passage of H.R. 4954 by a vote of 421–2 a legislative miracle. I stand by those words today.

Mr. LUNGREN and I co-authored the SAFE Port Act, and from the beginning it has been a collaborative and comprehensive effort, both bicameral and bipartisan. It has been, and I hope it will continue to be, an example of how Congress should work. I appreciate this bipartisan approach to port and container security, and I am gratified that this issue is finally getting the attention it deserves.

Thanks should also go to the ranking member of the full committee, Mr. THOMPSON; the ranking member of the subcommittee, Ms. SANCHEZ; the chairman of the full committee, Mr. KING; and Chairman LUNGREN of the subcommittee, who showed by working together that the Homeland Security Committee is becoming a very significant committee in this Congress.

But this is not the time, Mr. Speaker, to congratulate ourselves and rest on our laurels. It is the time to take the steps to make a law. And in the last days of the last week before we recess for this election, we have a chance to do that, but only if we compromise with the other body.

As you heard from Mr. THOMPSON, this motion to instruct encourages us to take provisions in the other bill that reach for rail, mass transit, aviation, and related transportation modes beyond layered container security.

I know, as the representative of residents around the Ports of L.A. and Long Beach, the largest container port complex in the country, that those containers go onto a semi-submerged rail bed and go all over the country. I know that my constituents use all these other modes of transportation. They know that they need to be safer, and that by reaching for responsible provisions in the Senate version of this bill, as this motion instructs us to do, we will get a law. We will also do what we came here to do and what this week of debate on various security bills was supposed to be about, and that is work together to make America safer.

Mr. KING of New York. Mr. Speaker, I yield as much time as he may consume to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in opposition to the motion to instruct, not because I disagree with the intent of the gentleman from Mississippi nor the other speakers on the other side, but rather, let's not screw up a good deal.

We have worked very hard on a bipartisan basis to bring forth a major piece of legislation dealing with an area of the country that needs to be addressed, and that is port security. The name of the bill is the Safe Ports Bill. The Senate retained our number, retained the name; the guts of our bill is in this conference report that I believe we will complete before the end of today. And if we instruct conferees in this regard, frankly, we complicate the effort to reach a final conclusion.

I am concerned about the area of rail and mass transit security. As a matter of fact, I held a hearing in our subcommittee today at the request of the ranking member, Ms. SANCHEZ, and the ranking member of the full committee, Mr. THOMPSON. I thought it was a good bipartisan examination of a number of issues that are out there.

Some have suggested that the very fact that we had that hearing may have prompted some action on the part of DHS to put further attention to these areas. I was very proud of the fact that on a bipartisan basis we approached that issue, and we will continue to approach that issue, and I hope that we will continue in a bipartisan spirit to complete this action.

As the gentleman from New York, the chairman of the full committee, has said, we are close to the goal line right now. It has been a lot of hard work by a lot of people on a bipartisan basis, starting with our staffs about a year ago. We reached across the aisle, and when we reached across the aisle we were met with open hands by the other side. We have worked together to complete a comprehensive response to the threat that exists or the vulnerability that exists at our ports.

It is natural that, when you are attacked by air, that you initially respond to the area of attack. But we are 5 years after 9/11. We are 5 years past the time when we can say that we don't know or didn't know or don't know now of the vulnerabilities that exist with respect to our ports.

This is a major piece of legislation. This will be, when completed, a major achievement; and all I would say to my friends on the other side is, please join us ultimately in supporting this overall bill, as you have to this point.

We will ask for a defeat of this motion to instruct not because of the spirit in which it is offered but because of the complications that it will create and the difficulties that will ensue. If you want to have a viable response to the concerns that have been raised about port security, vote against this motion to instruct so that we can get to the business of completing our action during our conference later today, so we can bring to the floor of this House within the next 24 hours a completed bill, a bill that started in the House of Representatives, a bill that remains in the contours of what will be presented to the conference today, the guts of the bill that passed this House 421–2.

When you have something that passes the House 421–2 you ought to learn to accept "yes" for an answer. This is a great piece of work that is going to be presented. It doesn't answer all the questions, but moves us in the proper direction. It puts into law or will put into law many of the things that were first started with this administration but which are not in law, which are not mandatory, which are not permanent, and it extends those. And ideas from both sides of the aisle were put into this bill and will come out of this conference when we complete action.

So while I rise in opposition to the gentleman's motion to instruct, I do so in the spirit of cooperation that, once we get past this and once we get to the conference and once we come back with our completed conference report, we can all join together with another near unanimous vote for a safe ports piece of legislation.

Mr. THOMPSON of Mississippi. Mr. Speaker, I now yield 3 minutes to the gentlewoman from Orange County, California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Thank you, Mr. THOMPSON. Thank you for all of your guidance and help in getting this bill to the point where it is, and also to Chairman KING. This was done in a very bipartisan manner. I also want to thank the chairman of the subcommittee where I am the ranking member, which would be Mr. LUNGREN. And I rise in support of the Democratic motion to instruct conferees on H.R. 4954, the SAFE Port Act.

Now, why would we have a motion to instruct that would include things about freight and about mass transit and surface transportation security? Well, the reason is that the Senate side is taking up those issues; and they are good issues.

I mean, look how long it took us to get here to do port security. We should be just as concerned to do rail security, mass transit security, surface transportation security. As Ms. HARMAN said, when you get done with the port, the container keeps going through the neighborhood on trucks, it goes through in freight through the railroad tracks. So it doesn't stop at the port. We need to do it all.

For example, today we held a hearing, as Chairman LUNGREN said, on a very important issue, the training for the security of transportation employees. Not the ones at the airport where we have done a lot of training, we have put a lot of money, but the ones for busses, mass transit, railroad, freight workers.

□ 1715

Mr. Speaker, this was a very important hearing because things have happened on buses and trains, like Madrid and London. We need to ensure that transit and rail employees receive adequate training on how to recognize and report potential threats; how to protect themselves; and how to help us, the passengers, if there is a disaster going on; how they would respond in an incident.

And there are other provisions in this motion to instruct: establish a national alert response system to ensure that populations are alerted if there is a serious threat; require the Department of Homeland Security to perform vulnerability assessments of freight and passenger rail and make recommendations on how to improve their security; and establish a program to increase the tracking and communications technology on trucks that carry hazardous materials.

These are some of the critical issues that this motion to instruct encompasses. So all of this work, Mr. THOMPSON, Ms. HARMAN, myself, Mr. LUNGREN, Mr. KING, is very important, and I am thrilled we are at this point.

But we can add more, and it will be good. We cannot wait another 5 years like we did with port security. We should do it now. I urge my colleagues to support improving rail, mass transit, surface transportation, and port security. Please vote for the motion to instruct.

Mr. KING of New York. Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank the ranking member for his leadership.

Mr. Speaker, I rise today in strong support of the Democratic motion to instruct conferees on the SAFE Port Act. The Republican leadership has failed to fix the Department of Homeland Security's grant system ,which just this week failed to provide the port of Oakland in California, the fourth busiest port in the country in the heart of the Bay Area, with any money at all to protect this vital national security and economic security asset.

The most recent round of port security grant awards demonstrates the agencies' continued ignorance of the security needs of our Nation's ports, and the lack of a credible threat assessment by which to award funds.

Of course, should we be surprised? This is the same agency that identified Old McDonald's Petting Zoo as a vulnerable national asset, but left the Empire State Building off the list as a logical target in need of funding support.

We cannot do enough to protect our critical infrastructure in the United States; but without Ranking Member THOMPSON's motion to instruct, we will be leaving glaring vulnerabilities in our rail, subway, bus, and trucking systems.

The Republican leadership has had many opportunities to address these issues, separate and apart from ports legislation, but it has failed to take our Nation's domestic security seriously.

Today, through the motion to instruct, the House has the ability to show our absolute commitment to the safety and security of Americans who use our Nation's vital transportation systems. We should follow the leadership of the other body to secure our Nation's rail and transit systems, strengthen aviation security, secure the border, create a national warning and alert system, and provide first responders with post-disaster health monitoring.

By supporting the Democratic motion to instruct conferees, we will get it right; and we will instruct the conferees to accept the Senate positions on these important issues. We should not let this opportunity to do better, to strengthen security, and assist first responders pass us by.

Please support the Democratic motion to instruct.

Mr. KING of New York. Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER).

Mr. RUPPERSBERGER. Mr. Speaker, I rise in support of this motion to instruct conferees. As co-chair of the Congressional Port Security Caucus and a member of the Permanent Select Committee on Intelligence, I cannot stress enough the importance of adequately securing our ports.

The proposed sale of shipping operations to Dubai Ports World earlier this year was a wake-up call for this country, not because it would have jeopardized shipping operations here on the ground. Our longshoremen, terminal operators, Coast Guard, Customs and Border Patrol will do a great job no matter what company manages shipping operations. The Dubai deal was an eye opener because it did just that, it put the spotlight on our ports and showed the vulnerabilities that America could no longer ignore. The UAE spends a huge amount of money on securing its Dubai ports, and their ports are the safest in the world. The Dubai ports are safe because of the money invested in their ports and because they make their ports a priority.

We have not paid sufficient attention to our ports. We have not made our ports a priority. There are 539 ports in this country, making them an economic engine for America. The Port of Baltimore, which I represent, alone handles about 400,000 containers each year. A major event at a port would result in economic damages ranging from $58 billion to $1 trillion.

With so much at stake for our safety and economy, it is essential that we know what is coming in through our ports, where it came from, and who is sending it. Ironically, Dubai Ports World's failed attempt to take over shipping operations here in America was what finally got our country to focus on securing our ports. The SAFE Port/GreenLanes bill is a critical piece of legislation and a bipartisan effort. It is a comprehensive first step to make our ports safer. We must make port security a high priority.

I strongly support moving this bill through Congress.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his excellent work on this legislation.

I rise in support of the motion to instruct conferees offered by Mr. THOMPSON.

Mr. Speaker, the 9/11 Commission determined that the risk of maritime terrorism is at least as great if not greater than the risk of terrorism involving civilian aviation. We know that terrorists around the world want to obtain a nuclear bomb. We know that their plot includes an attempt to purchase a nuclear bomb in the former Soviet Union, to transport that nuclear bomb to a port around the world, to place that nuclear bomb in a container on a ship, and then to bring that container on that ship to a port in the United States where that nuclear bomb can be detonated by remote control before that nuclear bomb is ever taken off that ship.

The majority is happy that they are going to screen once they reach the port in the United States. By then it is too late. The bomb can be detonated while it still is on the ship. That is our nightmare scenario. And that is something that the majority Republican Party has refused to put in place as a protection against this ultimate al Qaeda attack upon our country.

They support screening after it reaches the United States. They support having a demonstration project around the world. But as late as 2 days ago in the Homeland Security Committee hearing, Secretary Chertoff once again repeated the Bush administration policy, the Republican policy, that they do not support the mandatory screening of all cargo for nuclear bombs overseas, which is the 9/11 Commission report finding, that that is where the protection should be put in place.

So that is our problem. What we will do is we will have a ship with a container in Africa, in Europe, in Asia, and one of those containers will have had a nuclear bomb slipped into it. And then that ship, because there is no scanning for nuclear bombs around the world, that ship then heads for a port in the United States.

We would not be talking about losing 3,000 people or 5,000 people. We would be talking about losing tens or hundreds of thousands of Americans in that nuclear explosion.

If we don't scan for a nuclear bomb overseas, we can't be sure. If we don't scan and seal these containers overseas, then the United States will have to once again reinstitute a policy of duck and cover here in America with Americans learning how to protect themselves in the event of a nuclear bomb.

The bomb is not going to be delivered by an airplane or some submarine attack. Al Qaeda doesn't have that kind of capacity. This is the way in which the nuclear bomb is most likely to come into our country. It is an opening that is too big. It should be closed. The Republican majority just wants to use paperwork screening. It is almost like saying that they are going to check everyone of us at an airport in the United States, but having checked our paperwork they say, Get on the plane, you don't have to let us look at your bags. You don't have to show us your bags, take off your shoes, go right on the plane. Get on the plane. Thanks for showing us your paperwork.

We in America will never be happy with that, but that is what their policy is for nuclear bombs. Show us the paperwork. We are not going to actually check the inside of the container. We are not going to screen; we are not going to scan. We are going to screen your paperwork; we are not going to screen the container.

Can you imagine that as a policy for airlines in the United States? We are going to screen your paperwork before you get on the plane, but not screen you or your bags or computer to make sure that you are not going to blow up the plane. It just won't happen post-9/11.

Here is the huge opening. This is something that the Republican administration continues to listen too closely to the cargo industry and the shipping industry rather than to the real security interests of the American people.

I thank the gentleman from Mississippi for his leadership on these issues.

Mr. KING of New York. Mr. Speaker, I will just make several remarks before I reserve the balance of my time.

With reference to the gentleman from Massachusetts, unfortunately nothing he said in his statement relates to the motion to instruct. If he had read our bill and read the motion to instruct, he would know that nothing he said was germane to the motion to instruct.

Secondly, as to the issue of bipartisanship and 100 percent screening, I would also advise the gentleman that the language that is adopted in the SAFE Ports Act which is going to conference was the language proposed by Democrats in the Senate which provides for three pilot projects of 100 percent screening at three foreign ports. So we are adopting Democratic language. We had one in ours, and they had three in theirs. We are accepting the three. To me that is the essence of bipartisanship.

With that, I would have to dismiss the comments of the gentleman from Massachusetts.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for a very instructive motion to instruct.

I would say to the chairman that we have worked together on this committee as best that we could in a bipartisan manner.

But let me tell you why I think this motion to instruct is particularly important. And I was drawn to the floor, I had a bill on the floor and several meetings, at the same time as several committee hearings that had to do with rail security. I believe the Committee on Homeland Security, of which I am a member, knows that this is an important issue. But we are operating against a backdrop of a Department that questions whether or not this is an important challenge that we have to face.

I respect, Mr. THOMPSON, the fact that the leadership of our Department may have a different view from us.

□ 1730

But the Secretary recently said in the last year that the truth of the matter is that a fully loaded airplane with jet fuel, a commercial airliner, has the capacity to kill 3,000 people, but a bomb in a subway may kill only 30. I do not know how many of us are experts on the type of bomb or the type of transit that may be impacted, but I think that narrow view of rail security brings us to where we are today. That is why this motion to instruct is so important, because we have an atmosphere and a sense at the Homeland Security Department that rail security or the devastation that could occur by attacking, whether it is Amtrak or whether it is a subway or some other form of rail, that it is not serious.

Let me tell you why it is serious. I live in Houston, Texas, and the symbol for Houston is the crossing of two railroads. We are a railroad town, and that means that all throughout my district and all throughout my neighborhoods are railroad tracks that then have the opportunity for a cargo train or a passenger train to travel right next to a residential house. My husband might not care for me to say it, but he says he went to sleep with the railroad ring in his ears because his original home was near the railroad tracks.

So this motion to instruct is crucial to save lives, because it would authorize $3.5 billion for a mass transit security grant program and $1.2 billion for freight and passenger rail security.

Why can't we take the Senate bill? There are large populations that are impacted by rail transportation and/or cargo. The Assistant Secretary for Homeland Security told Congress just in March of this year that aviation security by law is a Federal responsibility. That is not the case with transit security. And he ends it at that.

But homeland security is a Federal responsibility; and, therefore, I would argue that the reasonableness of the distinguished gentleman from Mississippi's motion to instruct is an important step towards recognizing that rail and mass transit can be vulnerable. And I cite which has already been cited: Worldwide terrorist attacks on trains average 30 per year. The 9/11 Commission noted that rail and mass transit are particularly vulnerable, and our workers on mass transit are saying that as well.

So I simply want to applaud the gentleman and ask that my colleagues support this and realize that we have a challenge and that the reason why Congress has to act is because we need to instruct the Executive that we do have a problem because leadership at the Homeland Security Department has said, one, "It's not my job." We have heard that. And, two, "Don't worry about it; only two or three are going to be lost."

Well, I would simply say to my good friends at the Homeland Security Department, come to Houston, Texas, and weave your way through neighborhoods that are at the high economic level and low, and you will find that it would result in a terrible, horrific tragedy, Mr. Speaker, if there was a rail catastrophe.

I ask my colleagues to support the motion to instruct to provide real rail security.

I rise in strong support of the Motion to Instruct Conferees to accept the Senate amendments to H.R. 5494 the "SAFE Port Act." I particularly wish to thank the gentleman from Mississippi, Mr. THOMPSON, the Ranking Member of the Homeland Security Committee, for introducing this important and much needed motion.

The SAFE Port Act, H.R. 4954, was reported out by the Homeland Security Committee and passed by the House in May of this year. On balance, the SAFE Port Act is a good bill but it only addresses port and shipping container security. The Senate bill contains similar port security provisions, but also includes several provisions which will have the salutary effect of substantially enhancing the safety and security of America's rail, subway, buses and trucking systems. The Senate bill also strengthens aviation security, border security, and creates a National Warning and Alert System which provides first responders with post-disaster health monitoring.

Mr. Speaker, the House Republican Leadership has had many opportunities to address these security issues, but it has failed to do so. The time for action has long since passed. We need a new direction. We need a new approach. It is time for action and a new approach. The Senate bill is a bipartisan step in the right direction. We should take advantage of this opportunity to strengthen security and assist first responders. The final Conference Report should reflect the Senate's positions on rail, mass transit, and border security; and warning and alert systems.

Mr. Speaker, unlike the House, the Senate approved an amendment that would authorize $3.5 billion for mass transit security grant programs and $1.2 billion for freight and passenger rail security. This is reason alone to instruct the Conferees to accede to the Senate position on mass transit and rail security.

America's rail and mass transit systems remain vulnerable on the watch of the House Republican leadership. We need a new direction. Consider the following: Worldwide Terrorist Attacks on Trains Average 30 Per Year; The 9/11 Commission Noted That Rail and Mass Transit Are Particularly Vulnerable; International Brotherhood of Teamsters (IBT) Found a Lack of Security Along Railroad Tracks and in Rail Yards Across the County; Mass Transit Becomes More Vulnerable to Terrorist Attack as Airline Security Improves.

RAIL SECURITY IN THE SENATE BILL

The Senate bill also advances the ball on meaningful rail security by requiring the Departments of Homeland Security and Transportation to conduct vulnerability assessments for freight and passenger rail systems. The bill authorizes $5 million in FY 2007 to carry out this requirement. Without any requirements that these agencies conduct comprehensive reviews of rail security, how can we move in a meaningful direction to protecting America's rail systems?

This bill also authorizes for fiscal years 2007–2010 critical fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York City, New York ($470 million); Baltimore, Maryland ($47 million); and Washington, DC ($32 million). This money will be spent specifically on communication, lighting, and passenger egress upgrades. If a terrorist attack were to occur in these cities, it is vitally important that riders be able to successfully leave the tunnels—this could mean the difference between life and death.

The Senate bill authorizes $350 million for FY 2007 for security grants to freight railroad, Alaska Railroad, hazardous materials shippers and AMTRAK. This is badly needed funding and not just lip-service about rail security.

This bill also requires that hazardous material shippers create and implement threat mitigation plans to be reviewed by the Departments of Homeland Security and Transportation.

Research and development is also important component in making sure that our rail systems are secure. This bill authorizes $50 million in fiscal years 2007 and 2008. The money will be used to test new emergency response techniques and technologies; develop improved freight technologies; and test wayside detectors.

Rail employees are the vital eyes and ears of the system. They will be the first ones to know if there is a problem. However, they must be protected. The Senate bill provides them with whistleblower protections in order to ensure that they won't be penalized for reporting problems.

These are just some of the reasons I support the Motion to Instruct Conferees to accede to the Senate position on the SAFE Port Act, H.R. 5494. I urge my colleagues to join me. I yield back the remainder of my time. Thank you.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume to close on our side very briefly.

Mr. Speaker, I strongly oppose the motion to instruct. I strongly support the underlying bill.

The bottom line is we are in full agreement on a port security bill and that is what this is all about. It is a port security bill which would provide $400 million in port security grants. It sets up a risk-based formula for those grants. It establishes a domestic nuclear detection office. It sets up three pilot projects overseas with 100 percent scanning. It is a bipartisan bill. The underlying bill passed this House by a vote of 421–2.

We have carried it this far. Let us not let the perfect be the enemy of the good. I respect the gentleman. I respect his motion. But at this stage I say let us go on to the conference. Let us do what has to be done. Let us put an end to the entire crisis which resulted out of the Dubai Ports issue. Let us show the American people we can get the job done. Let us finish it. Let us go to conference.

With that I urge defeat of the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

This motion to recommit with instructions is clearly intended to make the bill better. We clearly have rail and safety issues still outstanding. What I have tried to prepare for Congress is an opportunity to get it right. Piecemealing is not the way to go. We absolutely can fix it right here, right now with this motion to instruct. If we do it, we can all go home feeling that America will be safer. If we don't, we leave substantial work yet to be done.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMPSON of Mississippi. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1052 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1052

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978. In lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) 90 minutes of debate, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 5825 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. PUTNAM. Mr. Speaker, I am pleased to bring to this floor House Resolution 1052. The resolution is a rule that provides for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. H.R. 5825 relates to the manner in which the Federal Government collects oral, wire, and electronic communications for foreign intelligence purposes.

In order to safeguard fourth amendment protections, Congress has created procedures to allow limited law enforcement access to private communications and communication records. Specifically, Congress enacted title III of the Omnibus Crime Control and Safe Streets Act of 1968 that outlines what is and what is not permissible with regard to wiretapping and electronic eavesdropping.

Title III of the Crime Control Act authorizes the use of electronic surveillance for specific crimes. While Congress did not cover national security cases in the Crime Control Act, it did include a disclaimer that the wiretap laws did not affect the President's constitutional duty to protect our national security.

In 1972, the U.S. Supreme Court specifically invited Congress to establish similar standards for domestic intelligence that were established for criminal investigations.

Congress enacted the Foreign Intelligence Surveillance Act of 1978, FISA, to prescribe procedures for foreign intelligence that is collected domestically. FISA authorized the Federal Government to collect intelligence within the United States on foreign powers and agents of foreign powers. It established a special court to review and authorize or deny wiretapping and other forms of electronic eavesdropping for purposes of foreign intelligence gathering in domestic surveillance cases. FISA was enacted by Congress to secure the integrity of the fourth amendment, while protecting the national security interests of the United States by providing a mechanism for the domestic collection of foreign intelligence information.

Mr. Speaker, the purpose of the Electronic Surveillance Modernization Act is to modernize the Foreign Intelligence Surveillance Act to strengthen oversight of the executive branch concerning electronic surveillance and intelligence and to provide clear electronic surveillance authority to the national intelligence agencies in the event of a terrorist attack, armed attack, or imminent threat against this Nation.

FISA was originally constructed in 1978, more than 25 years ago. Changes in technology have caused an unintentional shift in the focus and reach of FISA. The complexity, variety, and means of communications technology has since mushroomed exponentially, while the world has become more interconnected. Think of the revolution in communications technology that has occurred in the past 25 years. The cellular technology, wireless technology, the development and explosion of Internet access, all communications tools, all technologies that allow those who would plot terrorist acts against our people to use and access in a readily available form.

We now have terrorists in remote camps who can easily communicate globally with cells around the world and within this country through the use of wireless technology and satellites. Think of the images from Afghanistan of broadcasts through wireless laptop devices using satellite technology from a cave.

The structure of our surveillance laws has remained confined to the technology of a generation-old copper wire telephone, while the terrorists are utilizing every technology and communication device at their disposal.

The House Permanent Select Committee on Intelligence received testimony that the current provisions of FISA are "dangerously obsolete." H.R. 5825 modernizes the law in a number of critical respects. It updates FISA to make it technology neutral and neutral as to the means of communication. Provisions now apply to a land line phone as well as cellular and wireless modes of communication.

This legislation streamlines the surveillance approval process to keep the focus on gaining knowledge of those who would do harm to the United States while protecting the civil liberties of average Americans. It gives our intelligence personnel the necessary tools to help detect and prevent acts of terrorism and to respond to terrorist attacks.

As reported, the bill also ensures that adequate authority exists to conduct necessary electronic surveillance when a threat of imminent attack exists. The Electronic Surveillance Modernization Act also enhances congressional and judicial oversight of U.S. Government electronic surveillance activities to ensure that activities conducted under both FISA and the authorities in this bill will be utilized by the President only, only, with the knowledge and coordination of the other branches of government.

More broadly than just FISA, the bill also addresses the fundamental separation of powers concerns expressed by Members through amendments to the National Security Act by providing express authority for the chairman of the congressional Intelligence Committees to broaden their reporting on sensitive issues to additional members of the committee at his or her discretion on a bipartisan basis in necessary circumstances.

H.R. 5825 enhances the overall authorities of our Nation to act as a whole to protect itself in times of war and heightened threat of attack, both terrorist and otherwise.

☐ 1745

I am pleased with the efforts of the House Permanent Select Committee on Intelligence and the House Judiciary Committee. This bill is an excellent example of how Congress and the executive branch can work together to ensure our national security. I thank Chairman HOEKSTRA and Chairman SENSENBRENNER and all the members of the committees for their work. I urge Members to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman, my friend from Florida, for the time; and I yield myself such time as I may consume.

Mr. Speaker, I rise in strong option to this closed rule and the underlying legislation. First, let me say that I really am pleased that Congress belatedly sees a need to address the President's unconscionable, declared by court, unconstitutional domestic spying program.

Unfortunately, we are considering a bill today that was primarily drafted by the White House. I do not relish the notion of criticizing this bill; but because what it does to the Constitution, however, and I am sworn to uphold, as are all of the Members of this body, to uphold and defend that Constitution. I am not going to sit idly by and watch people trample on it.

Now, I have lived and seen how unchecked power in the hands of bureaucrats can be used to squelch legitimate first amendment exercises. We have seen monitoring of students, preachers and housewives.

I have seen what happens when government protectors think they answer to no one. And, frankly, it is not pretty. I just implore you all to think back to the 1970s, and Americans were shocked to learn about President Nixon's unchecked spying for political advantage.

Americans were similarly dismayed over the legendary J. Edgar Hoover's listening in not only on Dr. King, but many other targets. Those illegal surveillance scandals were, in part, what led to the creation of the select committees of intelligence.

It is our job, Congress's job, to ensure that we effectively oversee the activities of the NSA, the FBI, and the CIA. To the point. This White House bill really does scare me. We would be giving not just President Bush's administration, but every subsequent administration a blank check.

This bill does so much to chip away at the civil liberties and privacy protections built into the Foreign Intelligence Surveillance Act, you will hear it referred to often as FISA, that it could, if passed, have very disastrous effects.

It redefines the definition of surveillance in an irresponsible way. The effect is that the NSA, the FBI, would be able to listen to any call or read any e-mail that comes into or goes out of the United States. So if a soldier overseas calls her husband, NSA can listen in. If a little girl in my home town of Mirimar, Florida, sends an e-mail to her grandmother in Israel, NSA can read it.

If a student at Florida Atlantic University is studying in France and calls her father at home in Ft. Lauderdale, NSA can listen in. Now, that soldier putting her life on the line in Iraq is not a terrorist. The little girl in Mirimar and her grandmother I think we can all assume are not plotting to overthrow anything.

The student at Florida Atlantic and her father I am just guessing have likely not sworn their lives to overthrowing the United States Government.

At the risk of being trite, the White House-drafted bill has more holes than Swiss cheese. Maybe we ought to just call it the Swiss cheese bill. It throws out some pretty broad terms and never defines them.

What is an armed attack? What is an imminent threat or imminent attack? They are not defined in this bill. Yet, the President has broad authority under this bill to do whatever he pleases under these conditions. Footnote right there. Let's make this very clear, not just this administration but succeeding administrations would have this power.

Arguably under this bill, every single day since September 11, 2001, we have been under the imminent threat of a terrorist attack. And if the mover of this bill and the White House get their way, every call and every e-mail, even domestic ones, would be subject to warrantless surveillance.

Allowing this President or any President to conduct warrantless electronic surveillance under these vaguely described circumstances is, simply put, dangerous. You never know how the next President might use or abuse her power when she gets it.

You know, Mr. Speaker, I am fond of quoting Ben Franklin, and so I am going to do it again today. The legendary Ben Franklin said: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

This is what we might do today again. This piece of legislation may be one of the most important bills that the House will consider this year or any year, and not one Member of the House, not one, will be able to offer an amendment. That bothers me generally, Mr. Speaker. Today it bothers me specifically.

There was an amendment rejected at the Rules Committee offered by our colleagues, Mr. SCHIFF and Mr. FLAKE, that was similar to an amendment that I offered at the Select Committee on Intelligence of the House of Representatives. My amendment simply would have made the Foreign Intelligence Surveillance Act more transparent to the people who depend on it most. It was legislation more or less drafted at their request to clear perceived ambiguity in the current law.

My language would have made it clear, even to the people in President Bush's administration, what constituted domestic spying and what was foreign-based. Yesterday, the distinguished chairman of the Rules Committee, my friend, DAVID DREIER, when he did not permit amendments on this floor said: "Well, Democrats did not have a substitute."

Well, today, we have one. And what is your excuse now, Mr. Chairman? Not to worry, it is a rhetorical question. The answer I well know is to squelch democracy here in the United States House of Representatives.

You beat with rulemaking that which you know you cannot beat with reason. And what message does that send to those that would follow our lead, those we are trying to teach our Democracy Assistants Commission? I know what you say: do as we say, not as we do. For today, in the people's House, democracy is being eviscerated by those who recommend it to others.

I have said it before: the way the majority runs the House is shameful. It is hypocritical. It is un-American, and it is undemocratic, and it happens every single day that we have a closed rule, and in other circumstances as well.

Could it be any clearer that America needs a new direction? Stopping, thwarting the will of those of us in the House of Representatives who have a different point of view, or at least should have an opportunity to have discussed a different point of view and have the will of the body make the decision as to whether or not that point of view or the one offered by the majority ought prevail, should be what we should be about in democracy.

Obviously, Mr. Speaker, I urge my colleagues to oppose this closed rule and the White House legislation which brings it to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 2½ minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank my colleague from the Rules Committee, and I would also like to thank the sponsor of this legislation, Mrs. WILSON, for her doggedness and her determination to do this right.

Mr. Speaker, I rise today in support of the rule and the underlying legislation, the Electronic Surveillance Modernization Act. We are at war against a sophisticated, worldwide terrorist adversary that uses all of the advantages modern day technology has to offer.

We know that these terrorists are continuing to plot attacks against the United States, our allies, and our interests around the world. In August, the coordination of the United States, British, and Pakistani intelligence helped British authorities apprehend terrorists plotting to blow up aircraft bound for the United States.

Against this backdrop, it is absolutely critical that our government have the ability to monitor electronic communications by terrorist organizations. We are talking about allowing the government to intercept communications of cold-blooded killers who seek to do our Nation harm, not grandchildren e-mailing their grandmother.

The FISA process should be used whenever possible, but we cannot hinder the ability of this President or future Presidents to monitor communications that could stop a terrorist attack. It is appropriate to allow the President to authorize electronic surveillance when there is an imminent threat of an attack against our country, when we have identified the responsible organization, and when we have reasonable belief that the person being targeted is communicating with a terrorist group.

We must do everything possible to prevent future terrorist attacks. Our enemies will not delay their plans to harm our citizens while we go to court to obtain a warrant. We have to be right 100 percent of the time.

The bill strengthens congressional oversight of the Terrorist Surveillance Program and requires FISA warrants in most cases, the exceptions being after an armed attack, after a terrorist attack, or when the threat is imminent.

The bill is reasonable. It protects the rights of our citizens; but, most importantly, it will preserve a critical authority that we must have to protect our homeland. We are at war and this is critical to our winning that war. I urge my colleagues to pass this rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4¼ minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. McGOVERN. Mr. Speaker, I want to thank my friend from Florida for yielding me the time.

Mr. Speaker, yesterday we dealt with the issues of torture and military tribunals under a closed rule. No amendments allowed. Today we deal with the issue of domestic spying, also under a closed rule.

Never mind that there are profound constitutional issues at stake. This Republican leadership has decided it is more important to debate suspension bills than matters that could likely undermine the most sacred rights of our people.

This bill authorizes more warrantless surveillance of American citizens than Congress has ever authorized in American history. And if this rule passes, it will be debated on the House floor for an hour and a half.

The Founding Fathers must be spinning in their graves. Today, the Republican leadership found time on the floor to rename post offices and to congratulate Little League teams, but it cannot find the time to thoughtfully debate this far-reaching bill. This Congress has become a place where trivial issues get debated passionately and important ones not at all.

After hours of testimony in the Rules Committee this afternoon listening to both Republicans and Democrats, offering thoughtful amendments and substitutes, the Republican majority on the Rules Committee said "no" to every single one of them.

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During the Rules Committee meeting, I asked the Republican authors of this bill whether or not they would be open to considering thoughtful amendments and substitutes. They said it was up to the Rules Committee, that they did not really have an opinion.

No opinion, Mr. Speaker? No opinion on whether Members who believe there should be judicial oversight on domestic spying should have the right to offer an amendment? No opinion on whether or not a bipartisan substitute should be made in order? No opinion? Give me a break.

Mr. Speaker, yesterday on the House floor, as the distinguished gentleman from Florida pointed out, the Chairman of the Rules Committee defended his decision to not allow Democrats to offer thoughtful amendments to the torture bill. He said that we should have offered a substitute instead.

So, today, Democrats and Republicans attempted to offer a full bipartisan substitute to this domestic spying bill, but the Rules Committee refused to make that in order, too. How do you defend that, Mr. Speaker? How do you look Members of your own party in the eye and say your ideas do not matter?

If the Republican leadership does not agree with the bipartisan substitute, then they should defeat it on the House floor after a full and open debate. Instead, they cower behind procedural tricks, parliamentary sleight of hand and closed rules. No wonder the American people are disgusted with Congress.

Let me speak for a moment to my friends on the other side of the aisle. No matter what our policy differences, I would like to think that we all think democracy is a good thing. I would like to think that we all want good legislation to come out of this House. I am sad to say that I am having a hard time thinking that anymore.

If my Republican friends want this trend of closed rules, of no amendments, of no democracy in the House to continue, then by all means vote for this rule. Just go along to get along.

But if you believe, as I do, that the monopoly on good ideas is not held by a few members of the leadership in a closed room, then vote "no." Have the guts to vote "no."

Thoughtful Republican amendments are routinely shut out by the Rules Committee, including here on this bill. The only way to bring this trend to an end is to start defeating closed rules and to demand more openness in this House of Representatives. If you continue to reward bad behavior, then bad behavior is what you will continue to get.

Let us put a stop to this nonsense. Let us stop diminishing this House of Representatives. I urge my colleagues to vote "no" on this rule.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, when we were in the Rules Committee in those hours of debate, how fast after that discussion when these people presented themselves did the rule come to the floor? In short, was there any deliberation?

Mr. McGOVERN. Less than a second. The deal was done early on in the day. I mean, the Members who came up and testified and presented their thoughtful amendments wasted their time because the leadership had decided to close this thing down earlier in the day, and that is unforgivable. This issue is too important.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), my colleague on the Rules Committee, to talk about the issue at hand, the Electronic Surveillance Modernization Act.

Mr. GINGREY. Mr. Speaker, I thank my colleague on the Rules Committee, Mr. PUTNAM, for yielding.

I rise today fully in support of this rule and the underlying legislation for H.R. 5825, the Electronic Surveillance Modernization Act of 2006, because I believe protecting innocent Americans from terrorist plots is one of our government's most critical duties.

This bill updates the FISA, Foreign Intelligence Surveillance Act of 1978, to authorize the expanded use of electronic surveillance on suspected terrorists, with mandated congressional oversight. Its immediate passage is absolutely essential to prevent future terrorist attacks against this Nation.

Mr. Speaker, much has changed since FISA was enacted in 1978. The war on terror has replaced the Cold War as our preeminent national security issue. There have been monumental advances in technology, and our terrorist adversaries are capitalizing on these changes in technology as they aggressively plot our destruction. If we are to be prepared for the foremost threat to our Nation's safety today, the 1978 bill must be amended for the realities of today and tomorrow.

Mr. Speaker, this bill would authorize the NSA Terrorist Surveillance Program to monitor the international, let me repeat, international communication of suspected terrorists inside the United States, while respecting our citizens' privacy.

Simply put, this bill streamlines the process by which a FISA warrant can be obtained. It gives NSA more time to conduct emergency surveillance on suspected terrorists without a warrant, and it allows the President to authorize warrantless electronic surveillance for up to 90 days of suspected terrorists when it is believed an attack on America is imminent.

While this bill helps us stop terrorists before they inflict destruction, it also protects the rights of law-abiding United States citizens by requiring our President to inform Congress and the FISA court of these emergency surveillances.

Mr. Speaker, authorizing the electronic surveillance of terrorists is a matter of common sense. By listening to the phone conversations of al Qaeda members and of organizations working in support of al Qaeda, we stand to learn much more about their terrorist activities, including likely targets of attack.

Mr. Speaker, I was tremendously disappointed that 160 of my Democratic colleagues voted yesterday against the Military Commissions Act, and I am still struggling to understand why. But I am hopeful that they will not vote today to limit our ability to monitor the terrorists' phone calls so that we can disrupt these devastating plots.

In any regard, my Republican colleagues and I remain committed to the safety of this Nation. To ensure that we give our government the tools it needs to fight and win the war on terror, I urge support for this rule on both sides of the aisle and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very sad to say that what we are doing today is simply a march toward the November election. There is a certain calculated plan as to what Republicans need to be able to do to win the House, and obviously it has to do with the security of America.

There is no divide among Democrats and Republicans about our resolve to secure this Nation. Not a one of us in this Congress if asked or if needed to defend this Nation in the immediacy of time would refuse that request.

The reason why there is such a sharp divide is because this is not a serious attempt to secure America. It is, frankly, a serious attempt to eliminate for the American people rights that are a part of their birthright.

This is a closed rule, and I oppose it because security and civil liberties of those who are citizens of the United States can be intertwined, and you can secure the Nation with rights protected, therefore there should have been open rule.

I would have offered an amendment that would have improved the bill immeasurably by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the dangerous secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country. This would have provided the President the authority to conduct surveillance and searches without a warrant for 15 days following either a declaration of war or an authorization for the use of military force.

In addition, it is very clear that the FISA provisions now allow for the President to act without judicial authority. Authority can be given after the fact, and the evidence that is given to the court can be and is secret.

It is worthwhile saying that this, again, is not a question of can we resolve this and give this bill. It is a rush to judgment to ensure that this would be a good political sound bite for Republicans who are running for re-election. This is a bad way to secure America, and I ask my colleagues to oppose this rule because the American people frankly, are not prepared to give up their civil liberties when we can do both—civil liberties and a secure Nation.

I rise in opposition to this closed rule providing for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. I oppose the rule because it forecloses members from offering constructive amendments that would improve a bill that otherwise will represent an unwarranted and dangerous delegation of authority to the executive branch. Specifically, the bill does not impose limits on the President's powers; it remains silent on the NSA's warrantless surveillance and expands the government's powers under the Foreign Intelligence Surveillance Act to collect information on Americans without judicial review.

This sad state of affairs could have been avoided if the Rules Committee had fashioned an open rule, allowing consideration of amendments of the type I and my colleagues offered during the Judiciary Committee markup.

For example, I offered an amendment that would have provided the President authority to conduct surveillance and searches without a warrant for 15 days following either: (1) a declaration of war; or (2) "an authorization for the use of military force" (AUMF) within the meaning of Section 2(c)(2) of the War Powers Act.

This amendment improves the bill immeasurably, by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the danger of secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country.

Mr. Speaker, it is worth remembering that while armies fight battles, it is a nation that goes to war. And the Constitution is neither silent nor coy as to where the power to take a nation to war rests: it is vested in the Congress of the United States, not the President.

The power to conduct secret, warrantless surveillance and searches in response to an act of war or a terrorist attack fundamentally is a war power. That is why the acquisition and exercise of that power properly must flow from a congressional declaration of war or authorization to use military force in response to an act of war.

I believe we should have an open rule to permit such an amendment because it keeps faith with the Founding Fathers and honors the Constitution that every member of Congress, and each of our brave troops who risk their lives to keep us free, take an oath to uphold.

Mr. Speaker, H.R. 5825 goes dangerously far afield by authorizing the President to conduct warrantless surveillance and searches for 90 days after "an armed attack against the territory of the United States," or a "terrorist attack against the United States." Moreover, this new surveillance power would extend to U.S. soil, regardless of any nexus to the actual event that triggered the exercise of emergency surveillance authority.

Mr. Speaker, the phrases "armed attack against the territory of the United States" and "terrorist attack against the United States" are so broad that they can be triggered by nearly any act of violence directed against the interests of the United States, including:

The recent bombing of the U.S. embassy in Syria. If H.R. 5825 were in effect today, we could have a warrant-free environment in the United States right now.

An attack on U.S. armed forces abroad, including any attack on soldiers in Iraq or Afghanistan, which according to press reports, is a daily occurrence.

Mr. Speaker, we do not need to surrender the liberties of the American people in order to protect the security of the American people. As the Framers understood so well when they devised our magnificent Constitution, we can have both liberty and security. All we need is wisdom and good counsel, what the Greeks called "euboule". That is what is lacking in this rule and with respect to H.R. 5825, the Electronic Surveillance Modernization Act.

Another amendment that could have been offered if we had an open rule is an amendment that reiterates that FISA is the exclusive procedure and authority for wiretapping Americans to gather foreign intelligence.

In the absence of the reaffirmation of this critically important principle, H.R. 5825 would have the unacceptable consequence of rewarding the President's refusal to follow FISA by exempting him from following these procedures. The effect of this would be to allow any president to make up his own "rules" for wiretapping Americans and secretly implementing those rules unless and until a court finds such rules unconstitutional. This would make tangible President Nixon's 1977 claim to David Frost that "when the president does it that means that it is not illegal." By flirting with the misguided and dangerous idea of inherent presidential power to wiretap, H.R. 5825 would resurrect the very provision in the criminal code that President Nixon relied upon in his warrantless wiretaps of countless Americans based on their political views.

The legislative history of FISA provides an important rebuttal to the Administration's claims regarding inherent authority to ignore federal law: "[E]ven if the president has the inherent authority in the absence of legislation to authorize warrantless electronic surveillance for foreign intelligence purposes, Congress has the power to regulate the conduct of such surveillance by legislating a reasonable procedure, which then becomes the exclusive means by which such surveillance may be conducted." H.R. Rep. No. 95–1283, pt. 1, at 24 (1978).

By eliminating the exclusivity of these procedures, Congress would be acquiescing in the destruction of one of the pillars of FISA that has helped to protect the civil liberties of hundreds of millions of Americans from unilateral spying by the executive branch. To paraphrase the Supreme Court, our Fourth Amendment freedoms cannot properly be guaranteed if electronic surveillance may be conducted solely within the discretion of the president. See United States v. United States District Court, 407 U.S. 297 (1972).

Without such language, H.R. 5825 would undo the Congress' manifest intent in passing FISA, which "was designed . . . to curb the practice by which the Executive Branch may conduct warrantless electronic surveillance on its own unilateral determination that national security justifies it." (See S. Rep. No. 95–604(1), at 7, 1978 U.S.C.C.A.N. 3904, 3908). By eliminating the requirement that the president follow FISA and get a court order to search based on evidence an American is conspiring with a foreign agent, H.R. 5825 would places our rights at the secret will of the president—any president.

Mr. Speaker, it is more than a truism that real security for the American people comes not from deferring to the President but from preserving the separation of powers and adhering to the rule of law.

I therefore cannot support this closed rule and urge my colleagues to vote against the rule. We have time to come up with a better product and we should. The American people deserve no less.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from New Mexico (Mrs. WILSON), the sponsor of the underlying legislation.

Mrs. WILSON of New Mexico. Mr. Speaker, I would like to start out first by correcting a few misstatements and giving a few facts.

The first is that somehow anything less than a warrant on an international phone call erodes civil liberties that we have enjoyed 219 years and does some violation to the Constitution.

The truth is that limitations on gathering foreign intelligence in the United States is relatively recent. It was the FISA law passed in 1978 that really set out the first limitations on the gathering of foreign intelligence within the United States.

In World War II, all international communications were subject to listening. In World War I, the government not only listened to international calls but opened the mail. Shortly after the invention of the telegraph during the Civil War we were intercepting communications.

The constitutional test is reasonableness, and this bill is reasonable. I thank my colleague from Florida for bringing forward this rule today, but I think it is important to understand why we are here.

We are trying to modernize the Electronic Surveillance Acts of this country so that we allow our intelligence agencies to collect the intelligence to keep us safe, while also putting in place rules of the road to protect American civil liberties. The provisions that we have put in the Act are completely reasonable and pretty commonsense because we are in a different situation.

Intelligence is the first line of defense in this war on terror, and all of us 5 or 6 weeks ago now woke up to the news that in the U.K. they had arrested 16 people who intended to walk onto American Airlines airplanes at Heathrow Airport and blow them up over the Atlantic Ocean.

Our intelligence agencies have to be faster than the terrorists who are trying to kill us. This bill will give them the authority and the rules and the tools they need to intercept international communications between a known terrorist and someone in the United States of America, at the same time requiring notification to different branches of government, putting time limitations in place so that we protect the civil liberties of Americans.

We need to update our laws so that we protect the civil liberties of Americans and we keep Americans safe. The test is reasonableness, and I believe that the underlying bill passes the test.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 5½ minutes to the distinguished gentleman from California (Mr. SCHIFF), my friend, who offered an amendment that I offered in the Select Committee on Intelligence.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

This afternoon, we had a lengthy debate in the Rules Committee on the base bill offered by my colleague from New Mexico and a substitute amendment that was offered by Mr. FLAKE of Arizona and by myself. It was a lengthy debate. I think it was a good debate. It would have been a better debate, however, if the conclusion had not been predetermined, if, in fact, it was a real debate in the sense that the outcome had not been decided before we entered the room.

The gentleman asked how long did it take for the committee to decide not to allow the bipartisan alternative, and I can tell the gentleman, by the time it took me to walk from the Rules Committee across the street to my office, the committee had decided it would not allow a bipartisan alternative. But I suppose that was my own fault for walking too fast. Perhaps if I had walked slower across the street, I might have gotten to my office before the committee ruled.

So I am going to tell you today about the bill we will not have the opportunity to vote on, not in an up-or-down fashion, and I think I will tell you a little bit about why we will not have the opportunity to vote on this bipartisan bill.

The "why" I think is relatively straightforward. Because the majority does not have the confidence that it has the votes to allow the substitute to come before this House. Because the substitute, which was the product of about 6 months of work between Mr. FLAKE and myself and in its other forum, legislative forum, has the support of seven Republicans and seven Democrats, as bipartisan as you can make it in this House, very well might command the majority of this House. That runs afoul of the rule of the Speaker that unless it enjoys a majority of the majority you do not get a vote in this House of Representatives. So we will not have a vote on the bipartisan alternative.

But let me tell you and the rest of the country what we are being denied the chance to vote on in the substitute. The Schiff-Flake substitute would do the following:

It would extend the warrantless electronic surveillance authority from the current 72 hours after the fact to 7 days, because the Justice Department and the NSA said that they needed more time after a wiretap is initiated to go to court and get an authorization. It is important for people to recognize that under current law you do not need to get a warrant before you go up on a wiretap. Under FISA, you have 72 hours. The government said that is not enough, we want 7 days; and in our substitute, we give them 7 days.

We enhance the surveillance authority after an attack. The Justice Department and the NSA say, well, under current law, we have 15 days to do warrantless surveillance after the declaration of war. Well, we do not even declare war, and so our substitute provides that when we authorize the use of force and we make it explicit that we will permit warrantless surveillance for 15 days. That authorization to use force grants that surveillance authority after an attack.

□ 1815

We also address the main issue that was raised by the NSA in the public hearings, the main problem the NSA advocated needed to be addressed, and that is that when one foreigner is talking with another foreigner on foreign soil, but because of the changes in telecommunications since the passage of FISA more than a quarter century ago, and that communication touches down somewhere in the United States or is intercepted in the United States, FISA shouldn't be involved. You should not have to go to court when you want to intercept a communication between one foreigner and another foreigner on foreign soil. And so we fixed that problem.

Our substitute permits continued surveillance when targets travel internationally. That was another request made by Justice and NSA. We streamline the FISA application process and remove redundant requirements in the application process. We increase the speed and the agility of the FISA process. We authorize additional resources to hire more personnel to make the applications.

But we also do something very important, which the base bill doesn't do, and that is we reiterate the fact that when you are going to surveil an American on American soil, and that is after all the heart of this matter, when you are going to surveil an American on American soil, the court should be involved, if not before you go and surveil, then within 7 days, that FISA sets up the exclusive authority for that.

Now, my colleague from New Mexico says the constitutional standard is reasonable in this, and that is right. Americans under the fourth amendment have the right to be secure from unreasonable searches and seizures. We have the right to be protected in our reasonable expectation of privacy. So I ask you, What is your reasonable expectation of privacy, Americans? Is it that if you are not engaged in terrorism, if you are not in contact with terrorists, if you are not engaged in harmful activity that you should be secure in knowing that your phone conversations will not be tapped without someone going to court to prove the facts?

But Members of this body will not have a chance to vote on this bipartisan substitute because the majority doesn't have the confidence they can defeat it. And for that reason, I urge a "no" vote on this rule.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 4 minutes to one of the architects of this legislation, the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding, and I note the gentleman from Florida's fondness for quoting Benjamin Franklin. It is interesting the debate we are engaged in today is not a new debate, because there has always been debate about the tension that has been developed or actually written into the Constitution among the three branches of government dealing with difficult issues like this.

And while the gentleman from Florida commended us to a conversation by the esteemed Founding Father Benjamin Franklin, I would give him another one. In 1776, Benjamin Franklin and the other four members of the Committee on Secret Correspondence explained their unanimous decision not to tell their colleagues in the Continental Congress about a sensitive U.S.-French covert operation by writing: "We find, by fatal experience, that Congress consists of too many Members to keep secrets."

There was a tension that they understood at that time, and there is a tension that naturally resides in this because of the unique character of the President as Commander in Chief and his ability to ferret out foreign intelligence. So the question is how do we try and deal with that tension?

I would suggest to my colleagues that the fact that we have not had an attack since 2001 on U.S. soil is something for which we can all be thankful, but safer does not mean there is any room for complacency. As the events in Bali, Madrid, and London on 7-7 indicate, we are still at war with an enemy that is fully devoted to one thing: the murder of innocent people, specifically Americans, men, women, and children.

And in this effort to protect our citizens, the daunting task before us is to thwart the efforts of an enemy who operates underground by stealth and deception and at the same time not rip up our Constitution. This is made all the more difficult, in that, unlike traditional criminal cases, our success will be measured by the ability to prevent a future terrorist attack. This requires an ongoing assessment of how best to equip law enforcement and the intelligence community with the tools to respond to an enemy who is constantly morphing.

In meeting this challenge, intelligence is the necessary bridge to successful homeland security protection. The Foreign Intelligence Surveillance Act is, therefore, an essential and critical tool in our efforts to protect the American people. But one aspect of this challenge requires us to try and ensure that any gaps between the state of law and technology are closed to prevent their exploitation by a lethal enemy. In this regard, this bill before us, H.R. 5825, seeks a technology-neutral approach, which places greater emphasis on the nature of those surveilled and their location.

For example, an international call by a non-U.S. citizen to a terrorist organization would be treated the same under the law regardless of whether the non-U.S. person uses wire or radio technology. When FISA was enacted, domestic communications were transmitted via wire, while international communications were transmitted via radio. In recent years, international communications are increasingly transmitted through undersea cables, which are considered wire. This bill recognizes that international communications should be treated the same regardless of the specific technology at issue.

At the same time, this bill enables us to focus on protecting the reasonable privacy expectation of U.S. persons. Those with legitimate concerns over the scope of electronic surveillance should join us in supporting this legislation and supporting this rule to allow consideration of the legislation. In fact, the bill provides greater clarity in circumscribing the permissible limits of such surveillance.

Remember what the 9/11 Commission said: "The choice between security and liberty is a false choice. As nothing is more likely to endanger America's liberties than the success of a terrorist attack at home." Support this rule and support this bill.

Mr. HASTINGS of Florida. My good friend, the distinguished gentleman from California, has cited again Franklin and those three other persons. But I would remind him that they did not yield all of their power to the President. They did consider that separation of power.

And Mrs. WILSON stated a minute ago that this bill puts in place rules of the road. The problem is that the rules are optional and the President gets to ignore them essentially whenever.

Mr. Speaker, I am very pleased at this time to yield 1 minute to my good friend, the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman.

It is good to cite Ben Franklin. Maybe we should also be citing Phineas T. Barnum, because there is a section in this bill, section 10, entitled "Compliance with Court Orders and Antiterrorist Programs." That actually amounts to a get-out-of-jail-free card for someone who may have leaked classified information.

Now, Gerald Ford gave Richard Nixon a pardon. I am wondering to whom this bill is giving a pardon. Does it give immunity or impunity for certain crimes and misdemeanors? This bill may actually be about someone's legal problems.

We need to look at this. We need to find out if someone leaked classified information and this bill is going to give them a get-out-of-jail-free card. Read the bill. Take a look at section 10. I want the sponsor to tell me that no one is going to get out of jail free who may have leaked classified information, and no one is going to escape prosecution for certain crimes and misdemeanors once this bill passes.

I want them to tell that to the Congress. Tell us you are not slipping in a clause here where you are trying to get somebody out of jail. Tell me that. Tell us that.

Mr. PUTNAM. Mr. Speaker, I continue to reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my good friend, the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. I want to thank the gentleman for yielding and for his leadership.

Mr. Speaker, I rise in total opposition to the rule for H.R. 5825, the Electronic Surveillance Act, and the underlying bill.

The FISA law the President chose to ignore, and that this bill seeks to bypass, is a law that powerfully symbolizes both the risk of the abuse of executive power and the strength of our system of checks and balances.

Now, the FISA law was enacted to protect against very real abuses in the name of fighting communism, if you remember. Not terrorism then, it was communism. Our executive branch, through the likes of J. Edgar Hoover and COINTELPRO perpetrated massive abuses and surveillance of innocent Americans. These abuses included the surveillance, among many others, of Dr. Martin Luther King, Jr. and his wife Coretta as part of what the Church Commission described as "an intensive campaign by the Federal Bureau of Investigation to neutralize him as an effective civil rights leader."

The only thing that redeems our Nation's great shame at these abuses was that the system of checks and balances created by our Constitution worked. Congress passed a law that allowed us to protect our Nation and our Constitution and our citizens.

Mr. PUTNAM. Mr. Speaker, I just rise to point out to the Members that we are here to modernize the FISA bill of 1978, and I ask Members to think about all of the changes in sophistication and accessibility of communication devices today.

Think about your own e-mail, your own BlackBerry, your own cell phone, your own laptop, your own desktop, just the handful of things that are directly involved in this line of work, in any routine business in America. All of those things offer multiple avenues per device to communicate around the world in an instantaneous manner at almost no cost.

Tracking that type of communication device, when it is being used by people who would fly airliners into the World Trade Center; when it is being used by people who would fly an airliner full of innocent women and children and students on field trips, and bands who have spent all year having car washes to be able to go on that trip into the center of our defense might, the symbol of our Armed Services, into the Pentagon; the kind of people who would plot to blow up 10 more airliners as recently as 5 weeks ago.

Now, it seems odd to me that that is a difficult choice, that we would want not to give all the tools possible to our law enforcement and intelligence officials. The plot that was broken up in London several weeks ago reflected two things to me: one, that we are still in grave danger; that the enemy is still, to this day, 5 years after 9/11, getting up every morning, going to bed late every night thinking of ways to destroy not just the United States, not just our allies, but those who share our values, Western Civilization in general: Madrid, Spain; London, England; the Danish, because of their free speech; and the United States are just some of the most blatant examples. We are still very much in danger. That is the first lesson of the disruption of that plot.

The second lesson of the disruption of that plot is that legislation that has passed in this country and in the U.K. in the 5 years since 9/11 worked, tearing down walls that separate discussions between intelligence gatherers and law enforcement. That legislation worked. Tracking financial transactions to be able to follow money from Hamburg to Pakistan, back to London to the ticket agent where people are about to board an airplane that they intend to blow up worked. Tracking communications among terrorists works.

If a laptop is discovered in a cave in Afghanistan, and you look on their contacts list; if a cell phone is picked up in a desk drawer in a hotel in Islamabad and you look at who their frequently called numbers are, don't you think that says a lot about that person and who they are talking to? Certainly if you look at your own it says an awful lot about you, who your friends are, who your stockbroker is, what your wife's cell phone number is. Look at your own device. And we use that same common sense, that same investigative approach to the terrorists.

So when we look at the laptop or when we look at the cell phone in Islamabad or London or Hamburg or New York and there are numbers on there from a known al Qaeda operative to someone in the United States, we ought to be on that number as quickly as possible.

□ 1830

Anything else is an assault on common sense. We must move as quickly, as efficiently as possible, using every technology at our disposal to prevent terrorist attacks, to disrupt terrorist attacks, and to bring to justice the people who are planning them.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have some suggestions about implementing every tool at our disposal. The 9/11 Commission would be one.

I would urge the gentleman not to lecture us regarding our commitment. We offered a measure to improve this measure. Everyone wants to catch the same people you are talking about catching. There is no problem in that regard.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER), my colleague on the Intelligence Committee.

Mr. RUPPERSBERGER. Just in response to the comments made by my friend from Florida, also, I agree with most of what you are saying. We need to protect our country. We need to be able to have the tools to go on the computer or to go on the cell phone or whatever we need. But we are a country of laws, and our forefathers created an excellent, excellent country and a Constitution, and that Constitution created checks and balances. That is about what we are talking about here today.

Now, I have an amendment that was before the Rules Committee today that was rejected. One of the administration's biggest arguments is that they need more time and flexibility to track down terrorists without going to a FISA judge. My amendment that was just rejected by the Rules Committee does that.

My amendment extends the duration of emergency authorizations from 7 to 14 days. That means the people who work at NSA have 14 days before they have to go to a FISA judge, but they do have to go to a FISA judge. So if it is the opinion of the administration that there is an emergency situation to protect our country, they can go on that phone to find that terrorist, but they would be able to have 14 days before they go to a FISA judge. But the issue is they have to go to a FISA judge, and that is the check and balance we do have in this country.

If we get information on an important target, we can conduct warrantless surveillance for 14 days before going to a FISA judge. That is giving the tools that we need. That amendment was rejected.

The purpose of my amendment was to make sure that in an emergency there was absolutely no chance that the men and women of the NSA would have to turn off their equipment just because they didn't have enough time to get a warrant.

As the Member who represents NSA, which is in my district, who sits on the Intelligence Committee and is one of the handful of Members briefed into the President's program, I would have hoped that my amendment would have been in order. My amendment was an attempt to do the right thing for the country and NSA.

We should remember that what makes our country great is our system of checks and balances. My amendment would have done that.

We should not have a closed rule on this bill. We should be willing to take whatever amendments are necessary to make the underlying bill the best one we can for the security of our country.

I urge my colleagues to vote "no" on the rule.

Mr. PUTNAM. Mr. Speaker, I reserve my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1½ minutes to my very good friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Florida. I thank him for his great leadership.

Let us be clear. There is no question that our government must make every effort to uncover, disrupt and prevent terrorist attacks. The 9/11 strikes demonstrated the devastation that can result if we fail to detect terrorist plots.

The question is not whether our intelligence agencies should be allowed to conduct electronic surveillance of suspected terrorists. The answer is, of course, yes. The question before us is whether a court should review such surveillance so innocent American citizens are not spied upon as the government conducts surveillance operations.

The bill we are considering today fails to provide the vital civil liberty safeguards for American citizens that are the cornerstone of our democracy.

This bill is badly flawed. It expands the President's authority to secretly wiretap U.S. citizens without going for a warrant to a court. Under current law, warrantless wiretapping is permitted in certain emergency situations. This bill more than doubles the amount of time that the President can conduct surveillance of U.S. citizens without a warrant.

This bill also increases the likelihood that innocent Americans will be caught up in government-run surveillance operations. That is because the bill reduces the amount of specific information the government must provide when seeking approval from the FISA court.

Mr. Speaker, the President wants to go on a fishing expedition, but he doesn't want to have to get a fishing license from a court that guarantees that he has not exceeded the Constitution of the United States.

Mr. Speaker, the bill before us today attempts to authorize an illegal Bush Administration program that a Federal judge has determined "blatantly disregards" the Bill of Rights.

The Bush Administration's secret domestic surveillance program uncovered last year not only ignored constitutional protections against unreasonable searches and seizures, but also failed to abide by laws enacted before and after the September 11th attacks that give government authorities the tools needed to tap terrorist communications and track down terrorists while protecting the civil liberties of American citizens.

Let us be clear: there is no question that our government must make every effort to uncover, disrupt and prevent terrorist attacks—the 9/11 strikes demonstrated the devastation that can result if we fail to detect terrorist plots.

The question is not whether our intelligence agencies should be allowed to conduct electronic surveillance of suspected terrorists. The answer is, "of course. Yes." The question before us is whether a court should review such surveillance so that innocent American citizens are not spied upon as the government conducts secret surveillance operations. The bill we are considering today fails to provide the vital civil liberties safeguards for American citizens that are the cornerstone of our democracy.

This bill is badly flawed.

It expands the President's authority to secretly wiretap U.S. citizens without a warrant from the FISA court. Under current law, the government can conduct warrantless surveillance for up to a year of any "agent of a foreign power"—such as a foreign official or spy in the United States. But current law places a restriction on this authority—no communications of U.S. citizens or residents must be likely to be intercepted in the process. The bill before us today removes this important protection. That means that the phone calls and e-mail communications of any U.S. citizen could be intercepted while the government conducts warrantless surveillance of foreign agents.

Under current law, warrantless wiretapping is permitted in certain emergency situations. This bill more than doubles the amount of time that the Bush Administration can conduct surveillance of U.S. citizens without a warrant—from the current three days to up to seven days.

This bill also increases the likelihood that innocent Americans will be caught up in government-run surveillance operations. That's because the bill reduces the amount of specific information the government must provide when seeking approval from the FISA court, such as details on the type of information the government is looking for and the procedures in place to prevent information from U.S. citizens from being collected in the surveillance operation.

Congress should be holding the Bush Administration accountable for illegally eavesdropping on thousands of U.S. citizens. Instead, the House is considering a bill that would expand the power of the Bush Administration to conduct such spying.

The Constitution says "We the People", but we have a President who seems to have forgotten this—he thinks it's "Me the People." From secret wiretapping programs to signing statements that cast aside the intent of Congress, this President has shredded constitutional protections and ignored the checks and balances that are essential to our democracy.

I urge my colleagues to defeat this bill, which has been rushed to the House Floor without sufficient evaluation. This bill will not make us safer. It will make everyday Americans more vulnerable to secret government eavesdropping conducted outside of the special court process that was designed to track terrorists without trampling on civil liberties.

Mr. PUTNAM. Mr. Speaker, I continue to reserve.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I urge Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule to provide that the House will immediately consider legislation that implements the recommendations of the 9/11 Commission, bipartisan commission, that this Congress has ignored up to this time.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, we have spent the past few days debating constitutionally suspect bills that are designed, in my opinion, to advance the Republican midterm election political agenda rather than make real progress in the serious war on terror.

The 9/11 Commission gave Congress failing grades for good reason: we have failed to do all we can to protect our citizens. Why don't we take a few hours to debate the proposals that this bipartisan panel of experts has advised would actually make our borders more secure and help us stop the next terrorist attack? A debate like this may not fit into the majority's midterm election strategy, but it might actually lead to some good policy.

Again, I urge a no vote on the previous question, so we can have a debate and vote on the recommendations of the bipartisan 9/11 Commission. Please vote "no" on this closed rule.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, it is my desire to bring this focus back to the issue at hand and bring something of a commonsense approach to this.

We are trying to modernize the FISA Act, the Foreign Intelligence Surveillance Act of 1978. Since 1978, there has been a technology revolution in communications: the Internet, cell phones, laptops, desktops for under $500, immediate, rapid, global, affordable communications on demand, satellite phones, GPS for $99. The bottom line is the terrorists can communicate, conspire, organize, recruit and train on a global basis from any spider hole, cave or clubhouse anywhere in the world.

We have to modernize the legislation that allows our intelligence agencies and our law enforcement officials to track down those bad guys, not after they have blown up the World Trade Center or after they have flown a plane into the Pentagon, but before they do those things. In other words, a September 12th mentality, as opposed to a September 10th mentality, the idea that we have to recommit ourselves to the notion that we are very much at war and that we are very much in grave danger by these radicals who have at their disposal all the tools that modern technology can provide and we are arming our law enforcement officials with 25-year-old authority.

To change that, to bring us out of the copper wire telephone world into the wireless, cellular satellite world, we have to pass this legislation. By passing this legislation, we can be assured that we are giving them everything that they need to disrupt terror attacks on our soil.

It seems to me to be a no-brainer that we should give them the tools to listen to anyone who is in regular communication with a member of al Qaeda, to anyone who is in regular communication with someone whose laptop is seized in a cave in Afghanistan after a firefight with allied forces, whose records are found in the desk drawer of a hotel in Hamburg that has been traced to be money laundering through Pakistan, through the European Union, through London, to set up cells in the United States, to buy airplane tickets, to send people to flight school.

Those are the tools that we have to give our law enforcement officials and intelligence agencies, just like the tools that we gave them when we tore down the walls that separated them and prevented them from communicating, just like the tools we gave them to track the movement of money that the terrorists were handling and these nation states who fund the terrorists were handling. Those are the tools that we give to reflect the nature of this global war on terror and to reflect the realities of modern communication technologies.

It is vitally important that we pass this bill. To pass the bill, we have to pass this rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES.—H.R. 5825—ELECTRONIC SURVEILLANCE MODERNIZATION ACT

At the end of the resolution add the following new Sections:

Sec. . Notwithstanding any other provisions in this resolution and without intervention of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bill listed in Sec. :

Sec. . The bills referred to in Sec. . are as follows:

1) a bill to implement the recommendations of the 9/11 Commission.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise to oppose the previous question. This do-nothing Republican Congress plans to adjourn without taking action on the issues facing American families. It is outrageous that instead of addressing our national security and economic security, Republicans are focused on scoring cheap political points that benefit special interests, further divide this country, and put us at greater risk.

Families—not big oil companies—need relief from the economic squeeze most are facing. This year we see the cost of health care, energy and education going up while wages stagnate. Our economic growth depends on an investment in our future and on recognizing that hard working, middle class Americans are the engine of our economy. It is also outrageous that 5 years after the tragedy of September 11, Republican leadership has failed to make the necessary investment in Homeland Security, preferring instead to continue to provide unaffordable tax cuts to corporations.

Democrats have proposed 5 actions that this Congress can take that will make a real difference in the lives of families.

This Congress should not adjourn without increasing the minimum wage. Republicans voted to increase our pay by $31,600 this year but have refused a pay raise for the 15 million hardworking Americans making the minimum wage.

We must allow the Federal Government to negotiate for best price for pharmaceutical drugs on behalf of American seniors, persons with disabilities and taxpayers. This will significantly lower the cost of drugs, providing for resources that we use to fill the doughnut hole and finally provide the comprehensive coverage our seniors have been fighting for.

In order to ensure our global competitiveness, Congress should reverse the raid on student aid by replacing the $12 billion cut earlier this year to pay for tax cuts for the wealthiest.

This summer gas was over $3 dollars a gallon. And while we are feeling some relief now, clearly it is temporary. At the same time, oil and gas companies are enjoying record profits at the expense of the American taxpayer. It is time that this Congress insist on an energy plan that benefits families and decreases our dependence on foreign oil. Lets roll back tax breaks for Big Oil and invest those dollars in alternative fuels.

And to keep America safe, Republicans should stop blocking the full implementation of the 9/11 Commission recommendations and commit the resources necessary to secure our borders, ports, airports and chemical facilities. Instead of simply scaring Americans with talk of a terrorist attack, Democrats want to take real steps to keep American families safe.

Mr. Speaker, America needs a new direction. By voting against the previous question I am voting for initiatives that will promote economic growth and provide real security. I urge my colleagues to reject the politics of cynicism and fear and to work together to move this country forward.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question on H. Res. 1052 will be followed by 5-minute votes on adoption of H. Res. 1052, if ordered, and the motion to instruct conferees on H.R. 4954.

The vote was taken by electronic device, and there were—yeas 225, nays 197, not voting 10, as follows:

[Roll No. 498]

YEAS—225

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes

Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Cardoza
Castle
Chabot
Evans
Green (WI)
Lewis (GA)
Meehan
Ney
Strickland
Stupak

□ 1905

Messrs. GEORGE MILLER of California, WEINER, and LARSON of Connecticut changed their vote from "yea" to "nay."

Mr. GIBBONS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 5441, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes:

CONFERENCE REPORT (HOUSE REPT. NO. 109-699)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5441) "making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007, for the Department of Homeland Security and for other purposes, namely:

TITLE I

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $94,470,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That of the funds provided under this heading, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits a comprehensive port, container, and cargo security strategic plan to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate that requires screening all inbound cargo, doubles the percentage of inbound cargo currently inspected, sets minimum standards for securing inbound cargo, and includes the fiscal year 2007 performance requirements for port, container, and cargo security as specified in the joint explanatory statement accompanying this Act: Provided further, That of the funds provided under this heading, $10,000,000 shall not be available for obligation until the Secretary submits the Secure Border Initiative multi-year strategic plan to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committees on the Judiciary of the Senate and the House of Representatives no later than December 1, 2006, that includes: a comprehensive mission statement, an identification of long-term goals, an explanation of how long-term goals will be achieved, schedule and resource requirements for goal achievement, an identification of annual performance goals and how they link to long-term goals, an identification of annual performance measures used to gauge effectiveness towards goal achievement by goal, and an identification of major capital assets critical to program success.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $153,640,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $8,206,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $26,000,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $349,013,000; of which $79,521,000 shall be available for salaries and expenses; and of which $269,492,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $299,663,000, to remain available until September 30, 2008, of which not to exceed $5,000 shall be for official reception and representation expenses.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: Provided, That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $85,185,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: Provided, That the Department of Homeland Security Inspector General shall investigate whether, and to what extent, in adjusting and settling claims resulting from Hurricane Katrina, insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from such hurricane to flooding covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by such insurers or by windstorm insurance pools in which such insurers participated: Provided further, That the Department of Homeland Security Inspector General shall submit a report to Congress not later than April 1, 2007, setting forth the conclusions of such investigation.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $362,494,000, to remain available until expended: Provided, That of the total amount made available under this heading, $200,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;

(6) is reviewed by the Government Accountability Office;

(7) includes a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (3,500 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $5,562,186,000; of which $379,602,000 shall be used to hire additional border patrol agents,, of which $93,000,000 shall be available until September 30, 2008; of which $3,026,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $175,796,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That of the amount provided under this heading, $100,000,000 of inspection and detection technology investments funding is designated as described in section 520 of this Act: Provided further, That for fiscal year 2007, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $451,440,000, to remain available until expended, of which not less than $316,800,000 shall be for the development of the Automated Commercial Environment: Provided, That of the total amount made available under this heading, $216,800,000 may not be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,187,565,000, to remain available until expended: Provided, That of the amount provided under this heading, $1,159,200,000 is designated as described in section 520 of this Act: Provided further, That of the amount provided under this heading, $950,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 60 days after the date of enactment of this Act, to establish a security barrier along the border of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that—

(1) defines activities, milestones, and costs for implementing the program;

(2) demonstrates how activities will further the goals and objectives of the Secure Border Initiative (SBI), as defined in the SBI multi-year strategic plan;

(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity;

(4) reports on costs incurred, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(5) includes a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(6) complies with all applicable acquisition rules, requirements, guidelines, and best systems acquisition management practices of the Federal Government;

(7) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(8) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(9) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $602,187,000, to remain available until expended: Provided, That of the amount provided under this heading, $232,000,000 of procurement is designated as described in section 520 of this Act: Provided further, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2007 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $232,978,000, to remain available until expended: Provided, That of the amount provided under this heading, $110,000,000 is designated as described in section 520 of this Act.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $3,887,000,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,400,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2007, of which not to exceed $6,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: Provided, That the Secretary submit a report, approved by the Office of Management and Budget, to the Committees on Appropriations of the Senate and the House of Representatives no later than November 1, 2006, demonstrating how the operations of the Federal Protective Service will be fully funded in fiscal year 2007 through revenues and collection of security fees.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $15,000,000, to remain available until expended: Provided, That of the funds made available under this heading, $13,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $56,281,000, to remain available until expended: Provided, That of the amount provided under this heading, $30,000,000 is designated as described in section 520 of this Act.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,731,814,000, to remain available until September 30, 2008, of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,768,266,000 shall be for screening operations, of which $141,400,000 shall be available only for procurement of checked baggage explosive detection systems and $138,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $963,548,000 shall be for aviation security direction and enforcement: Provided further, That of the funds appropriated under this heading, $5,000,000 shall not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed report in response to findings in the Department of Homeland Security Office of Inspector General report (OIG–04–44) concerning contractor fees: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2007, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,311,814,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2008: Provided further, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and not more than 90 percent for any other airport, and all funding provided by section 44923(h) of title 49, United States Code, or from appropriations authorized under section 44923(i)(1) of title 49, United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: Provided further, That by December 1, 2006, the Transportation Security Administration shall submit a detailed air cargo security action plan addressing each of the recommendations contained in the 2005 Government Accountability Office Report (GAO–06–76) on domestic air cargo security to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate: Provided further, That Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening: Provided further, That beginning in fiscal year 2007 and thereafter, reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for those purposes: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $37,200,000, to remain available until September 30, 2008.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $39,700,000, to remain available until September 30, 2008.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $525,283,000, to remain available until September 30, 2008: Provided, That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed expenditure plan for explosive detection systems refurbishment, procurement, and installations on an *airport-by-airport basis for fiscal year 2007: Provided further, That this plan shall be submitted no later than 60 days after the date of enactment of this Act.*

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $714,294,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,477,657,000, of which $340,000,000 shall be for defense-related activities; of which $24,255,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That not to exceed five percent of this appropriation may be transferred to the "Acquisition, Construction, and Improvements" appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: Provided further, That the amount made available for "Personnel, Compensation, and Benefits" in the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $10,880,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $122,448,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,330,245,000, of which $19,800,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $26,550,000 shall be available until September 30, 2011, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $15,000,000 shall be available until September 30, 2011, to increase aviation capability; of which $119,823,000 shall be available until September 30, 2009, for other equipment; of which $22,000,000 shall be available until September 30, 2009, for shore facilities and aids to navigation facilities; of which $81,000,000 shall be available for personnel compensation and benefits and related costs; and of which $1,065,872,000 shall be available until September 30, 2011, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2009: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2008 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: Provided further, That of the amount provided under this heading, $175,800,000 is designated as described in section 520 of this Act.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,000,000, to remain available until expended, of which $495,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,063,323,000.

UNITED STATES SECRET SERVICE

PROTECTION, ADMINISTRATION, AND TRAINING

For necessary expenses of the United States Secret Service, including purchase of not to exceed 755 vehicles for police-type use, of which 624 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $961,779,000, of which not to exceed $25,000 shall be for official reception and representation expenses: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2008: Provided further, That up to $18,100,000 for candidate nominee protection shall remain available until September 30, 2009: Provided further, That up to $1,000,000 for National Special Security Events shall remain available until expended: Provided further, That of the total amount provided under this heading, $2,000,000 shall not be available for obligation until the Director of the Secret Service submits a comprehensive workload re-balancing report to the Committees on Appropriations of the Senate and the House of Representatives that includes funding and position requirements for current investigative and protective operations: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

INVESTIGATIONS AND FIELD OPERATIONS

For necessary expenses for investigations and field operations of the United States Secret Service, not otherwise provided for, including costs related to office space and services of expert witnesses at such rate as may be determined by the Director of the Secret Service, $311,154,000; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,725,000, to remain available until expended: Provided, That of the total amount provided under this heading, $500,000 shall not be available for obligation until the Director of the Secret Service submits a revised master plan to the Committees on Appropriations of the Senate and the House of Representatives for the James J. Rowley Training Center.

TITLE III

PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, $30,572,000, of which no less than $2,741,000 may be used for the Office of National Capital Region Coordination, and of which $6,459,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: Provided further, That not to exceed $7,000 shall be for official reception and representation expenses: Provided further, That for purposes of planning, coordination and execution of mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be included in efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

OFFICE OF GRANTS AND TRAINING

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,531,000,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $375,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after receipt of an application: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,229,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: Provided, That not later than September 30, 2007, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack under title III of the Department of Homeland Security Appropriations Act, 2006 under the heading "Office for Domestic Preparedness—State and Local Programs" (Public Law 109–90; 119 Stat. 2075) in paragraph (2)(A): Provided further, That applicants shall identify for the Secretary's consideration prior threats or attacks (within or outside the United States) by a terrorist organization, network, or cell against an organization described in the previous proviso, and the Secretary shall consider prior threats or attacks (within or outside the United States) against like organizations when determining risk: Provided further, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives the high risk or potential high risk to each designated tax exempt grantee at least five full business days in advance of the announcement of any grant award;

(B) $210,000,000 shall be for port security grants pursuant to the purposes of section 70107(a) through (h) of title 46, United States Code, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as described in subsections (b)(2) through (4);

(C) $12,000,000 shall be for trucking industry security grants;

(D) $12,000,000 shall be for intercity bus security grants;

(E) $175,000,000 shall be for intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That for grants under subparagraphs (B) through (F), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant announcement, and the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $352,000,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Office of Grants and Training certified training, as needed: Provided further, That the Government Accountability Office shall report on the validity, relevance, reliability, timeliness, and availability of the risk factors (including threat, vulnerability, and consequence) used by the Secretary for the purpose of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds to the Committees on Appropriations of the Senate and the House of Representatives on its findings not later than 45 days after the date of enactment of this Act: Provided further, That within seven days after the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the risk methodology and other factors that will be used to allocate discretionary grants funded under this heading.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $662,000,000, of which $547,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $115,000,000, shall be available to carry out section 34 of that Act (15 U.S.C. 2229a) to remain available until September 30, 2008: Provided, That not to exceed five percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $200,000,000: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2007, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2007, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $46,849,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $547,633,000, of which $470,633,000 shall remain available until September 30, 2008: Provided, That of the amount made available under this heading, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and House of Representatives the report required in House Report 109-241 accompanying the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90) on Department of Homeland Security resources necessary to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $282,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

READINESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for readiness, mitigation, response, and recovery activities, $244,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.); the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $25,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $33,885,000: Provided, That the total amount appropriated and, notwithstanding any other provision of law, the functions, personnel, assets, and liabilities of the National Disaster Medical System established under section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)), including any functions of the Secretary of Homeland Security relating to such System, shall be permanently transferred to the Secretary of the Department of Health and Human Services effective January 1, 2007.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,500,000,000, to remain available until expended: Provided, That of the total amount provided, not to exceed $13,500,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to natural disasters subject to section 503 of this Act.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $569,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $198,980,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $128,588,000, which is available as follows: (1) not to exceed $38,230,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) not to exceed $90,358,000 for flood hazard mitigation which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), to remain available until September 30, 2008, including up to $31,000,000 for flood mitigation expenses under section 1366 of that Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2008: Provided, That in fiscal year 2007, no funds shall be available from the National Flood Insurance Fund in excess of: (1) $70,000,000 for operating expenses; (2) $692,999,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $50,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $31,000,000, to remain available until September 30, 2008, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $31,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $100,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $151,470,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $181,990,000, of which $93,500,000 is available until expended: Provided, That $47,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a strategic transformation plan for United States Citizenship and Immigration Services that has been reviewed and approved by the Secretary of Homeland Security and reviewed by the Government Accountability Office.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $211,033,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2008; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That section 1202(a) of Public Law 107-206 (42 U.S.C. 3771 note) is amended by striking "5 years after the date of the enactment of this Act" and inserting "December 31, 2007", and by striking "250" and inserting "350".

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,246,000, to remain available until expended: Provided, That of the amount provided under this heading, $22,000,000 is designated as described in section 520 of this Act:

Provided further, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $135,000,000: Provided, That of the amount provided under this heading, $60,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan by program, project, and activity; with a detailed breakdown and justification of the management and administrative costs for each; prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office: Provided further, That the expenditure plan shall describe the method utilized to derive administration costs in fiscal year 2006 and the fiscal year 2007 budget request: Provided further, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); and the purchase or lease of not to exceed five vehicles, $838,109,000, to remain available until expended: Provided, That of the amounts made available under this heading, $50,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a report prepared by the Under Secretary of Science and Technology that describes the progress to address financial management deficiencies, improve its management controls, and implement performance measures and evaluations.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office and for management and administration of programs and activities, $30,468,000: Provided, That no funds will be made available for the reimbursement of individuals from other Federal agencies or organizations in fiscal year 2009: Provided further, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation and operations, $272,500,000, to remain available until expended: Provided, That of the amount provided under this heading, $15,000,000 shall not be obligated until the Secretary of Homeland Security provides notification to the Committees on Appropriations of the Senate and the House of Representatives that the Domestic Nuclear Detection Office has entered into a Memorandum of Understanding with each Federal entity and organization: Provided further, That each Memorandum of Understanding shall include a description of the role, responsibilities, and resource commitment of each Federal entity or organization for the global architecture.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $178,000,000, to remain available until September 30, 2009; and of which no less than $143,000,000 shall be for radiation portal monitors; and of which not to exceed $5,000,000 shall be for the Surge program: Provided, That none of the funds appropriated under this heading shall be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2007, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any function or activity for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2007, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities and amounts allowed in the President's fiscal year 2007 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: Provided, That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2007 from appropriations for salaries and expenses for fiscal year 2007 in this Act shall remain available through September 30, 2008, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2007 until the enactment of an Act authorizing intelligence activities for fiscal year 2007.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, That no notification shall involve funds that are not available for obligation: Provided further, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; or high-threat, high-density urban areas grants.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate *and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.*

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 50 U.S.C. 435b) and the entity selected pursuant to section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 514. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108-334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 90 days of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 515. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 516. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A-76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 517. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

(b) Beginning in fiscal year 2008, none of the funds appropriated by this or any other Act to the United States Secret Service shall be made available for the protection of a person, other than persons granted protection under section 3056(a) of title 18, United States Code, and the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such protection on a fully reimbursable basis for protectees not designated under section 3056(a) of title 18, United States Code.

SEC. 518. The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 519. (a) The Secretary of Homeland Security is directed to research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Transportation Security Administration shall report air cargo inspection statistics quarterly to the Committees on Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for non-compliance with the second proviso of section 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108-334, 118 Stat. 1317).

SEC. 520. For purposes of this Act, any designation referring to this section is the designation of an amount as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress), and as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109-234.

SEC. 521. (a) RESCISSION.—From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109-241) accompanying Public Law 109-90 for the Fast Response Cutter, the service life extension program of the current 110-foot Island Class patrol boat fleet, and accelerated design and production of the Fast Response Cutter, $78,693,508 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Coast Guard for "Acquisition, Construction, and Improvements", there is appropriated an additional $78,693,508, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and the acquisition of traditional patrol boats ("parent craft").

SEC. 522. None of the funds made available in this Act may be used by any person other than the Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 523. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 524. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security", "Administration" and "Transportation Security Support" in fiscal years 2004, 2005, and 2006 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to notification.

SEC. 525. (a) Within 30 days after enactment of this Act, the Secretary of Homeland Security shall revise Department of Homeland Security (DHS) Management Directive (MD) 11056 to provide for the following:

(1) That when a lawful request is made to publicly release a document containing information designated as sensitive security information (SSI), the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) That sensitive security information that is three years old and not incorporated in a current transportation security directive, security plan, contingency plan, or information circular; or does not contain current information in one of the following SSI categories: equipment or

personnel performance specifications, vulnerability assessments, security inspection or investigative information, threat information, security measures, security screening information, security training materials, identifying information of designated transportation security personnel, critical aviation or maritime infrastructure asset information, systems security information, confidential business information, or research and development information shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational reason why the information must remain SSI; or

(B) such information is otherwise exempt from disclosure under applicable law:

Provided, That any determination made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and the House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088); and

(3) Common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b)(1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking.

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the requirements of this section and of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088).

(c) Not later than one year from the date of enactment of this Act, the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on DHS progress and procedures in implementing the requirements of this section.

(d) That in civil proceedings in the United States District Courts, where a party seeking access to SSI demonstrates that the party has substantial need of relevant SSI in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the information by other means, the party or party's counsel shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check and terrorist assessment like that done for aviation workers on the persons seeking access to SSI, or based on the sensitivity of the information, the Transportation Security Administration or DHS demonstrates that such access to the information for the proceeding presents a risk of harm to the nation: Provided, That notwithstanding any other provision of law, an order granting access to SSI under this section shall be immediately appealable to the United States Courts of Appeals, which shall have plenary review over both the evidentiary finding and the sufficiency of the order specifying the terms and conditions of access to the SSI in question: Provided further, That notwithstanding any other provision of law, the Secretary may assess a civil penalty of up to $50,000 for each violation of 49 CFR Part 1520 by persons provided access to SSI under this provision.

SEC. 526. The Department of Homeland Security Working Capital Fund, established, pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2007.

SEC. 527. RESCISSION. Of the unobligated balances from prior year appropriations made available for the "Counterterrorism Fund", $16,000,000 are rescinded.

SEC. 528. (a) The report required by Public Law 109–62 and Public Law 109–90 detailing the allocation and obligation of funds for "Disaster Relief" shall hereafter be submitted monthly and include: (1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undistributed/unallocated; (2) allocations, obligations, and expenditures for Hurricanes Katrina, Rita, and Wilma; (3) information on national flood insurance claims; (4) information on manufactured housing data; (5) information on hotel/motel data; (6) obligations, allocations and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance and individual assistance; (7) mission assignment obligations by agency, including (i) the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure and (ii) a disclaimer if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective; (8) the amount of credit card purchases by agency and mission assignment; (9) specific reasons for all waivers granted and a description of each waiver; and (10) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract and the reason for the lack of competitive award.

(b) The Secretary of Homeland Security shall at least quarterly obtain and report from agencies performing mission assignments each such agency's actual obligation and expenditure data.

(c) For any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Stafford Act (42 U.S.C. §5121 et seq.), or any mission assignment orders issued by the Department of Homeland Security for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department of Homeland Security policies on—

(1) the detailed information required in supporting documentation for reimbursements, and

(2) the necessity for timeliness of agency billings.

SEC. 529. RESCISSION. Of the unobligated balances from prior year appropriations made available for Science and Technology, $125,000,000 from "Research, Development, Acquisition, and Operations" are rescinded.

SEC. 530. None of the funds made available in this Act may be used to enforce section 4025(1) of Public Law 108–458 if the Assistant Secretary (Transportation Security Administration) determines that butane lighters are not a significant threat to civil aviation security: Provided, That the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days in advance of such determination including a report on whether the effectiveness of screening operations is enhanced by suspending enforcement of the prohibition.

SEC. 531. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations and on-board versus funded full-time equivalent staffing levels.

SEC. 532. (a) UNITED STATES SECRET SERVICE USE OF PROCEEDS DERIVED FROM CRIMINAL INVESTIGATIONS.—During fiscal year 2007, with respect to any undercover investigative operation of the United States Secret Service (hereafter referred to in this section as the "Secret Service") that is necessary for the detection and prosecution of crimes against the United States—

(1) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3324 of title 31, United States Code, section 8141 of title 40, United States Code, sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C 254(a) and 255);

(2) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used to establish or to acquire proprietary corporations or business entities as part of such undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(3) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18, and section 3302 of title 31, United States Code; and

(4) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31, United States Code.

(b) WRITTEN CERTIFICATION.—The authority set forth in subsection (a) may be exercised only upon the written certification of the Director of the Secret Service or designee that any action authorized by any paragraph of such subsection is necessary for the conduct of an undercover investigative operation. Such certification shall continue in effect for the duration of such operation, without regard to fiscal years.

(c) DEPOSIT OF PROCEEDS IN TREASURY.—As soon as practicable after the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) REPORTING AND DEPOSIT OF PROCEEDS UPON DISPOSITION OF CERTAIN BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover investigative operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Secret Service, as much in advance as the Director or designee determines is practicable, shall report the circumstance to the Secretary of Homeland Security. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) FINANCIAL AUDITS AND REPORTS.—

(1) The Secret Service shall conduct detailed financial audits of closed undercover investigative operations for which a written certification was made pursuant to subsection (b) on a quarterly basis and shall report the results of the audits in writing to the Secretary of Homeland Security.

(2) The Secretary of Homeland Security shall annually submit to the Committees on Appropriations of the Senate and House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a summary of such audits.

SEC. 533. The Director of the Domestic Nuclear Detection Office shall operate extramural and intramural research, development, demonstrations, testing and evaluation programs so as to distribute funding through grants, cooperative agreements, other transactions and contracts.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider the Hancock County Port and Harbor Commission in Mississippi eligible under the Federal Emergency Management Agency Public Assistance Program for all costs incurred for dredging from navigation channel in Little Lake, Louisiana, sediment deposited as a result of Hurricane George in 1998: Provided, That the appropriate Federal share shall apply to approval of this project.

SEC. 535. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: Provided, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: Provided further, That the prescription drug may not be:

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 536. The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 613(b)(3) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196b(b)(3)), account for the needs of individuals with household pets and service animals before, during, and following a major disaster or emergency: Provided, That Federal agencies may provide assistance as described in section 403(a) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5170b(a)) to carry out the plans described in the previous proviso.

SEC. 537. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security" and "Headquarters Administration", $4,776,000 are rescinded.

SEC. 538. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security", $61,936,000 are rescinded.

SEC. 539. RESCISSION. From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109-241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109-90) for the development of the Offshore Patrol Cutter, $20,000,000 are rescinded.

SEC. 540. RESCISSION. From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 109-241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109-90) for the Automatic Identification System, $4,100,000 are rescinded.

SEC. 541. Notwithstanding the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Army Corps of Engineers may use Lot 19, Block 1 of the Meadowview Acres Addition and Lot 8, Block 5 of the Meadowview Acres Addition in Augusta, Kansas, for building portions of the flood-control levee.

SEC. 542. Notwithstanding any time limitation established for a grant awarded under title I; chapter 6, Public Law 106–31, in the item relating to Federal Emergency Management Agency—Disaster Assistance for Unmet Needs, the City of Cuero, Texas, may use funds received under such grant program until September 30, 2007.

SEC. 543. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).

SEC. 544. The Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 545. None of the funds made available in this Act may be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

SEC. 546. Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking from "(1) DEVELOPMENT OF PLAN.—The Secretary" through "7208(k))." and inserting the following:

"(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION.—

"(A) The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not later than three months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier. The plan shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)).

"(B) The Secretary of Homeland Security and the Secretary of State shall jointly certify to the Committees on Appropriations of the Senate and the House of Representatives that the following criteria have been met prior to implementation of section 7209(b)(1)(A)—

"(i) the National Institute of Standards and Technology certifies that the Departments of Homeland Security and State have selected a card architecture that meets or exceeds International Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents: Provided, That the National Institute of Standards and Technology shall also assist the Departments of Homeland Security and State to incorporate into the architecture of the card the best available practices to prevent the unauthorized use of information on the card: Provided further, That to facilitate efficient cross-border travel, the Departments of Homeland Security and State shall, to the maximum extent possible, develop an architecture that is compatible with information technology systems and infrastructure used by United States Customs and Border Protection;

"(ii) the technology to be used by the United States for the passport card, and any subsequent change to that technology, has been shared with the governments of Canada and Mexico;

"(iii) an agreement has been reached with the United States Postal Service on the fee to be charged individuals for the passport card, and a detailed justification has been submitted to the Committees on Appropriations of the Senate and the House of Representatives;

"(iv) an alternative procedure has been developed for groups of children traveling across an international border under adult supervision with parental consent;

"(v) the necessary technological infrastructure to process the passport cards has been installed, and all employees at ports of entry have been properly trained in the use of the new technology;

"(vi) the passport card has been made available for the purpose of international travel by United States citizens through land and sea ports of entry between the United States and Canada, Mexico, the Caribbean and Bermuda; and

"(vii) a single implementation date for sea and land borders has been established.".

SEC. 547. None of the funds made available in this Act may be used to award any contract for major disaster or emergency assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act except in accordance with section 307 of such Act (42 U.S.C. 5150).

SEC. 548. None of the funds made available in the Act may be used to reimburse L.B.& B. Associates, Inc. or Olgoonik Logistics, LLC (or both) for attorneys fees related to pending litigation against Local 30 of the International Union of Operating Engineers.

SEC. 549. Notwithstanding any other provision of law, the acquisition management system of the Transportation Security Administration shall be subject to the provisions of the Small Business Act (15 U.S.C. 631 et seq).

SEC. 550. (a) No later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall issue interim final regulations establishing risk-based performance standards for security of chemical facilities and requiring vulnerability assessments and the development and implementation of site security plans for chemical facilities: Provided, That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of security risk: Provided further, That such regulations shall permit each such facility, in developing and implementing site security plans, to select layered security measures that, in combination, appropriately address the vulnerability assessment and the risk-based performance standards for security for the facility: Provided further, That the Secretary may not disapprove a site security plan submitted under this section based on the presence or absence of a particular security measure, but the Secretary may disapprove a site security plan if the plan fails to satisfy the risk-based performance standards established by this section: Provided further, That the Secretary may approve alternative security programs established by private sector entities, Federal, State, or local authorities, or other applicable laws if the Secretary determines that the requirements of such programs meet the requirements of this section and the interim regulations: Provided further, That the Secretary shall review and approve each vulnerability assessment and site security plan required under this *section: Provided further, That the Secretary shall not apply regulations issued pursuant to this section to facilities regulated pursuant to the Maritime Transportation Security Act of 2002, Public Law 107–295, as amended; Public Water Systems, as defined by section 1401 of the Safe Drinking Water Act, Public Law 93–523, as amended; Treatment Works as defined in section 212 of the Federal Water Pollution Control Act, Public Law 92–500, as amended; any facility owned or operated by the Department of Defense or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.*

(b) Interim regulations issued under this section shall apply until the effective date of interim or final regulations promulgated under other laws that establish requirements and standards referred to in subsection (a) and expressly supersede this section: Provided, That the authority provided by this section shall terminate three years after the date of enactment of this Act.

(c) Notwithstanding any other provision of law and subsection (b), information developed under this section, including vulnerability assessments, site security plans, and other security related information, records, and documents shall be given protections from public disclosure consistent with similar information developed by chemical facilities subject to regulation under section 70103 of title 46, United States Code: Provided, That this subsection does not prohibit the sharing of such information, as the Secretary deems appropriate, with State and local government officials possessing the necessary security clearances, including law enforcement officials and first responders, for the purpose of carrying out this section, provided that such information may not be disclosed pursuant to any State or local law: Provided further, That in any proceeding to enforce this section, vulnerability assessments, site security plans, and other information submitted to or obtained by the Secretary under this section, and related vulnerability or security information, shall be treated as if the information were classified material.

(d) Any person who violates an order issued under this section shall be liable for a civil penalty under section 70119(a) of title 46, United States Code: Provided, That nothing in this section confers upon any person except the Secretary a right of action against an owner or operator of a chemical facility to enforce any provision of this section.

(e) The Secretary of Homeland Security shall audit and inspect chemical facilities for the purposes of determining compliance with the regulations issued pursuant to this section.

(f) Nothing in this section shall be construed to supersede, amend, alter, or affect any Federal law that regulates the manufacture, distribution in commerce, use, sale, other treatment, or disposal of chemical substances or mixtures.

(g) If the Secretary determines that a chemical facility is not in compliance with this section, the Secretary shall provide the owner or operator with written notification (including a clear explanation of deficiencies in the vulnerability assessment and site security plan) and opportunity for consultation, and issue an order to comply by such date as the Secretary determines to be appropriate under the circumstances: Provided, That if the owner or operator continues to be in noncompliance, the Secretary may issue an order for the facility to cease operation, until the owner or operator complies with the order.

SEC. 551. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§554. Border tunnels and passages

"(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

"(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

"(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Border tunnels and passages.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting "554," before "1425.".

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS.—In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 552. The Secretary of Homeland Security may not take any action to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design and construction centers, the Coast Guard Academy, and the Coast Guard Research and Development Center until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan on changes to the Civil Engineering Program of the Coast Guard: Provided, That the plan shall include a description of the current functions of the Civil Engineering Program and a description of any proposed modifications of such functions and of any proposed modification of personnel and offices, including the rationale for such modification; an assessment of the costs and benefits of such modification; any proposed alternatives to such modification; and the processes utilized by the Coast Guard and the Office of Management and Budget to analyze and assess such modification.

SEC. 553. None of the funds made available by this Act may be used to take an action that would violate Executive Order 13149 (65 Fed. Reg. 24607; relating to greening the government through Federal fleet and transportation efficiency).

SEC. 554. (a) The Transportation Security Administration shall require each air carrier and foreign air carrier that provides air transportation or intrastate air transportation to submit plans to the Transportation Security Administration on how such air carrier will participate in the voluntary provision of emergency services program established by section 44944(a) of title 49, United States Code.

(b)(1) Not more than 90 days after the date of the enactment of this Act, the Transportation Security Administration shall prepare a report that contains the following:

(A) Procedures that qualified individuals need to follow in order to participate in the program described in subsection (a).

(B) Relevant contacts for individuals interested in participating in the program described in subsection (a).

(2) The Transportation Security Administration shall make the report required by paragraph (1) available, by Internet web site or other appropriate method, to the following:

(A) The Congress.

(B) The emergency response agency of each State.

(C) The relevant organizations representing individuals to participate in the program.

SEC. 555. Not later than 90 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency in conjunction with the Director of the National Institute of Standards and Technology shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives outlining Federal earthquake response plans for high-risk earthquake regions in the United States as determined by the United States Geological Survey..

SEC. 556. Not later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall establish revised procedures for expeditiously clearing individuals whose names have been mistakenly placed on a terrorist database list or who have names identical or similar to individuals on a terrorist database list. The Secretary shall advise Congress of the procedures established.

SEC. 557. Title VII of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201) is amended by adding at the end the following:

"SEC. 706. FIREARMS POLICIES.

"(a) PROHIBITION ON CONFISCATION OF FIREARMS.—No officer or employee of the United States (including any member of the uniformed services), or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may—

"(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of

which is not prohibited under Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

"(2) require registration of any firearm for which registration is not required by Federal, State, or local law;

"(3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or

"(4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency in support of relief from the major disaster or emergency.

"(b) LIMITATION.—Nothing in this section shall be construed to prohibit any person in subsection (a) from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.

"(c) PRIVATE RIGHTS OF ACTION.—

"(1) IN GENERAL.—Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

"(2) REMEDIES.—In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.

"(3) ATTORNEY FEES.—In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

SEC. 558. PILOT INTEGRATED SCANNING SYSTEM. (a) DESIGNATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall designate three foreign seaports through which containers pass or are transshipped to the United States to pilot an integrated scanning system that couples nonintrusive imaging equipment and radiation detection equipment, which may be provided by the Megaports Initiative of the Department of Energy. In making designations under this subsection, the Secretary shall consider three distinct ports with unique features and differing levels of trade volume.

(2) COLLABORATION AND COOPERATION.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and host foreign government to implement the pilot program under this subsection.

(b) IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the terminal;

(2) electronically transmit the images and information to the container security initiative personnel in the host country and/or Customs and Border Protection personnel in the United States for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) EVALUATION.—The Secretary shall evaluate the pilot program in subsection (b) to determine whether such a system—

(1) has a sufficiently low false alarm rate for use in the supply chain;

(2) is capable of being deployed and operated at ports overseas, including consideration of cost, personnel, and infrastructure required to operate the system;

(3) is capable of integrating, where necessary, with existing systems;

(4) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(5) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (b), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report, to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot program implemented under this section;

(2) an analysis of the efficacy of the Automated Targeted System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers; and

(4) a plan and schedule to expand the integrated scanning system developed under this section to other container security initiative ports.

(e) IMPLEMENTATION.—If the Secretary determines the available technology meets the criteria outlined in subsection (c), the Secretary, in cooperation with the Secretary of State, shall seek to secure the cooperation of foreign governments to initiate and maximize the use of such technology at foreign ports to scan all cargo bound for the United States as quickly as possible.

SEC. 559. (a) RESCISSION.—From the unexpended balances of the United States Secret Service "Salaries and Expenses" account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109–90) for National Special Security Events, $2,500,000 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Secret Service "Protection, Administration, and Training", there is appropriated an additional $2,500,000, to remain available until expended for National Special Security Events.

SEC. 560. Transfer authority contained in section 505 of the Homeland Security Act, as amended by title VI of this Act, shall be used in accordance with the provisions of section 1531(a)(2) of title 31, United States Code.

TITLE VI—NATIONAL EMERGENCY MANAGEMENT

SEC. 601. SHORT TITLE.

This title may be cited as the "Post-Katrina Emergency Management Reform Act of 2006".

SEC. 602. DEFINITIONS.

In this title—

(1) the term "Administrator" means the Administrator of the Agency;

(2) the term "Agency" means the Federal Emergency Management Agency;

(3) the term "appropriate committees of Congress" means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) those committees of the House of Representatives that the Speaker of the House of Representatives determines appropriate;

(4) the term "catastrophic incident" means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(5) the term "Department" means the Department of Homeland Security;

(6) the terms "emergency" and "major disaster" have the meanings given the terms in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(7) the term "emergency management" means the governmental function that coordinates and integrates all activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural disasters, acts of terrorism, or other man-made disasters;

(8) the term "emergency response provider" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act;

(9) the term "Federal coordinating officer" means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

(10) the term "individual with a disability" has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);

(11) the terms "local government" and "State" have the meaning given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101);

(12) the term "National Incident Management System" means a system to enable effective, efficient, and collaborative incident management;

(13) the term "National Response Plan" means the National Response Plan or any successor plan prepared under section 502(a)(6) of the Homeland Security Act of 2002 (as amended by this Act);

(14) the term "Secretary" means the Secretary of Homeland Security;

(15) the term "surge capacity" means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

(16) the term "tribal government" means the government of an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation.

Subtitle A—Federal Emergency Management Agency

SEC. 611. STRUCTURING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(1) by striking the title heading and inserting the following:

"TITLE V—NATIONAL EMERGENCY MANAGEMENT";

(2) by striking section 501;

(3) by striking section 503;

(4) by striking section 507;

(5) by striking section 510 (relating to urban and other high risk area communications capabilities);

(6) by redesignating sections 504, 505, 508, and 509 as sections 517, 518, 519, and 520, respectively;

(7) by redesignating section 510 (relating to procurement of security countermeasures for the strategic national stockpile) as section 521;

(8) by redesignating section 502 as section 504;

(9) by redesignating section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(10) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

"SEC. 501. DEFINITIONS.

"In this title—

"(1) the term 'Administrator' means the Administrator of the Agency;

"(2) the term 'Agency' means the Federal Emergency Management Agency;

"(3) the term 'catastrophic incident' means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

"(4) the term 'Federal coordinating officer' means a Federal coordinating officer, as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

"(5) the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));

"(6) the term 'National Incident Management System' means a system to enable effective, efficient, and collaborative incident management;

"(7) the term 'National Response Plan' means the National Response Plan or any successor plan prepared under section 502(a)(6);

"(8) the term 'Regional Administrator' means a Regional Administrator appointed under section 507;

"(9) the term 'Regional Office' means a Regional Office established under section 507;

"(10) the term 'surge capacity' means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and

"(11) the term 'tribal government' means the government of any entity described in section 2(10)(B).";

(11) by inserting after section 502, as redesignated and transferred by paragraph (9) of this section, the following:

"SEC. 503. FEDERAL EMERGENCY MANAGEMENT AGENCY.

"(a) IN GENERAL.—There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

"(b) MISSION.—

"(1) PRIMARY MISSION.—The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

"(2) SPECIFIC ACTIVITIES.—In support of the primary mission of the Agency, the Administrator shall—

"(A) lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

"(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

"(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other man-made disaster;

"(D) integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

"(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

"(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

"(G) provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

"(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

"(c) ADMINISTRATOR.—

"(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Administrator shall be appointed from among individuals who have—

"(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

"(B) not less than 5 years of executive leadership and management experience in the public or private sector.

"(3) REPORTING.—The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

"(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—

"(A) IN GENERAL.—The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

"(B) ADVICE AND RECOMMENDATIONS.—

"(i) IN GENERAL.—In presenting advice with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

"(ii) ADVICE ON REQUEST.—The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

"(iii) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

"(5) CABINET STATUS.—

"(A) IN GENERAL.—The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

"(B) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.";

(12) in section 504, as redesignated by paragraph (8) of this section—

*(A) in the section heading, by inserting "**AUTHORITY AND**" before "**RESPONSIBILITIES**";*

(B) by striking the matter preceding paragraph (1) and inserting the following:

"(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—";

(C) in paragraph (6), by striking "and" at the end; and

(D) by striking paragraph (7) and inserting the following:

"(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

"(8) assisting the President in carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act;

"(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

"(A) mitigation, by taking sustained actions to reduce or eliminate long-term risks to people and property from hazards and their effects;

"(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

"(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

"(D) recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards;

"(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

"(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

"(12) supervising grant programs administered by the Agency;

"(13) administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

"(14) coordinating with the National Advisory Council established under section 508;

``(15) preparing and implementing the plans and programs of the Federal Government for—

``(A) continuity of operations;

``(B) continuity of government; and

``(C) continuity of plans;

``(16) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

``(17) maintaining and operating within the Agency the National Response Coordination Center or its successor;

``(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

``(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and carrying out all functions and authorities of the Administrator under the national preparedness System;

``(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

``(21) otherwise carrying out the mission of the Agency as described in section 503(b).

``(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.''; and

(13) by inserting after section 504, as redesignated by paragraph (8) of this section, the following:

``SEC. 505. FUNCTIONS TRANSFERRED.

``(a) IN GENERAL.—Except as provided in subsection (b), there are transferred to the Agency the following:

``(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

``(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

``(b) EXCEPTIONS.—The following within the Preparedness Directorate shall not be transferred:

``(1) The Office of Infrastructure Protection.

``(2) The National Communications System.

``(3) The National Cybersecurity Division.

``(4) The Office of the Chief Medical Officer.

``(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

``SEC. 506. PRESERVING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

``(a) DISTINCT ENTITY.—The Agency shall be maintained as a distinct entity within the Department.

``(b) REORGANIZATION.—Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

``(c) PROHIBITION ON CHANGES TO MISSIONS.—

``(1) IN GENERAL.—The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

``(2) CERTAIN TRANSFERS PROHIBITED.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

``(d) REPROGRAMMING AND TRANSFER OF FUNDS.—In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

``SEC. 507. REGIONAL OFFICES.

``(a) IN GENERAL.—There are in the Agency 10 regional offices, as identified by the Administrator.

``(b) MANAGEMENT OF REGIONAL OFFICES.—

``(1) REGIONAL ADMINISTRATOR.—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

``(2) QUALIFICATIONS.—

``(A) IN GENERAL.—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

``(B) CONSIDERATIONS.—In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

``(c) RESPONSIBILITIES.—

``(1) IN GENERAL.—The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the Regional Office to carry out the responsibilities of a Regional Administrator under this section.

``(2) RESPONSIBILITIES.—The responsibilities of a Regional Administrator include—

``(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);

``(B) assisting in the development of regional capabilities needed for a national catastrophic response system;

``(C) coordinating the establishment of effective regional operable and interoperable emergency communications capabilities;

``(D) staffing and overseeing 1 or more strike teams within the region under subsection (f), to serve as the focal point of the Federal Government's initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region, and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;

``(E) designating an individual responsible for the development of strategic and operational regional plans in support of the National Response Plan;

``(F) fostering the development of mutual aid and other cooperative agreements;

``(G) identifying critical gaps in regional capabilities to respond to populations with special needs;

``(H) maintaining and operating a Regional Response Coordination Center or its successor; and

``(I) performing such other duties relating to such responsibilities as the Administrator may require.

``(3) TRAINING AND EXERCISE REQUIREMENTS.—

``(A) TRAINING.—The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

``(B) EXERCISES.—The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

``(d) AREA OFFICES.—

``(1) IN GENERAL.—There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

``(2) ALASKA.—The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

``(e) REGIONAL ADVISORY COUNCIL.—

``(1) ESTABLISHMENT.—Each Regional Administrator shall establish a Regional Advisory Council.

``(2) NOMINATIONS.—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

``(3) RESPONSIBILITIES.—Each Regional Advisory Council shall—

``(A) advise the Regional Administrator on emergency management issues specific to that region;

``(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

``(C) advise the Regional Administrator of any weaknesses or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council is aware.

``(f) REGIONAL OFFICE STRIKE TEAMS.

``(1) IN GENERAL.—In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of—

``(A) a designated Federal coordinating officer;

``(B) personnel trained in incident management;

``(C) public affairs, response and recovery, and communications support personnel;

``(D) a defense coordinating officer;

``(E) liaisons to other Federal agencies;

``(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

``(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

"(2) OTHER DUTIES.—The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be consistent with the emergency preparedness activities of the agency that employs such individual.

"(3) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

"(4) COORDINATION.—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

"(5) PREPAREDNESS.—Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

"(6) AUTHORITIES.—If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

"SEC. 508. NATIONAL ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

"(b) RESPONSIBILITIES.—The National Advisory Council shall advise the Administrator on all aspects of emergency management. The National Advisory Council shall incorporate State, local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

"(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

"(B) health scientists, emergency and inpatient medical providers, and public health professionals;

"(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

"(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

"(E) elected State, local, and tribal government executives;

"(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

"(G) representatives of individuals with disabilities and other populations with special needs; and

"(H) such other individuals as the Administrator determines to be appropriate.

"(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

"(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

"(4) TERMS OF OFFICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

"(B) INITIAL APPOINTMENTS.—Of the members initially appointed to the National Advisory Council—

"(i) one-third shall be appointed for a term of 1 year; and

"(ii) one-third shall be appointed for a term of 2 years.

"(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) IN GENERAL.—Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

"(2) TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

"SEC. 509. NATIONAL INTEGRATION CENTER.

"(a) IN GENERAL.—There is established in the Agency a National Integration Center.

"(b) RESPONSIBILITIES.—

"(1) IN GENERAL.—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

"(2) SPECIFIC RESPONSIBILITIES.—The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

"(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

"(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

"(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

"(c) INCIDENT MANAGEMENT.—

"(1) IN GENERAL.—

"(A) NATIONAL RESPONSE PLAN.—The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

"(B) ADMINISTRATOR.—The chain of the command specified in the National Response Plan shall—

"(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

"(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

"(2) PRINCIPAL FEDERAL OFFICIAL.—The Principal Federal Official (or the successor thereto) shall not—

"(A) direct or replace the incident command structure established at the incident; or

"(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State officials.

"SEC. 510. CREDENTIALING AND TYPING.

"The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

"SEC. 511. THE NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

"(a) DEFINITION.—In this section, the term 'National Infrastructure Simulation and Analysis Center' means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 5195c(d)).

"(b) AUTHORITY.—

"(1) IN GENERAL.—There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to—

"(A) counterterrorism, threat assessment, and risk mitigation; and

"(B) a natural disaster, act of terrorism, or other man-made disaster.

"(2) INFRASTRUCTURE MODELING.—

"(A) PARTICULAR SUPPORT.—The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

"(B) RELATIONSHIP WITH OTHER AGENCIES.—Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

"(C) PURPOSE.—

"(i) IN GENERAL.—The purpose of the relationship under subparagraph (B) shall be to permit *each Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.*

"(ii) RECIPIENT OF CERTAIN SUPPORT.—Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

"SEC. 512. EVACUATION PLANS AND EXERCISES.

"(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

"(1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and

"(3) conduct exercises of such plans.

"(b) PLAN DEVELOPMENT.—In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

"(1) establish incident command and decision making processes;

"(2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

"(3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;

"(4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;

"(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals—

"(A) with disabilities or other special needs;

"(B) with limited English proficiency; or

"(C) who might otherwise have difficulty in obtaining such information; and

"(6) identify shelter locations and capabilities.

"(c) ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

"(2) REQUESTED ASSISTANCE.—The Administrator shall make assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to establish, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.

"(d) MULTIPURPOSE FUNDS.—Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

"SEC. 513. DISABILITY COORDINATOR.

"(a) IN GENERAL.—After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, established under Executive Order 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.

"(b) RESPONSIBILITIES.—The Disability Coordinator shall be responsible for—

"(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and State, local, and tribal government authorities regarding the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;

"(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

"(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

"(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

"(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

"(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

"(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

"(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and

"(11) any other duties as assigned by the Administrator.

"SEC. 514. DEPARTMENT AND AGENCY OFFICIALS.

"(a) DEPUTY ADMINISTRATORS.—The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

"(b) CYBERSECURITY AND COMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Communications.

"(c) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

"SEC. 515. NATIONAL OPERATIONS CENTER.

"(a) DEFINITION.—In this section, the term 'situational awareness' means information gathered from a variety of sources that, when communicated to emergency managers and decision makers, can form the basis for incident management decisionmaking.

"(b) ESTABLISHMENT.—The National Operations Center is the principal operations center for the Department and shall—

"(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster; and

"(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

"SEC. 516. CHIEF MEDICAL OFFICER.

"(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

"(c) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

"(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

"(2) coordinating the biodefense activities of the Department;

"(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

"(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

"(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

"(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

"(7) performing such other duties relating to such responsibilities as the Secretary may require.".

SEC. 612. TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXECUTIVE SCHEDULE.—

(1) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Administrator of the Federal Emergency Management Agency.".

(2) DEPUTY ADMINISTRATORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Administrators, Federal Emergency Management Agency.".

(3) CHIEF MEDICAL OFFICER.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Medical Officer, Department of Homeland Security.".

(b) OFFICERS OF THE DEPARTMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

"(5) An Administrator of the Federal Emergency Management Agency.";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (10) (as amended by this subsection) as paragraphs (2) through (9), respectively.

(c) REFERENCES.—Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

(d) DEFINITION.—Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting "fire," after "safety,".

(e) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the items relating to title V and sections 501 through 509 and inserting the following:

"TITLE V—NATIONAL EMERGENCY MANAGEMENT

"Sec. 501. Definitions.
"Sec. 502. Definition.
"Sec. 503. Federal Emergency Management Agency.
"Sec. 504. Authorities and responsibilities.
"Sec. 505. Functions transferred.
"Sec. 506. Preserving the Federal Emergency Management Agency.
"Sec. 507. Regional Offices.
"Sec. 508. National Advisory Council.
"Sec. 509. National Integration Center.
"Sec. 510. Credentialing and typing.
"Sec. 511. The National Infrastructure Simulation and Analysis Center.
"Sec. 512. Evacuation plans and exercises.
"Sec. 513. Disability Coordinator.
"Sec. 514. Department and Agency officials.
"Sec. 515. National Operations Center.
"Sec. 516. Chief Medical Officer.
"Sec. 517. Nuclear incident response.
"Sec. 518. Conduct of certain public health-related activities.
"Sec. 519. Use of national private sector networks in emergency response.
"Sec. 520. Use of commercially available technology, goods, and services.
"Sec. 521. Procurement of security countermeasures for strategic national stockpile.".

(f) INTERIM ACTIONS.—

(1) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on March 31, 2007, the Secretary, the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle that takes effect on March 31, 2007.

(2) REFERENCES:—Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007.

SEC. 613. NATIONAL WEATHER SERVICE.

Nothing in this title shall alter or otherwise affect the authorities and activities of the National Weather Service to protect life and property, including under the Act of October 1, 1890 (26 Stat. 653-55).

SEC. 614. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) EXCEPTIONS.—The following shall take effect on March 31, 2007:

(1) The amendments made by section 611(11).

(2) The amendments made by section 611(12).

(3) Sections 505, 507, 508, and 514 of the Homeland Security Act of 2002, as amended by section 611(13) of this Act.

(4) The amendments made by subsection (a).

(5) The amendments made by subsection (b)(1).

Subtitle B—Personnel Provisions

CHAPTER 1—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

SEC. 621. WORKFORCE DEVELOPMENT.

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 101—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

"Sec.
"10101. Definitions.
"10102. Strategic human capital plan.
"10103. Career paths.
"10104. Recruitment bonuses.
"10105. Retention bonuses.
"10106. Quarterly report on vacancy rate in employee positions.

"§ 10101. Definitions

"For purposes of this chapter—

"(1) the term 'Agency' means the Federal Emergency Management Agency;

"(2) the term 'Administrator' means the Administrator of the Federal Emergency Management Agency;

"(3) the term 'appropriate committees of Congress' has the meaning given the term in section 602 of the Post-Katrina Emergency Management Reform Act of 2006;

"(4) the term 'Department' means the Department of Homeland Security; and

"(5) the term 'Surge Capacity Force' refers to the Surge Capacity Force, described under section 624 of the Post-Katrina Emergency Management Reform Act of 2006.

"§ 10102. Strategic human capital plan

"(a) PLAN DEVELOPMENT.—Not later than 6 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a strategic human capital plan to shape and improve the workforce of the Agency.

"(b) CONTENTS.—The strategic human capital plan shall include—

"(1) a workforce gap analysis, including an assessment of—

"(A) the critical skills and competencies that will be needed in the workforce of the Agency to support the mission and responsibilities of, and effectively manage, the Agency during the 10-year period beginning on the date of enactment of this chapter;

"(B) the skills and competencies of the workforce of the Agency on the day before the date of enactment of this chapter and projected trends in that workforce, based on expected losses due to retirement and other attrition; and

"(C) the staffing levels of each category of employee, including gaps in the workforce of the Agency on the day before the date of enactment of this chapter and in the projected workforce of the Agency that should be addressed to ensure that the Agency has continued access to the critical skills and competencies described in subparagraph (A);

"(2) a plan of action for developing and reshaping the workforce of the Agency to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

"(A) specific recruitment and retention goals, including the use of the bonus authorities under this chapter as well as other bonus authorities (including the program objective of the Agency to be achieved through such goals);

"(B) specific strategies for developing, training, deploying, compensating, and motivating and retaining the Agency workforce and its ability to fulfill the Agency's mission and responsibilities (including the program objectives of the Department and the Agency to be achieved through such strategies);

"(C) specific strategies for recruiting individuals who have served in multiple State agencies with emergency management responsibilities; and

"(D) specific strategies for the development, training, and coordinated and rapid deployment of the Surge Capacity Force; and

"(3) a discussion that—

"(A) details the number of employees of the Department not employed by the Agency serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

"(B) details the number of individuals not employed by the Department serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

"(C) describes the training given to the Surge Capacity Force during the calendar year preceding the year of submission of the plan under subsection (c);

"(D) states whether the Surge Capacity Force is able to adequately prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

"(E) describes any additional authorities or resources necessary to address any deficiencies in the Surge Capacity Force.

"(c) ANNUAL UPDATES.—Not later than May 1, 2007, and May 1st of each of the next 5 succeeding years, the Administrator shall submit to the appropriate committees of Congress an update of the strategic human capital plan, including an assessment by the Administrator, using results-oriented performance measures, of the progress of the Department and the Agency in implementing the strategic human capital plan.

"§ 10103. Career paths

"(a) IN GENERAL.—The Administrator shall—

"(1) ensure that appropriate career paths for personnel of the Agency are identified, including the education, training, experience, and assignments necessary for career progression within the Agency; and

"(2) publish information on the career paths described in paragraph (1).

"(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Administrator shall ensure that all personnel of the Agency are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within the Agency, including, as appropriate, the opportunity to participate in the Rotation Program established under section 844 of the Homeland Security Act of 2002.

"(c) POLICY.—The Administrator shall establish a policy for assigning Agency personnel to positions that provides for a balance between—

"(1) the need for such personnel to serve in career enhancing positions; and

"(2) the need to require service in a position for a sufficient period of time to provide the stability necessary—

"(A) to carry out the duties of that position; and

"(B) for responsibility and accountability for actions taken in that position.

"§ 10104. Recruitment bonuses

"(a) IN GENERAL.—The Administrator may pay a bonus to an individual in order to recruit the individual for a position within the Agency that would otherwise be difficult to fill in the absence of such a bonus. Upon completion of the strategic human capital plan, such bonuses shall be paid in accordance with that plan.

"(b) BONUS AMOUNT.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the

Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Agency. The agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(d) ELIGIBILITY.—A bonus under this section may not be paid to an individual who is appointed to or holds—

"(1) a position to which an individual is appointed by the President: by and with the advice and consent of the Senate;

"(2) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(3) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(e) TERMINATION.—The authority to pay bonuses under this section shall terminate 5 years after the date of enactment of this chapter.

"(f) REPORTS.—

"(1) IN GENERAL.—The Agency shall submit to the appropriate committees of Congress, annually for each of the 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including—

"(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

"§ 10105. Retention bonuses

"(a) AUTHORITY.—The Administrator may pay, on a case-by-case basis, a bonus under this section to an employee of the Agency if—

"(1) the unusually high or unique qualifications of the employee or a special need of the Agency for the employee's services makes it essential to retain the employee; and

"(2) the Administrator determines that, in the absence of such a bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service.

"(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Agency to complete a period of service with the Agency. Such agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

"(c) BONUS AMOUNT.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(d) LIMITATION.—A bonus under this section—

"(1) may not be based on any period of service which is the basis for a recruitment bonus under section 10104;

"(2) may not be paid to an individual who is appointed to or holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; and

"(3) upon completion of the strategic human capital plan, shall be paid in accordance with that plan.

"(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall expire 5 years after the date of enactment of this chapter.

"(f) REPORTS.—

"(1) IN GENERAL.—The Office of Personnel Management shall submit to the appropriate committees of Congress, annually for each of the first 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including, with respect to each such agency—

"(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

"§ 10106. Quarterly report on vacancy rate in employee positions

"(a) INITIAL REPORT.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a report on the vacancies in employee positions of the Agency.

"(2) CONTENTS.—The report under this subsection shall include—

"(A) vacancies of each category of employee position;

"(B) the number of applicants for each vacancy for which public notice has been given;

"(C) the length of time that each vacancy has been pending;

"(D) hiring-cycle time for each vacancy that has been filled; and

"(E) a plan for reducing the hiring-cycle time and reducing the current and anticipated vacancies with highly-qualified personnel.

"(b) QUARTERLY UPDATES.—Not later than 3 months after submission of the initial report, and every 3 months thereafter until 5 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress an update of the report under subsection (a), including an assessment by the Administrator of the progress of the Agency in filling vacant employee positions of the Agency.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for part III title 5, United States Code, is amended by inserting after the item relating to chapter 99 the following:

"101 Federal Emergency Management Agency Personnel .... 10101".

SEC. 622. ESTABLISHMENT OF HOMELAND SECURITY ROTATION PROGRAM AT THE DEPARTMENT OF HOMELAND SECURITY.

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 843 the following:

"SEC. 844. HOMELAND SECURITY ROTATION PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish the Homeland Security Rotation Program (in this section referred to as the 'Rotation Program') for employees of the Department. The Rotation Program shall use applicable best practices, including those from the Chief Human Capital Officers Council.

"(2) GOALS.—The Rotation Program established by the Secretary shall—

"(A) be established in accordance with the Human Capital Strategic Plan of the Department;

"(B) provide middle and senior level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department;

"(C) expand the knowledge base of the Department by providing for rotational assignments of employees to other components;

"(D) build professional relationships and contacts among the employees in the Department;

"(E) invigorate the workforce with exciting and professionally rewarding opportunities;

"(F) incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department; and

"(G) complement and incorporate (but not replace) rotational programs within the Department in effect on the date of enactment of this section.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—The Chief Human Capital Officer shall administer the Rotation Program.

"(B) RESPONSIBILITIES.—The Chief Human Capital Officer shall—

"(i) provide oversight of the establishment and implementation of the Rotation Program;

"(ii) establish a framework that supports the goals of the Rotation Program and promotes cross-disciplinary rotational opportunities;

"(iii) establish eligibility for employees to participate in the Rotation Program and select participants from employees who apply;

"(iv) establish incentives for employees to participate in the Rotation Program, including promotions and employment preferences;

"(v) ensure that the Rotation Program provides professional education and training;

"(vi) ensure that the Rotation Program develops qualified employees and future leaders with broad-based experience throughout the Department;

"(vii) provide for greater interaction among employees in components of the Department; and

"(viii) coordinate with rotational programs within the Department in effect on the date of enactment of this section.

"(4) ALLOWANCES, PRIVILEGES, AND BENEFITS.—All allowances, privileges, rights, seniority, and other benefits of employees participating in the Rotation Program shall be preserved.

"(5) REPORTING.—Not later than 180 days after the date of the establishment of the Rotation Program, the Secretary shall submit a report on the status of the Rotation Program, including a description of the Rotation Program, *the number of employees participating, and how the Rotation Program is used in succession planning and leadership development to the appropriate committees of Congress.".*

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 843 the following:

"Sec. 844. Homeland Security Rotation Program.".

SEC. 623. HOMELAND SECURITY EDUCATION PROGRAM.

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 844 (as added by section 622 of this Act) the following:

"SEC. 845. HOMELAND SECURITY EDUCATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall establish a graduate-level Homeland Security Education Program in the National Capital Region to provide educational opportunities to senior Federal officials and selected State and local officials with homeland security and emergency management responsibilities. The Administrator shall appoint an individual to administer the activities under this section.

"(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

"(c) STUDENT ENROLLMENT.—

"(1) SOURCES.—The student body of the Program shall include officials from Federal, State, local, and tribal governments, and from other sources designated by the Administrator.

"(2) ENROLLMENT PRIORITIES AND SELECTION CRITERIA.—The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

"(3) DIVERSITY.—The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

"(d) SERVICE COMMITMENT.—

"(1) IN GENERAL.—Before any employee selected for the Program may be assigned to participate in the program, the employee shall agree in writing—

"(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

"(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employee's education if the employee is voluntarily separated from the service to the agency before the end of the period described in subparagraph (A).

"(2) PAYMENT OF EXPENSES.—

"(A) EXEMPTION.—An employee who leaves the service of the sponsoring agency to enter into the service of another agency in any branch of the Government shall not be required to make a payment under paragraph (1)(B), unless the head of the agency that sponsored the education of the employee notifies that employee before the date on which the employee enters the service of the other agency that payment is required under that paragraph.

"(B) AMOUNT OF PAYMENT.—If an employee is required to make a payment under paragraph (1)(B), the agency that sponsored the education of the employee shall determine the amount of the payment, except that such amount may not exceed the pro rata share of the expenses incurred for the time remaining in the 2-year period.

"(3) RECOVERY OF PAYMENT.—If an employee who is required to make a payment under this subsection does not make the payment, a sum equal to the amount of the expenses incurred by the Government for the education of that employee is recoverable by the Government from the employee or his estate by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

"(B) such other method as is provided by lay for the recovery of amounts owing to the Government.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.), as amended by section 622, is amended by inserting after the item relating to section 844 the following:

"Sec. 845. Homeland Security Education Program.".

SEC. 624. SURGE CAPACITY FORCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall prepare and submit to the appropriate committees of Congress a plan to establish and implement a Surge Capacity Force for deployment of individuals to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(2) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the plan shall provide for individuals in the Surge Capacity Force to be trained and deployed under the authorities set forth in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(B) EXCEPTION.—If the Administrator determines that the existing authorities are inadequate for the training and deployment of individuals in the Surge Capacity Force, the Administrator shall report to Congress as to the additional statutory authorities that the Administrator determines necessary.

(b) EMPLOYEES DESIGNATED TO SERVE.—The plan shall include procedures under which the Secretary shall designate employees of the Department who are not employees of the Agency and shall, in conjunction with the heads of other Executive agencies, designate employees of those other Executive agencies, as appropriate, to serve on the Surge Capacity Force.

(c) CAPABILITIES.—The plan shall ensure that the Surge Capacity Force—

(1) includes a sufficient number of individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, that are capable of deploying rapidly and efficiently after activation to prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

(2) includes a sufficient number of full-time, highly trained individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, to lead and manage the Surge Capacity Force.

(d) TRAINING.—The plan shall ensure that the Administrator provides appropriate and continuous training to members of the Surge Capacity Force to ensure such personnel are adequately trained on the Agency's programs and policies for natural disasters, acts of terrorism, and other man-made disasters.

(e) NO IMPACT ON AGENCY PERSONNEL CEILING.—Surge Capacity Force members shall not be counted against any personnel ceiling applicable to the Federal Emergency Management Agency.

(f) EXPENSES.—The Administrator may provide members of the Surge Capacity Force with travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for the purpose of participating in any training that relates to service as a member of the Surge Capacity Force.

(g) IMMEDIATE IMPLEMENTATION OF SURGE CAPACITY FORCE INVOLVING FEDERAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Administrator shall develop and implement—

(1) the procedures under subsection (b); and

(2) other elements of the plan needed to establish the portion of the Surge Capacity Force consisting of individuals designated under those procedures.

CHAPTER 2—EMERGENCY MANAGEMENT CAPABILITIES

SEC. 631. STATE CATASTROPHIC INCIDENT ANNEX.

Section 613 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b) is amended—

(1) in subsection (b)(3) by inserting "including a catastrophic incident annex," after "plans,"; and

(2) by redesignating subsections (c) through (g) and subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following:

"(c) CATASTROPHIC INCIDENT ANNEX.—

"(1) CONSISTENCY.—A catastrophic incident annex submitted under subsection (b)(3) shall be—

"(A) modeled after the catastrophic incident annex of the National Response Plan; and

"(B) consistent with the national preparedness goal established under section 643 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

"(2) CONSULTATION.—In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.".

SEC. 632. EVACUATION PREPAREDNESS TECHNICAL ASSISTANCE.

The Administrator, in coordination with the heads of other appropriate Federal agencies, shall provide evacuation preparedness technical assistance to State, local, and tribal governments, including the preparation of hurricane evacuation studies and technical assistance in developing evacuation plans, assessing storm surge estimates, evacuation zones, evacuation clearance times, transportation capacity, and shelter capacity.

SEC. 633. EMERGENCY RESPONSE TEAMS.

Section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) is amended—

*(1) by striking "**SEC. 303.**" and all that follows through "The President shall" and inserting the following:*

"SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS.

"(a) EMERGENCY SUPPORT TEAMS.—The President shall"; and

(2) by adding at the end the following:

"(b) EMERGENCY RESPONSE TEAMS.—

"(1) ESTABLISHMENT.—In carrying out subsection (a), the President, acting through the Director of the Federal Emergency Management Agency, shall establish—

"(A) at a minimum 3 national response teams; and

"(B) sufficient regional response teams, including Regional Office strike teams under section 507 of the Homeland Security Act of 2002; and

"(C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.

"(2) TARGET CAPABILITY LEVEL.—The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

"(3) PERSONNEL.—The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

"(4) READINESS REPORTING.—The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.".

SEC. 634. URBAN SEARCH AND RESCUE RESPONSE SYSTEM.

(a) IN GENERAL.—There is in the Agency a system known as the Urban Search and Rescue Response System.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the system for fiscal year 2008, an amount equal to the amount appropriated for the system for fiscal year 2007 and an additional $20,000,000.

SEC. 635. METROPOLITAN MEDICAL RESPONSE GRANT PROGRAM.

(a) IN GENERAL.—There is a Metropolitan Medical Response Program.

(b) PURPOSES.—The program shall include each purpose of the program as it existed on June 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $30,000,000.

SEC. 636. LOGISTICS.

The Administrator shall develop an efficient, transparent, and flexible logistics system for procurement and delivery of goods and services necessary for an effective and timely response to natural disasters, acts of terrorism, and other man-made disasters and for real-time visibility of items at each point throughout the logistics system.

SEC. 637. PREPOSITIONED EQUIPMENT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a prepositioned equipment program to preposition standardized emergency equipment in at least 11 locations to sustain and replenish critical assets used by State, local, and tribal governments in response to (or rendered inoperable by the effects of) natural disasters, acts of terrorism, and other man-made disasters.

(b) NOTICE.—The Administrator shall notify State, local, and tribal officials in an area in which a location for the prepositioned equipment program will be closed not later than 60 days before the date of such closure.

SEC. 638. HURRICANE KATRINA AND HURRICANE RITA RECOVERY OFFICES.

(a) ESTABLISHMENT.—In order to provide all eligible Federal assistance to individuals and State, local, and tribal governments affected by Hurricane Katrina or Hurricane Rita in a customer-focused, expeditious, effective, and consistent manner, the Administrator shall establish, in coordination with the appropriate States, a recovery office. The Administrator may establish recovery offices for each of the following States, if necessary:

(1) Mississippi.

(2) Louisiana.

(3) Alabama.

(4) Texas.

(b) STRUCTURE.—Each recovery office shall have an executive director, appointed by the Administrator, and a senior management team.

(c) RESPONSIBILITIES.—Each executive director, in coordination with State, local, and tribal governments, private sector entities, and nongovernmental organizations, including faith-based and other community humanitarian relief entities, shall provide assistance in a timely and effective manner to residents of the Gulf Coast region for recovering from Hurricane Katrina or Hurricane Rita.

(d) STAFFING.—

(1) IN GENERAL.—Each recovery office shall be staffed by multi-year term, temporary employees and permanent employees.

(2) STAFFING LEVELS.—Staffing levels of a recovery office shall be commensurate with current and projected workload and shall be evaluated on a regular basis.

(e) PERFORMANCE MEASURES.—To ensure that each recovery office is meeting its objectives, the Administrator shall identify performance measures that are specific, measurable, achievable, relevant, and timed, including—

(1) public assistance program project worksheet completion rates; and

(2) public assistance reimbursement times.

(f) CLOSEOUT INCENTIVES.—The Administrator shall provide incentives for the timely closeout of public assistance projects under sections 406 and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172 and 5173).

(g) TERMINATION.—Each recovery office shall terminate at the discretion of the Administrator.

SEC. 639. BASIC LIFE SUPPORTING FIRST AID AND EDUCATION.

The Administrator shall enter into agreements with organizations to provide funds to emergency response providers to provide education and training in life supporting first aid to children.

SEC. 640. IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.

(a) MEASURES TO IMPROVE INFORMATION TECHNOLOGY SYSTEMS.—The Administrator, in coordination with the Chief Information Officer of the Department, shall take appropriate measures to update and improve the information technology systems of the Agency, including measures to—

(1) ensure that the multiple information technology systems of the Agency (including the National Emergency Management Information System, the Logistics Information Management System III, and the Automated Deployment Database) are, to the extent practicable, fully compatible and can share and access information, as appropriate, from each other;

(2) ensure technology enhancements reach the headquarters and regional offices of the Agency in a timely fashion, to allow seamless integration;

(3) develop and maintain a testing environment that ensures that all system components are properly and thoroughly tested before their release;

(4) ensure that the information technology systems of the Agency have the capacity to track disaster response personnel, mission assignments task orders, commodities, and supplies used in response to a natural disaster, act of terrorism, or other man-made disaster;

(5) make appropriate improvements to the National Emergency Management Information System to address shortcomings in such system on the date of enactment of this Act; and

(6) provide training, manuals, and guidance on information technology systems to personnel, including disaster response personnel, to help ensure employees can properly use information technology systems.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing the implementation of this section, including a description of any actions taken, improvements made, and remaining problems and a description of any additional funding needed to make necessary and appropriate improvements to the information technology systems of the Agency.

SEC. 640a. DISCLOSURE OF CERTAIN INFORMATION TO LAW ENFORCEMENT AGENCIES.

In the event of circumstances requiring an evacuation, sheltering, or mass relocation, the Administrator may disclose information in any individual assistance database of the Agency in accordance with section 552a(b) of title 5, United States Code (commonly referred to as the "Privacy Act"), to any law enforcement agency of the Federal Government or a State, local, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws.

Subtitle C—Comprehensive Preparedness System

CHAPTER 1—NATIONAL PREPAREDNESS SYSTEM

SEC. 641. DEFINITIONS.

In this chapter:

(1) CAPABILITY.—The term "capability" means the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards. A capability may be achieved with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.

(2) HAZARD.—The term "hazard" has the meaning given that term under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5195a).

(3) MISSION ASSIGNMENT.—The term "mission assignment" means a work order issued to a Federal agency by the Agency, directing completion by that agency of a specified task and setting forth funding, other managerial controls, and guidance.

(4) NATIONAL PREPAREDNESS GOAL.—The term "national preparedness goal" means the national preparedness goal established under section 643.

(5) NATIONAL PREPAREDNESS SYSTEM.—The term "national preparedness system" means the national preparedness system established under section 644.

(6) NATIONAL TRAINING PROGRAM.—The term "national training program" means the national training program established under section 648(a).

(7) OPERATIONAL READINESS.—The term "operational readiness" means the capability of an organization, an asset, a system, or equipment to perform the missions or functions for which it is organized or designed.

(8) PERFORMANCE MEASURE.—The term "performance measure" means a quantitative or

qualitative characteristic used to gauge the results of an outcome compared to its intended purpose.

(9) PERFORMANCE METRIC.—The term "performance metric" means a particular value or characteristic used to measure the outcome that is generally expressed in terms of a baseline and a target.

(10) PREVENTION.—The term "prevention" means any activity undertaken to avoid, prevent, or stop a threatened or actual act of terrorism.

SEC. 642. NATIONAL PREPAREDNESS.

In order to prepare the Nation for all hazards, including natural disasters, acts of terrorism, and other man-made disasters, the President, consistent with the declaration of policy under section 601 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195) and title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by this Act, shall develop a national preparedness goal and a national preparedness system.

SEC. 643. NATIONAL PREPAREDNESS GOAL.

(a) ESTABLISHMENT.—The President, acting through the Administrator, shall complete, revise, and update, as necessary, a national preparedness goal that defines the target level of preparedness to ensure the Nation's ability to prevent, respond to, recover from, and mitigate against natural disasters, acts of terrorism, and other man-made disasters.

(b) NATIONAL INCIDENT MANAGEMENT SYSTEM AND NATIONAL RESPONSE PLAN.—The national preparedness goal, to the greatest extent practicable, shall be consistent with the National Incident Management System and the National Response Plan.

SEC. 644. ESTABLISHMENT OF NATIONAL PREPAREDNESS SYSTEM.

(a) ESTABLISHMENT.—The President, acting through the Administrator, shall develop a national preparedness system to enable the Nation to meet the national preparedness goal.

(b) COMPONENTS.—The national preparedness system shall include the following components:

(1) Target capabilities and preparedness priorities.

(2) Equipment and training standards.

(3) Training and exercises.

(4) Comprehensive assessment system.

(5) Remedial action management program.

(6) Federal response capability inventory.

(7) Reporting requirements.

(8) Federal preparedness.

(c) NATIONAL PLANNING SCENARIOS.—The national preparedness system may include national planning scenarios.

SEC. 645. NATIONAL PLANNING SCENARIOS.

(a) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, may develop planning scenarios to reflect the relative risk requirements presented by all hazards, including natural disasters, acts of terrorism, and other man-made disasters, in order to provide the foundation for the flexible and adaptive development of target capabilities and the identification of target capability levels to meet the national preparedness goal.

(b) DEVELOPMENT.—In developing, revising, and replacing national planning scenarios, the Administrator shall ensure that the scenarios—

(1) reflect the relative risk of all hazards and illustrate the potential scope, magnitude, and complexity of a broad range of representative hazards; and

(2) provide the minimum number of representative scenarios necessary to identify and define the tasks and target capabilities required to respond to all hazards.

SEC. 646. TARGET CAPABILITIES AND PREPAREDNESS PRIORITIES.

(a) ESTABLISHMENT OF GUIDELINES ON TARGET CAPABILITIES.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall complete, revise, and update, as necessary, guidelines to define risk-based target capabilities for Federal, State, local, and tribal government preparedness that will enable the Nation to prevent, respond to, recover from, and mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(b) DISTRIBUTION OF GUIDELINES.—The Administrator shall ensure that the guidelines are provided promptly to the appropriate committees of Congress and the States.

(c) OBJECTIVES.—The Administrator shall ensure that the guidelines are specific, flexible, and measurable.

(d) TERRORISM RISK ASSESSMENT.—With respect to analyzing and assessing the risk of acts of terrorism, the Administrator shall consider—

(1) the variables of threat, vulnerability, and consequences related to population (including transient commuting and tourist populations), areas of high population density, critical infrastructure, coastline, and international borders; and

(2) the most current risk assessment available from the Chief Intelligence Officer of the Department of the threats of terrorism against the United States.

(e) PREPAREDNESS PRIORITIES.—In establishing the guidelines under subsection (a), the Administrator shall establish preparedness priorities that appropriately balance the risk of all hazards, including natural disasters, acts of terrorism, and other man-made disasters, with the resources required to prevent, respond to, recover from, and mitigate against the hazards.

(f) MUTUAL AID AGREEMENTS.—The Administrator may provide support for the development of mutual aid agreements within States.

SEC. 647. EQUIPMENT AND TRAINING STANDARDS.

(a) EQUIPMENT STANDARDS.—

(1) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, shall support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for the performance, use, and validation of equipment used by Federal, State, local, and tribal governments and nongovernmental emergency response providers.

(2) REQUIREMENTS.—The national voluntary consensus standards shall—

(A) be designed to achieve equipment and other capabilities consistent with the national preparedness goal, including the safety and health of emergency response providers;

(B) to the maximum extent practicable, be consistent with existing national voluntary consensus standards;

(C) take into account, as appropriate, threats that may not have been contemplated when the existing standards were developed; and

(D) focus on maximizing operability, interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.

(b) TRAINING STANDARDS.—The Administrator shall—

(1) support the development, promulgation, and regular updating, as necessary, of national voluntary consensus standards for training; and

(2) ensure that the training provided under the national training program is consistent with the standards.

(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In carrying out this section, the Administrator shall consult with representatives of relevant public and private sector national voluntary consensus standards development organizations.

SEC. 648. TRAINING AND EXERCISES.

(a) NATIONAL TRAINING PROGRAM.—

(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall carry out a national training program to implement the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies.

(2) TRAINING PARTNERS.—In developing and implementing the national training program, the Administrator shall—

(A) work with government training facilities, academic institutions, private organizations, and other entities that provide specialized, state-of-the-art training for emergency managers or emergency response providers; and

(B) utilize, as appropriate, training courses provided by community colleges, State and local public safety academies, State and private universities, and other facilities.

(b) NATIONAL EXERCISE PROGRAM.—

(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall carry out a national exercise program to test and evaluate the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies.

(2) REQUIREMENTS.—The national exercise program—

(A) shall be—

(i) as realistic as practicable, based on current risk assessments, including credible threats, vulnerabilities, and consequences, and designed to stress the national preparedness system;

(ii) designed, as practicable, to simulate the partial or complete incapacitation of a State, local, or tribal government;

(iii) carried out, as appropriate, with a minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

(iv) designed to provide for systematic evaluation of readiness; and

(v) designed to address the unique requirements of populations with special needs; and

(B) shall provide assistance to State, local, and tribal governments with the design, implementation, and evaluation of exercises that—

(i) conform to the requirements under subparagraph (A);

(ii) are consistent with any applicable State, local, or tribal strategy or plan; and

(iii) provide for systematic evaluation of readiness.

(3) NATIONAL LEVEL EXERCISES.—The Administrator shall periodically, but not less than biennially, perform national exercises for the following purposes:

(A) To test and evaluate the capability of Federal, State, local, and tribal governments to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

(B) To test and evaluate the readiness of Federal, State, local, and tribal governments to respond and recover in a coordinated and unified manner to catastrophic incidents.

SEC. 649. COMPREHENSIVE ASSESSMENT SYSTEM.

(a) ESTABLISHMENT.—The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a comprehensive system to assess, on an ongoing basis, the Nation's prevention capabilities and overall preparedness, including operational readiness.

(b) PERFORMANCE METRICS AND MEASURES.—The Administrator shall ensure that each component of the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies, and the reports required under section 652 is developed, revised, and updated with clear and quantifiable performance metrics, measures, and outcomes.

(c) CONTENTS.—The assessment system established under subsection (a) shall assess—

(1) compliance with the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies;

(2) capability levels at the time of assessment against target capability levels defined pursuant to the guidelines established under section 646(a);

(3) resource needs to meet the desired target capability levels defined pursuant to the guidelines established under section 646(a); and

(4) performance of training, exercises, and operations.

SEC. 650. REMEDIAL ACTION MANAGEMENT PROGRAM.

The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a remedial action management program to—

(1) analyze training, exercises, and real-world events to identify and disseminate lessons learned and best practices;

(2) generate and disseminate, as appropriate, after action reports to participants in exercises and real-world events; and

(3) conduct remedial action tracking and long-term trend analysis.

SEC. 651. FEDERAL RESPONSE CAPABILITY INVENTORY.

(a) IN GENERAL.—In accordance with section 611(h)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)(1)(C), the Administrator shall accelerate the completion of the inventory of Federal response capabilities.

(b) CONTENTS.—The inventory shall include—

(1) for each capability—

(A) the performance parameters of the capability;

(B) the timeframe within which the capability can be brought to bear on an incident; and

(C) the readiness of the capability to respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters; and

(2) emergency communications assets maintained by the Federal Government and, if appropriate, State, local, and tribal governments and the private sector.

(c) DEPARTMENT OF DEFENSE.—The Administrator, in coordination with the Secretary of Defense, shall develop a list of organizations and functions within the Department of Defense that may be used, pursuant to the authority provided under the National Response Plan and sections 402, 403, and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5192), to provide support to civil authorities during natural disasters, acts of terrorism, and other man-made disasters.

(d) DATABASE.—The Administrator shall establish an inventory database to allow—

(1) real-time exchange of information regarding capabilities, readiness, or the compatibility of equipment;

(2) easy identification and rapid deployment during an incident; and

(3) the sharing of inventories with other Federal agencies, as appropriate.

SEC. 652. REPORTING REQUIREMENTS.

(a) FEDERAL PREPAREDNESS REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Administrator, in coordination with the heads of appropriate Federal agencies, shall submit to the appropriate committees of Congress a report on the Nation's level of preparedness for all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(2) CONTENTS.—Each report shall include—

(A) an assessment of how Federal assistance supports the national preparedness system;

(B) the results of the comprehensive assessment carried out under section 649;

(C) a review of the inventory described in section 651(a); and

(D) an assessment of resource needs to meet preparedness priorities established under section 646(e), including—

(i) an estimate of the amount of Federal, State, local, and tribal expenditures required to attain the preparedness priorities; and

(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

(b) CATASTROPHIC RESOURCE REPORT.—

(1) IN GENERAL.—The Administrator shall develop and submit to the appropriate committees of Congress annually an estimate of the resources of the Agency and other Federal agencies needed for and devoted specifically to developing the capabilities of Federal, State, local, and tribal governments necessary to respond to a catastrophic incident.

(2) CONTENTS.—Each estimate under paragraph (1) shall include the resources both necessary for and devoted to—

(A) planning

(B) training and exercises;

(C) Regional Office enhancements;

(D) staffing, including for surge capacity during a catastrophic incident;

(E) additional logistics capabilities;

(F) other responsibilities under the catastrophic incident annex and the catastrophic incident supplement of the National Response Plan;

(G) State, local, and tribal government catastrophic incident preparedness; and

(H) covering increases in the fixed costs or expenses of the Agency, including rent or property acquisition costs or expenses, taxes, contributions to the working capital fund of the Department, and security costs for the year after the year in which such estimate is submitted.

(c) STATE PREPAREDNESS REPORT.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, and annually thereafter, a State receiving Federal preparedness assistance administered by the Department shall submit a report to the Administrator on the State's level of preparedness.

(2) CONTENTS.—Each report shall include—

(A) an assessment of State compliance with the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies;

(B) an assessment of current capability levels and a description of target capability levels; and

(C) an assessment of resource needs to meet the preparedness priorities established under section 646(e), including—

(i) an estimate of the amount of expenditures required to attain the preparedness priorities; and

(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

SEC. 653. FEDERAL PREPAREDNESS.

(a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall ensure that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan—

(1) has the operational capability to meet the national preparedness goal, including—

(A) the personnel to make and communicate decisions;

(B) organizational structures that are assigned, trained, and exercised for the missions of the agency;

(C) sufficient physical resources; and

(D) the command, control, and communication channels to make, monitor, and communicate decisions;

(2) complies with the National Incident Management System;

(3) develops, trains, and exercises rosters of response personnel to be deployed when the agency is called upon to support a Federal response; and

(4) develops deliberate operational plans and the corresponding capabilities, including crisis planning, to respond effectively to natural disasters, acts of terrorism, and other man-made disasters in support of the National Response Plan to ensure a coordinated Federal response.

(b) OPERATIONAL PLANS.—An operations plan developed under subsection (a)(4) shall meet the following requirements:

(1) The operations plan shall be coordinated under a unified system with a common terminology, approach, and framework.

(2) The operations plan shall be developed, in coordination with State, local, and tribal government officials, to address both regional and national risks.

(3) The operations plan shall contain, as appropriate, the following elements:

(A) Concepts of operations.

(B) Critical tasks and responsibilities.

(C) Detailed resource and personnel requirements, together with sourcing requirements.

(D) Specific provisions for the rapid integration of the resources and personnel of the agency into the overall response.

(4) The operations plan shall address, as appropriate, the following matters:

(A) Support of State, local, and tribal governments in conducting mass evacuations, including—

(i) transportation and relocation;

(ii) short- and long-term sheltering and accommodation;

(iii) provisions for populations with special needs, keeping families together, and expeditious location of missing children; and

(iv) policies and provisions for pets.

(B) The preparedness and deployment of public health and medical resources, including resources to address the needs of evacuees and populations with special needs.

(C) The coordination of interagency search and rescue operations, including land, water, and airborne search and rescue operations.

(D) The roles and responsibilities of the Senior Federal Law Enforcement Official with respect to other law enforcement entities.

(E) The protection of critical infrastructure.

(F) The coordination of maritime salvage efforts among relevant agencies.

(G) The coordination of Department of Defense and National Guard support of civilian authorities.

(H) To the extent practicable, the utilization of Department of Defense, National Air and Space Administration, National Oceanic and Atmospheric Administration, and commercial aircraft and satellite remotely sensed imagery.

(I) The coordination and integration of support from the private sector and nongovernmental organizations.

(J) The safe disposal of debris, including hazardous materials, and, when practicable, the recycling of debris.

(K) The identification of the required surge capacity.

(L) Specific provisions for the recovery of affected geographic areas.

(c) MISSION ASSIGNMENTS.—To expedite the provision of assistance under the National Response Plan, the President shall ensure that the

Administrator, in coordination with Federal agencies with responsibilities under the National Response Plan, develops prescripted mission assignments, including logistics, communications, mass care, health services, and public safety.

(d) CERTIFICATION.—The President shall certify on an annual basis that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan complies with subsections (a) and (b).

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of Defense with regard to—

(1) the command, control, training, planning, equipment, exercises, or employment of Department of Defense forces; or

(2) the allocation of Department of Defense resources.

SEC. 654. USE OF EXISTING RESOURCES.

In establishing the national preparedness goal and national preparedness system, the Administrator shall use existing preparedness documents, planning tools, and guidelines to the extent practicable and consistent with this Act.

CHAPTER 2—ADDITIONAL PREPAREDNESS

SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.

(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact consented to by the Joint Resolution entitled "Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact" (Public Law 104-321; 110 Stat. 3877).

(b) USES.—A grant under this section shall be used—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

(2) to administer compact operations on behalf of all member States and territories;

(3) to continue coordination with the Agency and appropriate Federal agencies;

(4) to continue coordination with State, local, and tribal government entities and their respective national organizations; and

(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $4,000,000 for fiscal year 2008. Such sums shall remain available until expended.

SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS.

There is authorized to be appropriated for the Emergency Management Performance Grants Program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $175,000,000.

SEC. 663. TRANSFER OF NOBLE TRAINING CENTER.

The Noble Training Center is transferred to the Center for Domestic Preparedness. The Center for Domestic Preparedness shall integrate the Noble Training Center into the program structure of the Center for Domestic Preparedness.

SEC. 664. NATIONAL EXERCISE SIMULATION CENTER.

The President shall establish a national exercise simulation center that—

(1) uses a mix of live, virtual, and constructive simulations to—

(A) prepare elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively;

(B) provide a learning environment for the homeland security personnel of all Federal agencies;

(C) assist in the development of operational procedures and exercises, particularly those based on catastrophic incidents; and

(D) allow incident commanders to exercise decisionmaking in a simulated environment; and

(2) uses modeling and simulation for training, exercises, and command and control functions at the operational level.

Subtitle D—Emergency Communications

SEC. 671. EMERGENCY COMMUNICATIONS.

(a) SHORT TITLE.—This section may be cited as the "21st Century Emergency Communications Act of 2006".

(b) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

"TITLE XVIII—EMERGENCY COMMUNICATIONS

"SEC. 1801. OFFICE OF EMERGENCY COMMUNICATIONS.

"(a) IN GENERAL.—There is established in the Department an Office of Emergency Communications.

"(b) DIRECTOR.—The head of the office shall be the Director for Emergency Communications. The Director shall report to the Assistant Secretary for Cybersecurity and Communications.

"(c) RESPONSIBILITIES.—The Director for Emergency Communications shall—

"(1) assist the Secretary in developing and implementing the program described in section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)), except as provided in section 314;

"(2) administer the Department's responsibilities and authorities relating to the SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards;

"(3) administer the Department's responsibilities and authorities relating to the Integrated Wireless Network program;

"(4) conduct extensive, nationwide outreach to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(5) conduct extensive, nationwide outreach and foster the development of interoperable emergency communications capabilities by State, regional, local, and tribal governments and public safety agencies, and by regional consortia thereof;

"(6) provide technical assistance to State, regional, local, and tribal government officials with respect to use of interoperable emergency communications capabilities;

"(7) coordinate with the Regional Administrators regarding the activities of Regional Emergency Communications Coordination Working Groups under section 1805;

"(8) promote the development of standard operating procedures and best practices with respect to use of interoperable emergency communications capabilities for incident response, and facilitate the sharing of information on such best practices for achieving, maintaining, and enhancing interoperable emergency communications capabilities for such response;

"(9) coordinate, in cooperation with the National Communications System, the establishment of a national response capability with initial and ongoing planning, implementation, and training for the deployment of communications equipment for relevant State, local, and tribal governments and emergency response providers in the event of a catastrophic loss of local and regional emergency communications services;

"(10) assist the President, the National Security Council, the Homeland Security Council, and the Director of the Office of Management and Budget in ensuring the continued operation of the telecommunications functions and responsibilities of the Federal Government, excluding spectrum management;

"(11) establish, in coordination with the Director of the Office for Interoperability and Compatibility, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

"(12) review, in consultation with the Assistant Secretary for Grants and Training, all interoperable emergency communications plans of Federal, State, local, and tribal governments, including Statewide and tactical interoperability plans, developed pursuant to homeland security assistance administered by the Department, but excluding spectrum allocation and management related to such plans;

"(13) develop and update periodically, as appropriate, a National Emergency Communications Plan under section 1802;

"(14) perform such other duties of the Department necessary to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(15) perform other duties of the Department necessary to achieve the goal of and maintain and enhance interoperable emergency communications capabilities.

"(d) PERFORMANCE OF PREVIOUSLY TRANSFERRED FUNCTIONS.—The Secretary shall transfer to, and administer through, the Director for Emergency Communications the following programs and responsibilities:

"(1) The SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards.

"(2) The responsibilities of the Chief Information Officer related to the implementation of the Integrated Wireless Network.

"(3) The Interoperable Communications Technical Assistance Program.

"(e) COORDINATION.—The Director for Emergency Communications shall coordinate—

"(1) as appropriate, with the Director of the Office for Interoperability and Compatibility with respect to the responsibilities described in section 314; and

"(2) with the Administrator of the Federal Emergency Management Agency with respect to the responsibilities described in this title.

"(f) SUFFICIENCY OF RESOURCES PLAN.—

"(1) REPORT.—Not later than 120 days after the date of enactment of this section, the Secretary shall submit to Congress a report on the resources and staff necessary to carry out fully the responsibilities under this title.

"(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the validity of the report submitted by the Secretary under paragraph (1). Not later than 60 days after the date on which such report is submitted, the Comptroller General shall submit to Congress a report containing the findings of such review.

"SEC. 1802. NATIONAL EMERGENCY COMMUNICATIONS PLAN.

"(a) IN GENERAL.—The Secretary, acting through the Director for Emergency Communications, and in cooperation with the Department of National Communications System (as

appropriate), shall, in cooperation with State, local, and tribal governments, Federal departments and agencies, emergency response providers, and the private sector, develop not later than 180 days after the completion of the baseline assessment under section 1803, and periodically update, a National Emergency Communications Plan to provide recommendations regarding how the United States should—

"(1) support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(2) ensure, accelerate, and attain interoperable emergency communications nationwide.

"(b) COORDINATION.—The Emergency Communications Preparedness Center under section 1806 shall coordinate the development of the Federal aspects of the National Emergency Communications Plan.

"(c) CONTENTS.—The National Emergency Communications Plan shall—

"(1) include recommendations developed in consultation with the Federal Communications Commission and the National Institute of Standards and Technology for a process for expediting national voluntary consensus standards for emergency communications equipment for the purchase and use by public safety agencies of interoperable emergency communications equipment and technologies;

"(2) identify the appropriate capabilities necessary for emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(3) identify the appropriate interoperable emergency communications capabilities necessary for Federal, State, local, and tribal governments in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(4) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(5) recommend both short-term and long-term solutions for deploying interoperable emergency communications systems for Federal, State, local, and tribal governments throughout the Nation, including through the provision of existing and emerging technologies;

"(6) identify how Federal departments and agencies that respond to natural disasters, acts of terrorism, and other man-made disasters can work effectively with State, local, and tribal governments, in all States, and with other entities;

"(7) identify obstacles to deploying interoperable emergency communications capabilities nationwide and recommend short-term and long-term measures to overcome those obstacles, including recommendations for multijurisdictional coordination among Federal, State, local, and tribal governments;

"(8) recommend goals and timeframes for the deployment of emergency, command-level communications systems based on new and existing equipment across the United States and develop a timetable for the deployment of interoperable emergency communications systems nationwide; and

"(9) recommend appropriate measures that emergency response providers should employ to ensure the continued operation of relevant governmental communications infrastructure in the event of natural disasters, acts of terrorism, or other man-made disasters.

"SEC. 1803. ASSESSMENTS AND REPORTS.

"(a) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments that—

"(1) defines the range of capabilities needed by emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(2) defines the range of interoperable emergency communications capabilities needed for specific events;

"(3) assesses the current available capabilities to meet such communications needs;

"(4) identifies the gap between such current capabilities and defined requirements; and

"(5) includes a national interoperable emergency communications inventory to be completed by the Secretary of Homeland Security, the Secretary of Commerce, and the Chairman of the Federal Communications Commission that—

"(A) identifies for each Federal department and agency—

"(i) the channels and frequencies used;

"(ii) the nomenclature used to refer to each channel or frequency used; and

"(iii) the types of communications systems and equipment used; and

"(B) identifies the interoperable emergency communications systems in use by public safety agencies in the United States.

"(b) CLASSIFIED ANNEX.—The baseline assessment under this section may include a classified annex including information provided under subsection (a)(5)(A).

"(c) SAVINGS CLAUSE.—In conducting the baseline assessment under this section, the Secretary may incorporate findings from assessments conducted before, or ongoing on, the date of enactment of this title.

"(d) PROGRESS REPORTS.—Not later than one year after the date of enactment of this section and biennially thereafter, the Secretary, acting through the Director for Emergency Communications, shall submit to Congress a report on the progress of the Department in achieving the goals of, and carrying out its responsibilities under, this title, including—

"(1) a description of the findings of the most recent baseline assessment conducted under subsection (a);

"(2) a determination of the degree to which interoperable emergency communications capabilities have been attained to date and the gaps that remain for interoperability to be achieved;

"(3) an evaluation of the ability to continue to communicate and to provide and maintain interoperable emergency communications by emergency managers, emergency response providers, and relevant government officials in the event of—

"(A) natural disasters, acts of terrorism, or other man-made disasters, including Incidents of National Significance declared by the Secretary under the National Response Plan; and

"(B) a catastrophic loss of local and regional communications services;

"(4) a list of best practices relating to the ability to continue to communicate and to provide and maintain interoperable emergency communications in the event of natural disasters, acts of terrorism, or other man-made disasters; and

"(A) an evaluation of the feasibility and desirability of the Department developing, on its own or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of natural disasters, acts of terrorism, or other man-made disasters.

"SEC. 1804. COORDINATION OF DEPARTMENT EMERGENCY COMMUNICATIONS GRANT PROGRAMS.

"(a) COORDINATION OF GRANTS AND STANDARDS PROGRAMS.—The Secretary, acting through the Director for Emergency Communications, shall ensure that grant guidelines for the use of homeland security assistance administered by the Department relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

"(b) DENIAL OF ELIGIBILITY FOR GRANTS.

"(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Grants and Planning, and in consultation with the Director for Emergency Communications, may prohibit any State, local, or tribal government from using homeland security assistance administered by the Department to achieve, maintain, or enhance emergency communications capabilities, if—

"(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan as required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f));

"(B) such government has proposed to upgrade or purchase new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards and has not provided a reasonable explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards; and

"(C) as of the date that is 3 years after the date of the completion of the initial National Emergency Communications Plan under section 1802, national voluntary consensus standards for interoperable emergency communications capabilities have not been developed and promulgated.

"(2) STANDARDS.—The Secretary, in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, shall support the development, promulgation, and updating as necessary of national voluntary consensus standards for interoperable emergency communications.

"SEC. 1805. REGIONAL EMERGENCY COMMUNICATIONS COORDINATION.

"(a) IN GENERAL.—There is established in each Regional Office a Regional Emergency Communications Coordination Working Group (in this section referred to as an 'RECC Working Group'). Each RECC Working Group shall report to the relevant Regional Administrator and coordinate its activities with the relevant Regional Advisory Council.

"(b) MEMBERSHIP.—Each RECC Working Group shall consist of the following:

"(1) NON-FEDERAL.—Organizations representing the interests of the following:

"(A) State officials.

"(B) Local government officials, including sheriffs.

"(C) State police departments.

"(D) Local police departments.

"(E) Local fire departments.

"(F) Public safety answering points (9 1 1 services).

"(G) State emergency managers, homeland security directors, or representatives of State Administrative Agencies.

"(H) Local emergency managers or homeland security directors.

"(I) Other emergency response providers as appropriate.

"(2) FEDERAL.—Representatives from the Department, the Federal Communications Commission, and other Federal departments and agencies with responsibility for coordinating interoperable emergency communications with or providing emergency support services to State, local, and tribal governments.

"(c) COORDINATION.—Each RECC Working Group shall coordinate its activities with the following:

"(1) Communications equipment manufacturers and vendors (including broadband data service providers).

"(2) Local exchange carriers.

"(3) Local broadcast media.

"(4) Wireless carriers.

"(5) Satellite communications services.

"(6) Cable operators.

"(7) Hospitals.

"(8) Public utility services.

"(9) Emergency evacuation transit services.

"(10) Ambulance services.

"(11) HAM and amateur radio operators.

"(12) Representatives from other private sector entities and nongovernmental organizations as the Regional Administrator determines appropriate.

"(d) DUTIES.—The duties of each RECC Working Group shall include—

"(1) assessing the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;

"(2) reporting annually to the relevant Regional Administrator, the Director for Emergency Communications, the Chairman of the Federal Communications Commission, and the Assistant Secretary for Communications and Information of the Department of Commerce on the status of its region in building robust and sustainable interoperable voice and data emergency communications networks and, not later than 60 days after the completion of the initial National Emergency Communications Plan under section 1802, on the progress of the region in meeting the goals of such plan;

"(3) ensuring a process for the coordination of effective multijurisdictional, multi-agency emergency communications networks for use during natural disasters, acts of terrorism, and other man-made disasters through the expanded use of emergency management and public safety communications mutual aid agreements; and

"(4) coordinating the establishment of Federal, State, local, and tribal support services and networks designed to address the immediate and critical human needs in responding to natural disasters, acts of terrorism, and other manmade disasters.

"SEC. 1806. EMERGENCY COMMUNICATIONS PREPAREDNESS CENTER.

"(a) ESTABLISHMENT.—There is established the Emergency Communications Preparedness Center (in this section referred to as the 'Center').

"(b) OPERATION.—The Secretary, the Chairman of the Federal Communications Commission, the Secretary of Defense, the Secretary of Commerce, the Attorney General of the United States, and the heads of other Federal departments and agencies or their designees shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, 'Emergency Communications Preparedness Center (ECPC) Charter'.

"(c) FUNCTIONS.—The Center shall—

"(1) serve as the focal point for interagency efforts and as a clearinghouse with respect to all relevant intergovernmental information to support and promote (including specifically by working to avoid duplication, hindrances, and counteractive efforts among the participating Federal departments and agencies)—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications;

"(2) prepare and submit to Congress, on an annual basis, a strategic assessment regarding the coordination efforts of Federal departments and agencies to advance—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications;

"(3) consider, in preparing the strategic assessment under paragraph (2), the goals stated in the National Emergency Communications Plan under section 1802; and

"(4) perform such other functions as are provided in the Emergency Communications Preparedness Center (ECPC) Charter described in subsection (b)(1).

"SEC. 1807. URBAN AND OTHER HIGH RISK AREA COMMUNICATIONS CAPABILITIES.

"(a) IN GENERAL.—The Secretary, in consultation with the Chairman of the Federal Communications Commission and the Secretary of Defense, and with appropriate State, local, and tribal government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable emergency communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from natural disasters, acts of terrorism, and other man-made disasters.

"(b) MINIMUM CAPABILITIES.—The interoperable emergency communications capabilities established under subsection (a) shall ensure the ability of all levels of government, emergency response providers, the private sector, and other organizations with emergency response capabilities—

"(1) to communicate with each other in the event of an emergency;

"(2) to have appropriate and timely access to the Information Sharing Environment described in section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 321); and

"(3) to be consistent with any applicable State or Urban Area homeland strategy or plan.

"SEC. 1808. DEFINITION.

"In this title, the term 'interoperable' has the meaning given the term 'interoperable communications' under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1)).".

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—EMERGENCY COMMUNICATIONS

"Sec. 1801. Office for Emergency Communications
"Sec. 1802. National Emergency Communications Plan.
"Sec. 1803. Assessments and reports
"Sec. 1804. Coordination of Federal emergency communications grant programs
"Sec. 1805. Regional emergency communications coordination
"Sec. 1806. Emergency Communications Preparedness Center
"Sec. 1807. Urban and other high risk area communications capabilities
"Sec. 1808. Definition.".

SEC. 672. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

"SEC. 314. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.

"(a) CLARIFICATION OF RESPONSIBILITIES.—The Director of the Office for Interoperability and Compatibility shall—

"(1) assist the Secretary in developing and implementing the science and technology aspects of the program described in subparagraphs (D), (E), (F), and (G) of section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1));

"(2) in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, support the creation of national voluntary consensus standards for interoperable emergency communications;

"(3) establish a comprehensive research, development, testing, and evaluation program for improving interoperable emergency communications;

"(4) establish, in coordination with the Director for Emergency Communications, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

"(5) carry out the Department's responsibilities and authorities relating to research, development, testing, evaluation, or standards-related elements of the SAFECOM Program;

"(6) evaluate and assess new technology in real-world environments to achieve interoperable emergency communications capabilities;

"(7) encourage more efficient use of existing resources, including equipment, to achieve interoperable emergency communications capabilities;

"(8) test public safety communications systems that are less prone to failure, support new nonvoice services, use spectrum more efficiently, and cost less than existing systems;

"(9) coordinate with the private sector to develop solutions to improve emergency communications capabilities and achieve interoperable emergency communications capabilities; and

"(10) conduct pilot projects, in coordination with the Director for Emergency Communications, to test and demonstrate technologies, including data and video, that enhance—

"(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(B) interoperable emergency communications capabilities.

"(b) COORDINATION.—The Director of the Office for Interoperability and Compatibility shall coordinate with the Director for Emergency Communications with respect to the SAFECOM program.

"(c) SUFFICIENCY OF RESOURCES.—The Secretary shall provide the Office for Interoperability and Compatibility the resources and staff necessary to carry out the responsibilities under this section.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 313 the following:

"Sec. 314. Office for Interoperability and Compatibility.".

SEC. 673. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by this Act, is amended by adding at the end the following:

"SEC. 315. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Under Secretary for Science and Technology, acting through the Director of the Office for Interoperability and

Compatibility, shall establish a comprehensive research and development program to support and promote—

"(1) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

"(2) interoperable emergency communications capabilities among emergency response providers and relevant government officials, including by—

"(A) supporting research on a competitive basis, including through the Directorate of Science and Technology and Homeland Security Advanced Research Projects Agency; and

"(B) considering the establishment of a Center of Excellence under the Department of Homeland Security Centers of Excellence Program focused on improving emergency response providers' communication capabilities.

"(b) Purposes.—The purposes of the program established under subsection (a) include—

"(1) supporting research, development, testing, and evaluation on emergency communication capabilities;

"(2) understanding the strengths and weaknesses of the public safety communications systems in use;

"(3) examining how current and emerging technology can make emergency response providers more effective, and how Federal, State, local, and tribal government agencies can use this technology in a coherent and cost-effective manner;

"(4) investigating technologies that could lead to long-term advancements in emergency communications capabilities and supporting research on advanced technologies and potential systemic changes to dramatically improve emergency communications; and

"(5) evaluating and validating advanced technology concepts, and facilitating the development and deployment of interoperable emergency communication capabilities.

"(c) Definitions.—For purposes of this section, the term 'interoperable', with respect to emergency communications, has the meaning given the term in section 1808.".

(b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 314, as added by this Act, the following:

"Sec. 315. Emergency communications interoperability research and development.".

SEC. 674. 911 AND E911 SERVICES REPORT.

Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission shall submit a report to Congress on the status of efforts of State, local, and tribal governments to develop plans for rerouting 911 and E911 services in the event that public safety answering points are disabled during natural disasters, acts of terrorism, and other man-made disasters.

SEC. 675. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to transfer to the Office of Emergency Communications any function, personnel, asset, component, authority, grant program, or liability of the Federal Emergency Management Agency as constituted on June 1, 2006.

Subtitle E—Stafford Act Amendments

SEC. 681. GENERAL FEDERAL ASSISTANCE.

(a) Major Disasters.—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking "efforts" and inserting "response or recovery efforts, including precautionary evacuations";

(2) in paragraph (2), by striking the semicolon and inserting ", including precautionary evacuations and recovery;";

(3) in paragraph (3)—

(A) in subparagraph (D), by striking "and" at the end; and

(B) by adding at the end the following:

"(F) recovery activities, including disaster impact assessments and planning;";

(4) in paragraph (4), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

"(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

"(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.".

(b) Emergencies.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting ", including precautionary evacuations;";

(B) in paragraph (6), by striking "and" after the semicolon;

(C) in paragraph (7), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

"(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

"(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.";

(2) in subsection (b), by striking the period and inserting ", including precautionary evacuations."; and

(3) by adding at the end the following:

"(c) Guidelines.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.".

SEC. 682. NATIONAL DISASTER RECOVERY STRATEGY.

(a) In General.—The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recovery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) Contents.—The National Disaster Recovery Strategy shall—

(1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;

(3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant buildings; and

(4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including—

(A) discussing funding issues;

(B) detailing how responsibilities under the National Disaster Recovery Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) Report.—

(1) In general.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Recovery Strategy and any additional authorities necessary to implement any portion of the National Disaster Recovery Strategy.

(2) Update.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Recovery Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

SEC. 683. NATIONAL DISASTER HOUSING STRATEGY.

(a) In General.—The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator's discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) Contents.—The National Disaster Housing Strategy shall—

(1) outline the most efficient and cost effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including—

(A) the Agency;

(B) the Department of Housing and Urban Development;

(C) the Department of Agriculture;

(D) the Department of Veterans Affairs;

(E) the Department of Health and Human Services;

(F) the Bureau of Indian Affairs;

(G) any other Federal agency that may provide housing assistance in the event of a major disaster;

(H) the American Red Cross; and

(I) State, local, and tribal governments;

(3) describe in detail the programs that may be offered by the entities described in paragraph (2), including—

(A) outlining any funding issues;

(B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;

(4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources for living are available;

(5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;

(6) describe plans for the operation of clusters of housing provided to individuals and households, including access to public services, site management, security, and site density;

(7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to imptove the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and

(8) describe any additional authorities necessary to carry out any portion of the strategy.

(c) GUIDANCE.—The Administrator should develop and make publicly available guidance on—

(1) types of housing assistance available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to individuals and households affected by an emergency or major disaster;

(2) eligibility for such assistance (including, where appropriate, the continuation of such assistance); and

(3) application procedures for such assistance.

(d) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.

(2) UPDATED REPORT.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Housing Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

SEC. 684. HAZARD MITIGATION GRANT PROGRAM FORMULA.

The third sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking "7.5 percent" and inserting "15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000".

SEC. 685. HOUSING ASSISTANCE.

Section 408(c)(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by inserting "or semi-permanent" after "permanent"; and

(2) by striking "remote".

SEC. 686. MAXIMUM AMOUNT UNDER INDIVIDUAL ASSISTANCE PROGRAMS.

Section 408(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)) is amended—

(1) by striking paragraph (2)(C); and

(2) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

SEC. 687. COORDINATING OFFICERS.

Section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)) is amended by adding after subsection (c) the following:

"(d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.".

SEC. 688. DEFINITIONS.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended—

(1) by amending paragraph (9) to read as follows:

"(9) PRIVATE NONPROFIT FACILITY.—

"(A) IN GENERAL.—The term 'private nonprofit facility' means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.

"(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term 'private nonprofit facility' includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.";

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).".

SEC. 689. INDIVIDUALS WITH DISABILITIES.

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for—

(1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and

(2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable payphone stations, portable toilets, and temporary housing.

(b) ESSENTIAL ASSISTANCE.—Section 403(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)) is amended—

(1) in paragraph (2), by inserting "durable medical equipment," after "medicine"; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting "durable medical equipment," after "medicine";

(B) in subparagraph (H), by striking "and" at the end;

(C) in subparagraph (I), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(J) provision of rescue, care, shelter, and essential needs—

"(i) to individuals with household pets and service animals; and

"(ii) to such pets and animals.".

(c) FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) in subsection (b)(1), by inserting ", or with respect to individuals with disabilities, rendered inaccessible or uninhabitable," after "uninhabitable"; and

(2) in subsection (d)(1)(A)—

(A) in clause (i), by striking "and" after the semicolon;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) meets the physical accessibility requirements for individuals with disabilities; and".

SEC. 689a. NONDISCRIMINATION IN DISASTER ASSISTANCE.

Section 308(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5151(a)) is amended by inserting "disability, English proficiency," after "age,".

SEC. 689b. REUNIFICATION.

(a) DEFINITIONS.—In this section:

(1) CHILD LOCATOR CENTER.—The term "Child Locator Center" means the National Emergency Child Locator Center established under subsection (b).

(2) DECLARED EVENT.—The term "declared event" means a major disaster or emergency.

(3) DISPLACED ADULT.—The term "displaced adult" means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.

(4) DISPLACED CHILD.—The term "displaced child" means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) NATIONAL EMERGENCY CHILD LOCATOR CENTER.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish procedures to make all relevant information available to the National Emergency Child Locator Center in a timely manner to facilitate the expeditious identification and reunification of children with their families.

(2) PURPOSES.—The purposes of the Child Locator Center are to—

(A) enable individuals to provide to the Child Locator Center the name of and other identifying information about a displaced child or a displaced adult who may have information about the location of a displaced child;

(B) enable individuals to receive information about other sources of information about displaced children and displaced adults; and

(C) assist law enforcement in locating displaced children.

(3) RESPONSIBILITIES AND DUTIES.—The responsibilities and duties of the Child Locator Center are to—

(A) establish a toll-free telephone number to receive reports of displaced children and information about displaced adults that may assist in locating displaced children;

(B) create a website to provide information about displaced children;

(C) deploy its staff to the location of a declared event to gather information about displaced children;

(D) assist in the reunification of displaced children with their families;

(E) provide information to the public about additional resources for disaster assistance;

(F) work in partnership with Federal, State, and local law enforcement agencies;

(G) provide technical assistance in locating displaced children;

(H) share information on displaced children and displaced adults with governmental agencies and nongovernmental organizations providing disaster assistance;

(I) use its resources to gather information about displaced children;

(J) refer reports of displaced adults to—

(i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults; and

(ii) the National Emergency Family Registry and Locator System as defined under section 689c(a);

(K) enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center; and

(L) develop an emergency response plan to prepare for the activation of the Child Locator Center.

(c) Conforming Amendments.—Section 403(1) of the Missing Children's Assistance Act (42 U.S.C. 5772(1)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by adding "or" after the semicolon; and

(3) by inserting after subparagraph (B) the following:

"(C) the individual is an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).".

(d) Report.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives a report describing in detail the status of the Child Locator Center, including funding issues and any difficulties or issues in establishing the Center or completing the cooperative agreements described in subsection (b)(3)(K).

SEC. 689c. NATIONAL EMERGENCY FAMILY REGISTRY AND LOCATOR SYSTEM.

(a) Definitions.—In this section—

(1) the term "displaced individual" means an individual displaced by an emergency or major disaster; and

(2) the term "National Emergency Family Registry and Locator System" means the National Emergency Family Registry and Locator System established under subsection (b).

(b) Establishment.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.

(c) Operation of System.—The National Emergency Family Registry and Locator System shall—

(1) allow a displaced adult (including medical patients) to voluntarily register (and allow an adult that is the parent or guardian of a displaced child to register such child), by submitting personal information to be entered into a database (such as the name, current location of residence, and any other relevant information that could be used by others seeking to locate that individual);

(2) ensure that information submitted under paragraph (1) is accessible to those individuals named by a displaced individual and to those law enforcement officials;

(3) be accessible through the Internet and through a toll-free number, to receive reports of displaced individuals; and

(4) include a means of referring displaced children to the National Emergency Child Locator Center established under section 689b.

(d) Publication of Information.—Not later than 210 days after the date of enactment of this Act, the Administrator shall establish a mechanism to inform the public about the National Emergency Family Registry and Locator System and its potential usefulness for assisting to reunite displaced individuals with their families.

(e) Coordination.—Not later than 90 days after the date of enactment of this Act, the Administrator shall enter a memorandum of understanding with the Department of Justice, the National Center for Missing and Exploited Children, the Department of Health and Human Services, and the American Red Cross and other relevant private organizations that will enhance the sharing of information to facilitate reuniting displaced individuals (including medical patients) with their families.

(f) Report.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the status of the National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

Section 408(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)) is amended—

(1) in clause (i), by adding at the end the following: "Such assistance may include the payment of the cost of utilities, excluding telephone service."; and

(2) in clause (ii), by inserting "security deposits," after "hookups,".

SEC. 689e. DISASTER RELATED INFORMATION SERVICES.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.) is amended by adding at the end the following:

"SEC. 616. DISASTER RELATED INFORMATION SERVICES.

"(a) In General.—Consistent with section 308(a), the Director of Federal Emergency Management Agency shall—

"(1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;

"(2) ensure that information made available to individuals affected by a major disaster or emergency is made available in formats that can be understood by—

"(A) population groups identified under paragraph (1); and

"(B) individuals with disabilities or other special needs; and

"(3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

"(b) Group Size.—For purposes of subsection (a), the Director of Federal Emergency Management Agency shall define the size of a population group.".

SEC. 689f. TRANSPORTATION ASSISTANCE AND CASE MANAGEMENT SERVICES TO INDIVIDUALS AND HOUSEHOLDS.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), is amended by adding at the end the following:

"SEC. 425. TRANSPORTATION ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

"The President may provide transportation assistance to relocate individuals displaced from their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

"SEC. 426. CASE MANAGEMENT SERVICES.

"The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.".

SEC. 689g. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(a) In General.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (15 U.S.C. 5141 et seq.) is amended by adding at the end the following:

"SEC. 326. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

"(a) In General.—The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

"(b) Responsibilities.—The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.

"(c) Duties.—The Small State and Rural Advocate shall—

"(1) participate in the disaster declaration process under section 401 and the emergency declaration process under section 501, to ensure that the needs of rural communities are being addressed;

"(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

"(3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.".

(b) Report to Congress.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report detailing the extent to which disaster declaration regulations—

(1) meet the particular needs of States with populations of less than 1,500,000 individuals; and

(2) comply with statutory restrictions on the use of arithmetic formulas and sliding scales based on income or population.

(c) Statutory Construction.—Nothing in this section or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act.

SEC. 689h. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED PRIVATE NONPROFIT EDUCATIONAL FACILITIES.

Section 406(a)(3)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(3)(B)) is amended by inserting "education," after "communications,".

SEC. 689i. INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM.

(a) Pilot Program.—

(1) In General.—The President, acting through the Administrator, in coordination with

State, local, and tribal governments, shall establish and conduct a pilot program. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in order to provide timely and cost-effective temporary housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or less cost-effective.

(2) ADMINISTRATION.—

(A) IN GENERAL.—For the purposes of the pilot program under this section, the Administrator may—

(i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174);

(ii) make improvements to properties under such lease agreements;

(iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and

(iv) limit repairs to those required to ensure that the housing units shall meet Federal housing quality standards.

(B) IMPROVEMENTS TO LEASED PROPERTIES.—Under the terms of any lease agreement for a property described under subparagraph (A)(ii), the value of the contribution of the Agency to such improvements—

(i) shall be deducted from the value of the lease agreement; and

(ii) may not exceed the value of the lease agreement.

(3) CONSULTATION.—In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(4) REPORT.—

(A) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(B) CONTENTS.—The Administrator shall include in the report—

(i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program;

(ii) findings and conclusions of the Administrator with respect to the pilot program;

(iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), either under the pilot program under this section or other potential housing programs; and

(iv) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(b) PILOT PROGRAM PROJECT APPROVAL.—The Administrator shall not approve a project under the pilot program after December 31, 2008.

SEC. 689j. PUBLIC ASSISTANCE PILOT PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to—

(A) reduce the costs to the Federal Government of providing assistance to States and local governments under sections 403(a)(3)(A), 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1570b(a)(3), 5172, 5172);

(B) increase flexibility in the administration of sections 403(a)(3)(A), 406, and 407 of that Act; and

(C) expedite the provision of assistance to States and local governments provided under sections 403(a)(3)(A), 406, and 407 of that Act.

(2) PARTICIPATION.—Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

(3) INNOVATIVE ADMINISTRATION.—

(A) IN GENERAL.—For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

(B) NEW PROCEDURES.—The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1571(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, by the State government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State government) for the timely or cost effective completion of projects under sections 403(a)(3)(A), 406, and 407 of that Act.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have prequalified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

(4) WAIVER.—The Administrator may waive such regulations or rules applicable to the provisions of assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

(b) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) an assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(c) DEADLINE FOR INITIATION OF IMPLEMENTATION.—The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after the date of enactment of this Act.

(d) PILOT PROGRAM PROJECT DURATION.—The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

SEC. 689k. DISPOSAL OF UNUSED TEMPORARY HOUSING UNITS.

(a) IN GENERAL.—Notwithstanding section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)), if the Administrator authorizes the disposal of an unused temporary housing unit that is owned by the Agency on the date of enactment of this Act and is not used to house individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) after that date, such unit shall be disposed of under subchapter III of chapter 5 of subtitle 1 of title 40, United States Code.

(b) TRIBAL GOVERNMENTS.—Housing units described in subsection (a) shall be disposed of in coordination with the Department of the Interior or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

Subtitle F—Prevention of Fraud, Waste, and Abuse

SEC. 691. ADVANCE CONTRACTING.

(a) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

(2) SUBMISSION.—The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

(b) ENTERING INTO CONTRACTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.

(2) CONSIDERED FACTORS.—Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.

(3) PRENEGOTIATED FEDERAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.

(4) PRENEGOTIATED STATE AND LOCAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator shall encourage State and local governments to establish prenegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

(c) MAINTENANCE OF CONTRACTS.—After the date described under subsection (b), the Administrator shall have the responsibility to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

(d) REPORT ON CONTRACTS NOT USING COMPETITIVE PROCEDURES.—At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

SEC. 692. LIMITATIONS ON TIERING OF SUBCONTRACTORS.

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

SEC. 693. OVERSIGHT AND ACCOUNTABILITY OF FEDERAL DISASTER EXPENDITURES.

(a) AUTHORITY OF ADMINISTRATOR TO DESIGNATE FUNDS FOR OVERSIGHT ACTIVITIES.—The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

(b) USE OF FUNDS.—

(1) TYPES OF OVERSIGHT ACTIVITIES.—Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

(A) Monitoring, tracking, and auditing expenditures of funds.

(B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are spent appropriately and in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities.

(D) Investigating allegations of fraud involving Agency funds.

(E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.

(2) PLANS AND REPORTS.—Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) RESTRICTION ON USE OF FUNDS.—Oversight funds may not be used to finance existing agency oversight responsibilities related to direct agency appropriations used for disaster response, relief, and recovery activities.

(d) METHODS OF OVERSIGHT ACTIVITIES.—

(1) IN GENERAL.—Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.

(2) COORDINATION OF OVERSIGHT ACTIVITIES.—To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) DEVELOPMENT OF OVERSIGHT PLANS.—

(1) IN GENERAL.—If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.

(2) SELECTION OF OVERSIGHT ACTIVITIES.—In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.

(3) SCHEDULE.—The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

(f) FEDERAL DISASTER ASSISTANCE ACCOUNTABILITY REPORTS.—A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) DEFINITION.—In this section, the term "oversight funds" means funds referred to in subsection (a) that are designated for use in performing oversight activities.

SEC. 694. USE OF LOCAL FIRMS AND INDIVIDUALS.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by striking section 307 and inserting the following:

"SEC. 307. USE OF LOCAL FIRMS AND INDIVIDUALS.

"(a) CONTRACTS OR AGREEMENTS WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

"(2) CONSTRUCTION.—This subsection shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

"(3) SPECIFIC GEOGRAPHIC AREA.—In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

"(b) IMPLEMENTATION.—

"(1) CONTRACTS NOT TO ENTITIES IN AREA.—Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster shall be justified in writing in the contract file.

"(2) TRANSITION.—Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in any area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.

"(c) PRIOR CONTRACTS.—Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.".

SEC. 695. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) SPECIFIC CONTRACT PERIOD.—The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150 days, unless the Secretary determines that exceptional circumstances apply.

(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

SEC. 696. FRAUD, WASTE, AND ABUSE CONTROLS.

(a) IN GENERAL.—The Administrator shall ensure that—

(1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;

(2) application databases used by the Agency to collect information on eligible recipients must record disbursements;

(3) such tracking is designed to highlight and identify ineligible applications; and

(4) the databases used to collect information from applications for such assistance must be integrated with disbursements and payment records.

(b) AUDITS AND REVIEWS REQUIRED.—The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

(c) VERIFICATION MEASURES FOR INDIVIDUALS AND HOUSEHOLDS PROGRAM.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) VERIFICATION MEASURES.—In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

"(1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;

"(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;

"(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;

"(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and

"(5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.".

SEC. 697. REGISTRY OF DISASTER RESPONSE CONTRACTORS.

(a) DEFINITIONS.—In this section—

(1) the term "registry" means the registry created under subsection (b); and

(2) the terms "small business concern", "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", and "small business concern owned and controlled by service-disabled veterans" have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) REGISTRY.—

(1) IN GENERAL.—The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.

(2) CONTENTS.—The registry shall include, for each business concern—

(A) the name of the business concern;

(B) the location of the business concern;

(C) the area served by the business concern;

(D) the type of good or service provided by the business concern;

(E) the bonding level of the business concern; and

(F) whether the business concern is—

(i) a small business concern;

(ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;

(iii) a small business concern owned and controlled by women; or

(iv) a small business concern owned and controlled by service-disabled veterans.

(3) SOURCE OF INFORMATION.—

(A) SUBMISSION.—Information maintained in the registry shall be submitted on a voluntary basis and be kept current by the submitting business concerns.

(B) ATTESTATION.—Each business concern submitting information to the registry shall submit—

(i) an attestation that the information is true; and

(ii) documentation supporting such attestation.

(C) VERIFICATION.—The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.

(4) AVAILABILITY OF REGISTRY.—The registry shall be made generally available on the Internet site of the Agency.

(5) CONSULTATION OF REGISTRY.—As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

SEC. 698. FRAUD PREVENTION TRAINING PROGRAM.

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

Subtitle G—Authorization of Appropriations

SEC. 699. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title and the amendments made by this title for the administration and operations of the Agency—

(1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for administration and operations of the Agency, multiplied by 1.1;

(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1; and

(3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1.

SEC. 699A. Except as expressly provided otherwise, any reference to "this Act" contained in this title shall be treated as referring only to the provisions of this title.

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2007".

And the Senate agree to the same.

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
MARION BERRY,
CHET EDWARDS,
DAVID R. OBEY.
Managers On The Part Of The House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
RICHARD C. SHELBY,
LARRY E. CRAIG,
R.F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
HARRY REID,
DIANNE FEINSTEIN.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5441), making appropriations for the Department of Homeland Security (DHS) for the fiscal year ending September 30, 2007, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109-476 and Senate Report 109-273 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined the House report and the Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109-476 and Senate Report 109-273 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than January 23, 2007.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this statement of managers.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $94,470,000 instead of $83,684,000 as proposed by the House and $82,622,000 as proposed by the Senate. The conferees have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

Immediate Office of the Secretary	$2,540,000
Immediate Office of the Deputy Secretary	1,185,000
Chief of Staff	2,560,000
Office of Counternarcotics Enforcement	2,360,000
Executive Secretary	4,450,000
Office of Policy	29,305,000
Secure Border Coordination Office	4,500,000
Office of Public Affairs	6,000,000
Office of Legislative and Intergovernmental Affairs	5,449,000
Office of General Counsel	12,759,000
Office of Civil Rights and Liberties	13,000,000
Citizenship and Immigration Services Ombudsman	5,927,000
Privacy Officer	4,435,000
Total	94,470,000

COMPREHENSIVE PORT, CONTAINER, AND CARGO SECURITY STRATEGY

The conferees are committed to building upon and improving the Department's programs directed toward port, container, and cargo security, such as Customs and Border

Protection's Container Security Initiative and Customs-Trade Partnership Against Terrorism; the Coast Guard's port security patrols and facility operations; and Science and Technology's cargo security research programs. The conferees believe these programs must evolve to combat new and emerging threats, as well as to support the continuous growth of international trade. To date, DHS has not produced a strategic plan for this critical mission area. To address this issue, the conferees withhold $5,000,000 from obligation from the Office of the Secretary and Executive Management until the Secretary submits a port, container, and cargo security strategic plan to the Committees on Appropriations; the Senate Committee on Commerce, Science and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; and the House Committee on Homeland Security. This plan shall comply with all reporting and performance requirements specified in the House report.

SECURE BORDER INITIATIVE STRATEGIC PLAN

The conferees direct the Secretary to submit the Secure Border Initiative multi-year strategic plan to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Homeland Security, and the Committees on the Judiciary. This plan shall demonstrate how the Department of Homeland Security (DHS) will obtain operational control of the borders in five years, as specified in bill language. The conferees withhold $10,000,000 from obligation from the Office of the Secretary and Executive Management until the Secretary submits this plan.

OFFICE OF POLICY

The conferees agree to provide $29,305,000 for the Office of Policy instead of $27,093,000 as proposed by the House and $31,093,000 as proposed by the Senate. Within this total, funding has been provided for policy oversight for the Secure Border Initiative, screening coordination and operations, as well as a technical full-time equivalent (FTE) adjustment. The Secure Border Coordination Office is funded as an independent office.

The conferees support a strong, centralized Office of Policy to further the Department's mission. The conferees are concerned the office is becoming too compartmentalized and encourage the office to remain flexible to address the most pressing policy issues confronting the Department, both in the short and long term.

SECURE BORDER COORDINATION OFFICE

The conferees agree to provide $4,500,000 for the Secure Border Coordination Office, instead of $5,000,000 as proposed by the House for the Secure Border Initiative Program Executive Office (SBI PEO) and $4,000,000 as proposed by the Senate for the SBI PEO within the Office of Policy. Funds provided above the budget request are to enhance program planning and performance management.

The conferees fund the Secure Border Coordination Office as a distinct office within the Office of the Secretary and Executive Management because it is a functional office charged with the integration of the Department's border security and immigration enforcement programs rather than formulation of policy. The Office of Policy, in the Office of the Secretary, will continue to have an oversight responsibility for policy related to the Secure Border Initiative.

The conferees view the Secure Border Coordination Office as the focal point for the Department's transition from a fragmented and stove-piped border security organization to an integrated system capable of producing real results. This is illustrated by the data contained within the September 2006 bi-monthly status report on DHS' border security performance. The conferees note both the quality of this report as a standard for DHS to emulate and recognize the timeliness with which the report was submitted. The conferees direct the Secure Border Coordination Office to continue to submit bi-monthly status reports through the end of fiscal year 2007, as specified by the House correspondence dated June 21, 2006, and direct the Secretary to ensure all information contained within the report is appropriately classified.

The conferees provide considerable resources to border security and immigration enforcement in this Act as well as in fiscal year 2006 appropriations and view the Secure Border Coordination Office as accountable for linking these resources to the stated goal of gaining operational control of our borders within five years. The conferees expect to see a detailed justification for the staffing and resources of this office within the fiscal year 2008 budget request.

OFFICE OF COUNTERNARCOTICS ENFORCEMENT

The conferees agree to provide $2,360,000 for a separate Office of Counternarcotics Enforcement, as proposed by the Senate, instead of $2,741,000 within the Office of Chief of Staff as proposed by the House. The conferees view this office as responsible for monitoring the resource needs of the traditional counternarcotics functions of the DHS agencies, as well as examining the nexus of drugs and terrorism. The conferees agree that this office does not belong within the Office of the Chief of Staff and have provided for the establishment of an independent office within the Office of the Secretary and Executive Management. However, the conferees question the necessity and efficacy of separating this office from the Office of Policy given its analysis and policy formulation mission and encourage DHS to consider this as part of its fiscal year 2008 budget submission.

The Office is directed to report, in conjunction with the fiscal year 2008 budget request, on its annual productivity and performance as directed in the House report.

EXECUTIVE SECRETARY

The conferees agree to provide $4,450,000 for the Executive Secretary instead of $5,001,000 as proposed by the House and $4,090,000 as proposed by the Senate. Within this funding level, the conferees agree to the technical FTE adjustment and associated funding as requested and one additional full-time position. In late 2005, the Executive Secretary was charged with improving responsiveness to Congress by responding to Congressional inquiries within two weeks. The conferees direct the Executive Secretary to report quarterly, with the first report due on January 31, 2007, on its success meeting this two-week goal and its plans to sustain this standard given the volume of Congressional interest in DHS issues.

TRAINING

The conferees direct the Secretary to brief the Committees on Appropriations on the inventory of funds supporting training in the Preparedness Directorate and the Federal Emergency Management Agency (FEMA) in fiscal year 2007 as discussed in the House report. In addition, the conferees direct that greater detail be included as part of the fiscal year 2008 Congressional budget justifications.

CONTRACT STAFF

The conferees agree with Senate language directing the Secretary to update its contract staffing report, no later than February 8, 2007, to include data for fiscal year 2006, projected contract staff for fiscal year 2007, and plans to reduce these types of contract employees.

GRANT AWARDS

The conferees continue to be disappointed by the Department's slow pace of awarding important security funds to state and local governments. Therefore, bill language is included under Grants and Training requiring port, rail and transit, trucking, intercity bus, and buffer zone protection grants, as well as State Homeland Security Grants, Law Enforcement Terrorism Prevention, and Urban Area Security Initiative funds to be awarded by a date certain in fiscal year 2007.

UNOBLIGATED BALANCES

The Office of the Secretary and Executive Management appears to continue to lack an appropriate plan for use of available funding, as unobligated dollars remain high throughout the year. The conferees are particularly disappointed the Office of Civil Rights and Liberties, the Citizenship and Immigration Services Ombudsman, and the Privacy Officer are not using available resources to meet growing responsibilities. The Department is directed to provide the Committees on Appropriations with an expenditure plan for these offices no later than November 1, 2006.

VANCOUVER OLYMPICS

The conferees direct the Secretary to conduct a review, in conjunction with appropriate Washington State and Canadian entities, and to report to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security, within six months after enactment of this Act, on all relevant security issues related to the 2010 Vancouver Olympic and Paralympic Games, including expected increases in border flow, necessary enhancements to border security, estimated border crossing wait times, and the need for additional border personnel. The Secretary, in coordination with the Secretary of State, the Federal Communications Commission, and relevant agencies in the States of Alaska, Idaho, Montana, Oregon, and Washington, shall also evaluate the technical and operational interoperability challenges facing regional, local, state, and federal authorities in preparing for the 2010 Olympic and Paralympic Games. The conferees direct the Secretary to submit a plan to address these challenges to the Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Homeland Security; and the House Committee on Energy and Commerce, six months after enactment of this Act.

DATA-MINING

The conferees continue to be concerned with the Department's possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 549 of the Senate bill. The conferees expect the report to include information on how it has implemented the recommendations laid out in the Department's data-mining report received July 18, 2006.

TRANSFER AUTHORITY

The conferees direct the Secretary to provide the Committees on Appropriations a report by November 1, 2006, with any recommendations for transfers, reprogrammings, and if appropriate, budget requests, pursuant to 31 USC 1105, in order to implement new authorities contained in title VI.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

The conferees agree to provide $153,640,000 instead of $70,489,000 as proposed by the House and $163,456,000 as proposed by the Senate. The conferees have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

Under Secretary for Management	$1,870,000
Office of Security	52,640,000
Office of the Chief Procurement Officer	16,895,000
Office of the Chief Human Capital Officer	8,811,000
MAX–HR Human Resource System	25,000,000
Office of the Chief Administrative Officer	40,218,000
Nebraska Avenue Complex (DHS headquarters)	8,206,000
Total	153,640,000

OFFICE OF THE CHIEF PROCUREMENT OFFICER

The conferees have fully funded the budget request for the Office of the Chief Procurement Officer. Because the Department has experienced numerous procurement problems, the conferees support the Department's efforts to hire more procurement staff both within this office, as well as within a variety of DHS components. The Chief Procurement Officer shall develop a procurement oversight plan, identifying necessary oversight resources and how improvements in the Department's performance of its procurement functions will be achieved. This plan shall be provided to the Committees on Appropriations and the Government Accountability Office (GAO) no later than January 23, 2007. The conferees direct GAO to brief the Committees no later than April 16, 2007, on their analysis of this plan.

The conferees direct GAO to review DHS compliance during fiscal years 2005–06 with section 503(a)(5) of P.L. 108–334 and P.L. 109–90, which prohibit DHS from reprogramming funds that were appropriated for federal FTEs for contracting out similar functions, and report to the Committees on Appropriations by March 1, 2007.

HEADQUARTERS

While the conferees have fully funded the budget request of $8,206,000 for enhancements to the DHS headquarters on Nebraska Avenue, no funding has been provided to move the U.S. Coast Guard headquarters to the St. Elizabeths complex. This move has been proposed as the first phase to consolidate most or all of DHS at the St. Elizabeths campus. However, the Department is unable to elaborate on the reasons why St. Elizabeths is the best location for a permanent DHS headquarters, what other sites have been considered, which specific components would move to that site, the total space requirements for DHS headquarters, and the total costs associated with using the St. Elizabeths site as a headquarters location. The Department must develop a comprehensive long-term plan for the future location of all DHS offices and components, rather than the piecemeal approach currently being used. As such, the conferees prohibit the Department from relocating the Coast Guard's headquarters, or any other DHS component, until DHS completes a new, comprehensive headquarters master plan and submits a prospectus for Congressional review and approval. In addition, the conferees direct the Department to regularly update the Committees on Appropriations on the expenditure of funds provided to improve the current DHS headquarters on Nebraska Avenue, as specified in the Senate report.

MAX–HR HUMAN RESOURCES SYSTEM

The conferees agree to provide $25,000,000 for the MAX–HR human resources system and direct the Secretary to submit an updated expenditure plan to the Committees on Appropriations within 90 days after enactment of this Act. This plan shall list all contract obligations, by contractor and year, and include the purpose of the contract.

OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $26,000,000 instead of $43,480,000 as proposed by the House and $26,018,000 as proposed by the Senate. A slight funding reduction has been made to the budget request due to the large number of vacancies.

RESOURCE MANAGEMENT TRANSFORMATION OFFICE (EMERGE2)

The conferees provide no funding for the Resource Management Transformation Office (eMerge2) as proposed by the Senate, instead of $18,000,000 for eMerge2 as proposed by the House. The conferees understand DHS has moved away from the original system-centric eMerge2 program and has determined necessary improvements for the Resource Management Transformation Office should also encompass training, financial policy, process changes, and internal controls. Because DHS has about $40,000,000 in unobligated balances from eMerge2 funding provided to the Office of the Chief Information Officer (CIO), the conferees direct the Chief Financial Officer (CFO) to use these remaining funds for financial management improvements, and to continue to coordinate systems improvements with the CIO. The CFO must submit an expenditure plan for these remaining funds by November 15, 2006.

SHARED SERVICES

In spite of clear direction in sections 503 and 504, the conferees are dismayed by an apparent disregard for consistent and transparent budget execution within the Preparedness Directorate. Sections 503 and 504 delineate permissible transfer authority and require notification to the Committees on Appropriations; the conferees are concerned that these transfers exceeded the limits set forth in those general provisions, particularly with regard to funding new activities. As a result, the conferees direct the CFO to review the use of shared services throughout the Department and specifically within Preparedness to ensure that they are in compliance with appropriation law and the proper use of the Economy Act. Such blatant disregard of the Appropriations Act will not be tolerated again.

ALIGNING RESOURCES TO MISSION

The conferees are concerned about the ability of some Departmental agencies to effectively align resource requirements to workload and mission needs. To address this issue, the conferees have included specific reporting requirements and/or re-aligned the funding structure of select agencies experiencing difficulty aligning resources to mission, such as U.S. Customs and Border Protection, Federal Protective Service, Science and Technology Directorate, Infrastructure Protection and Information Security, and U.S. Secret Service. The conferees are committed to improving the budgetary systems of these components and recognize the CFO's efforts in mission cost modeling across the entire Department. In the case of the Secret Service, the conferees provide funding through an entirely new appropriations account structure and recognize this may pose unique challenges. The conferees direct the CFO to support the Secret Service's transition to this new account structure by assisting the agency in the improvement of its budget execution and real-time tracking of resource hours.

ANNUAL APPROPRIATIONS JUSTIFICATIONS

The conferees direct the CFO to submit all of its fiscal year 2008 budget justifications (classified and unclassified) concurrent with the submission of the President's budget request and at the level of detail specified in the House report. In addition, the annual appropriations justifications should include explicit information by appropriations account, program, project, and activity on all reimbursable agreements and uses of the Economy Act exceeding $50,000.

MONTHLY EXECUTION AND STAFFING REPORTS

Both the House and Senate Committees have been repeatedly frustrated over the Department's inability to provide a monthly budget execution report detailing the status of the total obligational authority available and the status of allotting, obligating and expending these funds by each agency. For the past two years, the CFO has been unable to provide this required monthly report on a timely basis. The conferees modify and retain a general provision (section 531) requiring the submission of this data, including the Working Capital Fund, at the level of detail shown in the table of detailed funding levels displayed at the end of the statement of managers accompanying this Act. The monthly budget execution report shall include total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority (the difference between total obligational authority and current year obligations), beginning unexpended obligations, year-to-date expenditures, and year-end unexpended obligations, of the Department of Homeland Security. This monthly report must also include onboard versus funded full-time equivalent staffing levels, as proposed by the Senate. The conferees direct this report to be submitted not more than 45 days after the close of each month. Based on the Department's historical ability to deliver the reports on a timely basis, the conferees will revisit the bill provision in future appropriations Acts.

IMPROPER PAYMENTS

The conferees are concerned the Department is not complying with the Improper Payments Information Act of 2002. The Department reported in its fiscal year 2005 Performance and Accountability Report that none of its programs were deemed to be at significant risk of making improper payments, despite the fact that GAO found problems with billions of dollars in payments responding to Hurricanes Katrina and Rita. According to the Office of Management and Budget Memorandum 30–13, "significant" is defined to mean at least 2.5 percent of all payments made are improper, and the absolute dollar figure associated with that 2.5 percent or more totals at least $10,000,000.

The Improper Payment Information Act requires federal programs and activities deemed to be at "significant" risk of making improper payments to report improper payment information to Congress. The conferees expect the Department to comply with the Improper Payments Information Act.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $349,013,000 for the Office of the Chief Information Officer (CIO) instead of $364,765,000 as proposed by the House and $306,765,000 as proposed by the Senate. Funding shall be allocated as follows:

Salaries and Expenses	$79,521,000
Information Technology Services	61,013,000
Security Activities	89,387,000
Wireless Programs	86,438,000
Homeland Secure Data Network	32,654,000
Total	$349,013,000

EMERGE2

The conferees direct the CIO to use the remaining unobligated balances of approximately $40,000,000 from the eMerge2 program for financial management improvements, and to continue to coordinate systems improvements with the Chief Financial Officer.

INFORMATION TECHNOLOGY OVERSIGHT

The conferees support language contained in the House report on information technology oversight and direct that no funds be made available in this Act for obligation for any information technology procurement of $2,500,000 or more without approval of the DHS CIO. These procurements must conform to DHS? Enterprise Architecture or justify any deviation from it.

NATIONAL CENTER FOR CRITICAL INFORMATION PROCESSING AND STORAGE (NCCIPS)

The conferees agree to include $53,000,000 for NCCIPS data centers. Of these funds, $12,000,000 shall be provided for the ongoing efforts to develop and transition the Department's multiple data centers to the NCCIPS. The conferees support the Senate's recommendation to identify and secure the NCCIPS secondary site and provide the remaining $41,000,000 for those activities. To provide for continuity of operations and fulfill back-up requirements, the conferees direct the secondary facility and infrastructure be at a separate remote location and the site selection be conducted in a fair and open evaluation process. NCCIPS is intended to migrate and consolidate critical infrastructure information, thereby reducing unnecessary and duplicative investments by the government. The conferees believe that integrating the multiple centers and infrastructure to the primary and secondary NCCIPS data centers will present significant opportunities for cost saving and provide the best investment for DHS critical information requirements.

In consolidating the data centers to the NCCIPS, consistent with section 888 of Public Law 107-296, the conferees instruct the Department to implement the consolidation plan in a manner that shall not result in a reduction to the Coast Guard's Operations System Center mission or its government-employed or contract staff levels.

COMMON OPERATING PICTURE

The conferees acknowledge that DHS has made significant progress developing systems such as the Homeland Security Information Network, U.S. Public Private Partnership, and Infrastructure Critical Asset Viewer, which facilitate communications, situational awareness, and provide for the sharing of information between DHS and its federal, state, local, and commercial partners. These systems each address a specific functional or customer requirement and lay the groundwork for a comprehensive national incident prevention and response system. The conferees encourage DHS to continue developing these types of systems and the DHS CIO to integrate all federal systems into a common architecture that would address a broader functional and customer base to include integration with state fusion centers.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE—

The conferees understand the Department and other federal agencies are attempting to comply with the Homeland Security Presidential Directive-12 mandate to begin using Personal Identity Verification (PIV) cards for new employees and contractors by October 27, 2006. The conferees provide the requested amount of $2,966,000 for the Smartcard program. The conferees encourage the Department to work expeditiously toward implementation of PIV, card life cycle management and certificate services and provide to the Committees on Appropriations a briefing on the Department's plans to implement this directive by December 1, 2006.

ANALYSIS AND OPERATIONS

The conferees agree to provide $299,663,000 for Analysis and Operations instead of $298,663,000 as proposed by the House and the Senate. Up to $1,000,000 is for an independent study on the feasibility of creating a counter terrorism intelligence agency.

SITUATIONAL AWARENESS TEAMS

The conferees direct the National Operations Center and Immigration and Customs Enforcement (ICE) to brief the Committees on Appropriations, with written materials, on the number and composition of the situational awareness teams, their locations, actual and planned deployments in fiscal years 2006 and 2007, impacts of the operations on ICE, and the associated budgets and staffing resource needs.

FUSION CENTERS

The conferees support language contained in the House report on fusion centers and direct the Department to report on the role of these fusion centers, the total number of operational fusion centers, their effectiveness, their funding sources and amounts, and where additional fusion centers are necessary.

OPERATIONS CENTERS

The conferees support language in the Senate report on operations centers and direct the Government Accountability Office to analyze the role of the National Operations Center and the numerous DHS component operations centers and to make recommendations regarding the operation and coordination of these centers and report to the Committees their findings.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

The conferees agree to provide $3,000,000 for the Office of the Federal Coordinator for Gulf Coast Rebuilding as proposed by the House instead of no funding as proposed by the Senate. Within the funding provided, $1,000,000 is unavailable for obligation until the Committees on Appropriations receive an expenditure plan for fiscal year 2007. Any funding above the amount provided must be reprogrammed or transferred in accordance with section 503 of this Act.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $85,185,000 for the Office of Inspector General instead of $96,185,000 as proposed by the House and $90,185,000 as proposed by the Senate.

DISASTER RELIEF FUNDING

In addition to the funding provided above, $13,500,000 is available for transfer from the Disaster Relief Fund instead of no funding as proposed by the House and $15,000,000 as proposed by the Senate. The funds are to continue and expand audits and investigations related to the Gulf Coast hurricanes, including flood insurance issues. The Inspector General is required to notify the Committees on Appropriations no less than 15 days prior to any transfer from the Disaster Relief Fund.

SECURE BORDER INITIATIVE

The conferees support the Secure Border Initiative (SBI), but are concerned that major technology contracts that are expected to be awarded through the SBInet program require substantial management and oversight. The conferees direct the Inspector General to review and report on any contract or task order relating to the SBInet program valued at more than $20,000,000. These reviews should begin no earlier than 180 days after a contract has been awarded.

ANALYSIS, DISSEMINATION, VISUALIZATION, INSIGHT AND SEMANTIC ENHANCEMENT (ADVISE) PROGRAM

The ADVISE program is designed to extract relationships and correlations from large amounts of data to produce actionable intelligence on terrorists. A prototype is currently available to analysts in Intelligence and Analysis using departmental and other data, including some on U.S. citizens. The conferees understand up to $40,000,000 has been obligated for ADVISE. The ADVISE program plan, total costs and privacy impacts are unclear and therefore the conferees direct the Inspector General to conduct a comprehensive program review and report within nine months of enactment of this Act.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY (US VISIT)

The conferees agree to provide $362,494,000 as proposed by the House instead of $399,494,000 as proposed by the Senate. Within this amount, $60,080,000 is available to implement 10-print enrollment capability, and to continue the development of interoperability between DHS's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System (IAFIS).

STRATEGIC PLANNING

The conferees support language contained in the House and Senate reports concerning the submission of a strategic plan for US–VISIT. The conferees direct the strategic plan to include: the cost and schedule of migration to a ten-fingerprint system with interoperability of IAFIS and IDENT fingerprint databases; a complete schedule for the full implementation of the exit portion of the program; and a plan of how US-VISIT fits into the Department's larger border and immigration initiatives.

IDENT/IAFIS AND 10-PRINT ENROLLMENT

The conferees reiterate their strong support for on-going efforts to ensure interoperability between the IDENT and IAFIS biometric databases and are pleased with the movement towards ten-print enrollment in US-VISIT. The conferees continue to believe that these critical border integrity activities must occur as expeditiously as possible.

THE WESTERN HEMISPHERE TRAVEL INITIATIVE (WHTI)

The conferees direct the Secretary to report on the architecture for the WHTI "PASS" card, as specified in the Senate report. This report should address the Department's plans and abilities to address all requirements included within section 546 of this Act.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees agree to provide $5,562,186,000, instead of $5,433,310,000 as proposed by the House and $5,329,874,000 as proposed by the Senate. This includes: $2,277,510,000 for border security between ports of entry, including funds to support an additional 1,500 Border Patrol agents and an additional $20,000,000 for Border Patrol vehicles. The conferees agree to transfer $3,100,000 for the costs of salaries, equipment, and operations for the Customs Patrol Officers ("Shadow Wolves") to Immigration and Customs Enforcement.

The conference agreement includes $1,860,491,000 for border security inspections and trade facilitation, including: $34,800,000 for an additional 450 United States Customs and Border Protection (CBP) officers; an additional $147,000,000 for non-intrusive inspection equipment; $6,800,000, as requested, for the Immigration Advisory Program; $4,750,000 to continue textile transshipment enforcement; $10,165,000, as requested, for the operations and maintenance of the Advanced Training Center; and funds to support 100 percent validation and periodic re-validation of all Customs-Trade Partnership Against Terrorism (C-TPAT) certified partners and 100 percent manifest review of cargo shipped from all Container Security Initiative (CSI) ports. The conferees provide $1,027,000, as requested, for other technology investments, including the In-Bond Cargo Container Security Program, within a consolidated program, project, and activity for inspections, trade, and travel facilitation at ports of entry. The conferees do not include $1,200,000, as requested, for the Fraudulent Document Analysis Unit, as proposed by the Senate.

The conference agreement includes $175,796,000 for Air and Marine personnel compensation and benefits, including: $5,500,000, as requested, for the Great Falls, Montana airwing; $3,100,000 to fully staff the Air and Marine Operations Center; $5,000,000 to activate the North Dakota airwing; and $2,800,000 to fully staff the New York and Washington airwings.

The following table specifies funding by budget program, project, and activity:

Headquarters, Management, and Administration:	
Management and Administration, Border Security Inspections and Trade Facilitation	$658,943,000
Management and Administration, Border Security and Control between Ports of Entry	589,446,000
Subtotal, Headquarters Management and Administration	1,248,389,000
Border Security Inspections and Trade Facilitation:	
Inspections, Trade, and Travel Facilitation at Ports of Entry	1,326,665,000
Harbor Maintenance Fee Collection (Trust Fund)	3,026,000
Container Security Initiative	139,312,000
Other international programs	8,701,000
Customs-Trade Partnership Against Terrorism	54,730,000
Free and Secure Trade (FAST)/NEXUS/SENTRI	11,243,000
Inspection and Detection Technology Investments	241,317,000
Automated Targeting Systems	27,298,000
National Targeting Center	23,635,000
Training	24,564,000
Subtotal, Border Security Inspections and Trade Facilitation	1,860,491,000
Border Security and Control between Ports of Entry:	
Border Security and Control	2,239,586,000
Training	37,924,000
Subtotal, Border Security and Control between POEs	2,277,510,000
Air and Marine Personnel Compensation and Benefits	175,796,000
Total	5,562,186,000

RESOURCE ALLOCATION MODEL

The conferees are concerned with the ability of CBP to effectively align its staffing resources to its mission requirements. The conferees direct CBP to submit by January 23, 2007, a resource allocation model for current and future year staffing requirements, as specified by the House and Senate reports. Specifically, this report should assess optimal staffing levels at all land, air, and sea ports of entry and provide a complete explanation of CBP's methodology for aligning staffing levels to threats, vulnerabilities, and workload across all mission areas.

Of particular concern is CBP's ability to effectively process the growing processing workload at the nation's airports that are experiencing significant growth in passenger volume and wait times. The conferees recognize the airports listed in the House and Senate reports as experiencing exceptional growth in workload and processing challenges. The conferees direct CBP to include in its resource allocation model for airports the number of flights that took longer than 60-minutes to process. The airport processing section of the resource allocation model shall comply with the content requirements specified within the House and Senate reports. CBP shall expand the wait time information per airport on its website, as specified by the House and Senate reports.

HEADQUARTERS, MANAGEMENT, AND ADMINISTRATION

The conferees agree to provide $1,248,389,000 as proposed by the House instead of $1,258,389,000 as proposed by the Senate. The conferees are concerned with the lack of visibility into the exceptionally large CBP headquarters, management, and administration program, project, and activity levels and direct CBP to provide a detailed justification along functional or operational lines in the fiscal year 2008 budget request.

PORT, CARGO, AND CONTAINER SECURITY

The conferees recognize port, cargo, and container security as a major issue confronting CBP. To address this issue, the conferees provide $181,800,000 for an additional 450 CBP officers and critical non-intrusive inspection equipment and fully fund the budget request for all cargo security and trade facilitation programs within CBP. The conferees also include stringent reporting and performance requirements for port, cargo, and container security under the Office of the Secretary and Executive Management. CBP is directed to comply with all aspects of reporting requirements specified in the statement of managers and the House report regarding the port, cargo, and container strategic plan. The conferees encourage CBP to prioritize the assignment of additional officers funded by this Act to the nation's busiest ports of entry, especially seaports. The conferees note that sufficient funding is provided in this Act to allow CBP to meet the strategic plan requirements of 100 percent initial validation and periodic re-validation of all C–TPAT certified partners as well as for 100 percent manifest review at all CSI ports.

IMMIGRATION ADVISORY PROGRAM

The conferees believe CBP's Immigration Advisory Program (IAP) has shown great potential to prevent people who are identified as national security threats or are inadmissible from traveling to the United States. The conferees provide $6,800,000, as requested, to support CBP's proposed expansion of the IAP to London and Tokyo within fiscal year 2007. The conferees direct CBP to report on the performance of the IAP no later than January 23, 2007.

AGRICULTURAL INSPECTIONS

The conferees are concerned with the steps the Department is taking to improve the targeting of agricultural inspections and direct the Secretary to submit a report consistent with section 541 of the Senate bill.

ONE FACE AT THE BORDER INITIATIVE

The conferees recognize the benefits of cross-training legacy customs, immigration, and agricultural inspection officers as part of CBP's "One Face at the Border Initiative" and direct CBP to ensure that all personnel assigned to primary and secondary inspection duties at ports of entry have received adequate training in all relevant inspection functions.

METHAMPHETAMINE

The conferees direct CBP to continue to focus on methamphetamine in its reporting and analysis of trade flows to prevent the spread of this dangerous narcotic throughout the United States.

TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees include $4,750,000 to continue textile transshipment enforcement. The conferees direct CBP to report on its execution of the five-year strategic plan submitted to Congress, including enforcement activities, numbers of seizures and penalties imposed, as well as a status report of personnel responsible for enforcing textile laws.

ENFORCEMENT OF TRADE REMEDIES LAWS

The conferees have ensured, within the amounts provided for this account, the availability of sufficient funds to enforce the anti-dumping authority contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to continue to work with the Departments of Commerce and Treasury, and the Office of the United States Trade Representative, and all other relevant agencies to increase collections and to provide an annual report within 30 days of each year's distributions under the law summarizing CBP's efforts to collect past due amounts and increase current collections, particularly with respect to cases involving unfairly-traded Asian imports. The conferees direct CBP to update that report, in particular, by breaking out the non-collected amounts for each of the fiscal years 2004, 2005, 2006, 2007, and each year thereafter, by order and claimant, along with a description of each of the specific reasons for the non-collection with respect to each order.

CBP is also directed to report to the Committees on Appropriations no later than February 8, 2007, on the amounts of antidumping and countervailing duties held by CBP in the Clearing Account for unliquidated entries as of October 1, 2006, segregated by case number and Department of Commerce period of review. In that same report, CBP is to explain what other enforcement actions it is taking to collect unpaid duties owed the U.S. government; how it has implemented the five recommendations for executive action that were contained in GAO Report (GAO–05–979); and explain whether CBP has completed all of the initiatives, processes, and procedures identified in its February 2005 report to the Committees on Appropriations (including Attachment 1) concerning implementation of the recommendations that were contained in the U.S. Treasury Department Office of the Inspector General report on the Continued Dumping and Subsidy Offset Act.

CBP is also directed to provide the Committees with prior notice of how CBP plans to clarify or provide guidelines for the preparation of Continued Dumping and Subsidy Offset Act (CDSOA) certification of claims and any modifications or revisions of regulations that may be proposed by CBP concerning CDSOA.

BORDER SECURITY

The conferees agree to provide $379,602,000 for an additional 1,500 Border Patrol agents instead of $325,447,000 as proposed by the House and $330,602,000 as proposed by the Senate. With the additional funding provided in this Act, the Border Patrol agent workforce should increase to 14,819 agents.

NORTHERN BORDER STAFFING

The conferees continue to be concerned with erosions in the level of Border Patrol agent staffing along the Northern Border. Given the Secretary's responses to hearing questions, the conferees expect the Department to meet its stated goal of relocating experienced agents to the Northern Border equal to 10 percent of new agent hiring.

BORDER SECURITY TECHNOLOGY

The conferees agree to not fund border security technology within the salaries and expenses appropriation and instead create a new, integrated appropriation for fencing, tactical infrastructure, and technology.

BORDER PATROL VEHICLES

The conferees are extremely disappointed by CBP's insufficient vehicle fleet planning considering the rapid growth of the agency's workforce and operations. Furthermore, the conferees are unclear on the cost-benefit analysis CBP uses to compare operating costs of standard commercial vehicles to those that may be more appropriate for unique topographical and environmental conditions along our border. CBP is directed to re-submit its Vehicle Fleet Management Plan by January 23, 2007, in accordance with all requirements specified in the House and Senate reports, and including a full description of the process CBP uses to evaluate vehicles to meet both mission requirements and cost constraints.

BORDER TUNNEL POLICY

The conferees concur with the reporting requirement in the Senate report on development of a Departmental policy regarding tunnels as well as the need to budget for tunnel remediation in future budget submissions as discussed in the House report.

CARRIZO CANE

The conferees understand the removal of Carrizo cane from certain Rio Grande border locations may improve conditions for Border Patrol operations, and direct CBP to utilize the resources necessary for this removal, if it is determined to be necessary. Further, CBP is directed, in conjunction with the Department of the Interior, to develop a pilot project to test various means of eradication and control of Carrizo cane.

AUTOMATION MODERNIZATION

The conferees agree to provide $451,440,000 as proposed by the House instead of $461,207,000 as proposed by the Senate. This amount includes funding for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. Of this funding, not less than $316,800,000 shall be for ACE and ITDS, of which $16,000,000 is for ITDS. Bill language prohibits the obligation of $216,800,000 until the Committees on Appropriations receive and approve an automation modernization expenditure plan.

ACE PROGRAM OVERSIGHT

The conferees support House language on ACE program oversight and direct CBP to improve oversight by assuring releases are ready to proceed beyond critical design and production readiness review before deployment. Also, CBP shall ensure ACE aligns its goals, benefits, desired business outcomes, and performance metrics. Future appropriations decisions will be affected by CBP's progress towards these goals over the year.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

The conferees agree to provide $1,187,565,000 for the integrated border security fencing, tactical infrastructure, and technology system instead of $115,000,000 as proposed by the House within the CBP salaries and expenses appropriation and $131,559,000 for border security technology within a separate technology modernization appropriation and $106,006,000 for tactical infrastructure within the CBP construction appropriation as proposed by the Senate. Funds are available until expended. When combined with recently enacted supplemental funds, a total of $1,512,565,000 is available for this purpose in fiscal year 2007. Within the total provided, $30,500,000 is provided for the San Diego Border Infrastructure System and $57,823,000 is provided for tactical infrastructure in Western Arizona. The conferees direct the Secretary to submit, within 60 days after the date of enactment of this Act, an expenditure plan for establishing a security barrier along the border of the United States to the Committees on Appropriations, as specified in bill language. The conferees withhold $950,000,000 until the expenditure plan is received and approved.

BUDGET JUSTIFICATION

To support DHS' integrated, systems-based approach to border security, funding requested separately for border security technology and tactical infrastructure is combined into one account. CBP is directed to integrate its future budget requests for border security fencing, tactical infrastructure, and technology within this account. CBP is further directed to provide a fiscal year 2008 budget justification subdivided by program, project, and activity levels for operations and maintenance, procurement, systems engineering and integration, and program management.

CONTRACT MANAGEMENT

The conferees direct CBP and the Secure Border Coordination Office to work with the Department's Office of the Chief Procurement Officer (CPO) and Office of the Chief Financial Officer (CFO) to rigorously oversee all contracts and subcontracts awarded for the integrated border security fencing, tactical infrastructure, and technology system, and work to minimize excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract. If interagency contracts are utilized, the Secure Border Coordination Office is directed to confirm to the CPO and CFO that the scope of the contract is appropriate and that performance of the CBP portion of the contract is measured and controlled by CBP. The acquisition management system utilized for the funds within this account must produce credible, reliable and timely data that is promptly reviewed by the CBP acquisition workforce. Performance shortfalls must be addressed quickly with approved action plans. The conferees expect the Secure Border Coordination Office to operate under clear, consistent, and enforceable acquisition policies and processes for all contracts awarded through the Department's Secure Border Initiative. The conferees further expect the Department to ensure CBP's acquisition workforce has the skills needed to carry out its responsibilities effectively.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $602,187,000 instead of $373,199,000 as proposed by the House and $458,499,000 as proposed by the Senate. This includes: $70,000,000 for the

P-3 service life extension program and additional P-3 flight hours; $20,000,000 for helicopter acquisition; $20,000,000 for the acquisition of unmanned aerial vehicles (UAVs) and related support systems; $10,000,000 for the missionization of manned covert surveillance aircraft; $2,000,000 for marine interceptor boat replacement; $64,000,000 for the acquisition or refurbishment of two medium lift helicopters; $58,000,000 for the acquisition of two multi-role aircraft; and $18,700,000 for Northern Border airwings, of which $12,000,000 is provided for the establishment of the fourth Northern Border airwing in Grand Forks, North Dakota, and $5,500,000 is provided for the new Northern Border airwing in Great Falls, Montana. The conferees direct CBP to include sufficient funds in its fiscal year 2008 budget submission to establish the fifth and final Northern Border airwing in Detroit, Michigan. The conferees do not include a rescission of $14,000,000 as proposed by the Senate.

UAV INCIDENT REPORT

The conferees direct CBP to submit the official findings regarding the April 25, 2006, UAV mishap to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than January 23, 2007.

NORTHERN BORDER UAV PILOT

The conferees encourage the Secretary to work expeditiously with the Administrator of the Federal Aviation Administration to establish and conduct a pilot program to test unmanned aerial vehicles for border surveillance along the U.S.—Canada border at Northern Border airwing bases consistent with section 551 of the Senate bill.

CONSTRUCTION

The conferees agree to provide $232,978,000 instead of $175,154,000 as proposed by the House and $288,084,000 as proposed by the Senate. This includes: $59,100,000 for facilities to accommodate 1,500 additional Border Patrol agents; $50,900,000 to accelerate the CBP master plan construction; and $32,100,000 for the Advanced Training Center. The conferees have funded the $106,006,000 requested for fencing and tactical infrastructure in the new Border Security Fencing, Infrastructure, and Technology appropriation. The conferees include funding for the Ajo, Arizona station at no less than the requested level. The conferees direct CBP to provide a spending plan and a revised master plan consistent with the Senate report to the Committees on Appropriations that reflects all funding provided for CBP major construction in this Act and in P.L. 109–234.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees agree to provide $3,887,000,000 for Immigration and Customs Enforcement (ICE) salaries and expenses, instead of $3;850,257,000 as proposed by the House and $3,798,357,000 as proposed by the Senate. This includes $153,400,000 for additional bed space capacity, with corresponding personnel and support, $94,000,000 for additional removal and transportation capacity, and $76,000,000 for 23 additional fugitive operations teams and associated bed space. When these new resources are combined with fiscal year 2006 supplemental funding, ICE will sustain an average bed space capacity of 27,500, as proposed by the President.

The conference agreement includes further new funding, as follows: $4,600,000 for internal controls and procurement management; $5,000,000 for the Office of Professional Responsibility; $10,000,000 for Compliance Enforcement Units; $30,000,000 for expanded Worksite Enforcement efforts; $20,000,000 for additional vehicles for Detention and Removal Operations; $10,000,000 for additional vehicles for the Office of Investigations; $6,800,000 for the Trade Transparency Unit; $2,000;000 for the Criminal Alien Program; $2,500,000 for Alternatives to Detention; and $1,000,000 for the Human Smuggling and Trafficking Center.

Finally, the agreement includes: $21,806,000 for the Law Enforcement Support Center; $5,400,000 for training to support implementation of section 287(g) of the Immigration and Nationality Act; $3,100,000 for the costs of salaries, equipment and operations for the Customs Patrol Officers ("Shadow Wolves") to reflect their transfer from U.S. Customs and Border Protection; $8,000,000 for the Cyber Crimes Center and support of its Child Exploitation Unit, including $5,000,000 for continued investment in computer forensic storage and digital evidence processing capacity; $4,750,000 to continue textile transshipment efforts; and $2,000,000 for what the conferees expect to be the final year for ICE to fund the Legal Orientation Program. The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Personnel Compensation and Benefits, Services and other	$140,000,000
Headquarters Managed IT investment	134,013,000
Subtotal, Headquarters Management and Administration	274,013,000
Legal Proceedings	187,353,000
Investigations:	
Domestic Operations	1,285,229,000
International Operations	104,681,000
Subtotal, Investigations	1,389,910,000
Intelligence	51,379,000
Detention and Removal:	
Custody Operations	1,381,767,000
Transportation and Removal	238,284,000
Fugitive Operations	183,200,000
Criminal Alien Program	137,494,000
Alternatives to Detention	43,600,000
Subtotal, Detention and Removal	1,984,345,000
Total, Salaries and Expenses	$3,887,000,000

DETENTION AND REMOVALS REPORTING

The conferees direct ICE to submit a quarterly report to the Committees on Appropriations as described in the Senate report, with the first fiscal year 2007 quarterly report due no later than January 30, 2007.

DETAINEE BONDS

The conferees direct ICE to submit a report to the Committees on Appropriations on how to improve information sharing and cooperation with detention bondholders, including incentives to reduce the number of aliens who abscond after receiving final Orders of Removal, and to locate and remove absconders.

LEGAL ORIENTATION PROGRAM

The conferees concur with the language expressing support for the Legal Orientation Program as contained in House Report 109-476 and, consistent with the direction in the fiscal year 2006 Appropriations Act, strongly direct ICE and the Department to work with the Executive Office for Immigration Review and the Office of Management and Budget to ensure any future funding for this program is included in appropriations requests for the Department of Justice.

SECTION 287(G) ASSISTANCE

The conferees include $5,400,000 for the costs associated with implementing section 287(g) of the Immigration and Nationality Act. The conferees expect funding to be used for the training and other ICE operational costs directly associated with implementing cooperative efforts with state and local law enforcement pursuant to section 287(g) of the Immigration and Nationality Act, and not to acquire or provide information technology infrastructure for participating state and local law enforcement agencies. The conferees direct ICE to provide the Committees on Appropriations, not later than December 1, 2006, a detailed expenditure plan for use of section 287(g) funding appropriated in fiscal years 2006 and 2007, to include direct assistance to state and local agencies, and an updated report no later than June 1, 2007.

DETENTION MANAGEMENT AND CONSOLIDATION

The conferees expect ICE to make the best possible use of its detention funding, and are concerned the Secretary has not yet transmitted the national detention management plan required by the fiscal year 2006 Appropriations Act, keeping $5,000,000 unavailable for obligation. The conferees direct this report be released as soon as possible and expect it to address the elements in the House report, including mechanisms ICE will use to accomplish consolidation and regional approaches described in its April 2006 report on a national detention contract approach.

IMMIGRATION ENFORCEMENT COOPERATION WITH STATE AND LOCAL GOVERNMENT

The conferees are greatly concerned with the burden of illegal immigration on state and local law enforcement agencies, and agree with the language in the House report calling for expanded cooperation between federal, state and local law enforcement agencies. To explore a more comprehensive approach, the conferees direct ICE, in coordination with the Secure Border Coordination Office, to examine the feasibility of establishing high intensity immigration trafficking and smuggling areas, analogous to existing programs directed at countering drugs and money laundering. The conferees include $1,000,000 under Domestic Investigations for this purpose and direct ICE to submit its findings and implementation options to the Committees on Appropriations no later than June 30, 2007.

UNACCOMPANIED ALIEN MINORS

The conferees are concerned by reports of unaccompanied alien children not being routinely transferred from DHS custody to the Office of Refugee Resettlement (ORR) within the three-to-five day timeframe stipulated in the 1996 Flores Settlement agreement, but held in unacceptable conditions (e.g., Border Patrol stations or jail-like facilities) for many days. The conferees direct ICE to contact ORR immediately upon notification of apprehension of such children, and ensure these children are transferred to ORR custody within 72 hours. The conferees also direct ICE to continue negotiations with ORR to resolve differences over processing and transfer of custody; to explore transfer of responsibility for such children to ORR; and to encourage ORR to establish facilities near DHS detention facilities. The conferees direct ICE, in conjunction with CBP, to submit a report to the Committees on Appropriations, detailing by month for each of fiscal years 2005 and 2006: the number of unaccompanied alien minors detained by DHS for 72 hours or less, and the number held more than 72 hours, with an explanation for each child held in excess of 72 hours. Further, the report should include recommendations for actions to improve coordination between DHS and ORR. The conferees direct ICE to consider using holistic age-determination methodologies as described in the House report.

The conferees are also concerned about the dearth of repatriation services for such children, who face uncertain fates in their homelands, and urge DHS, in consultation with the Department of State and ORR, to develop policies and procedures to ensure such children are safely repatriated to their home countries, including placement with their families or other sponsoring agencies.

ICE FIELD OFFICES

The conferees direct ICE to submit a report on the costs and need for establishing sub-offices in Colorado Springs and Greeley, Colorado.

VISA SECURITY PROGRAM

The conferees are disturbed bureaucratic obstacles have prevented ICE from deploying Visa Security Units (VSU) to key overseas locations, needlessly preventing highly trained personnel from taking their posts overseas, and leaving critical gaps in our ability to identify individuals from high-risk areas who should not acquire U.S. visas and travel to the U.S. The conferees direct the Secretary, in consultation with the Secretary of State, to brief the Committees on Appropriations not later than January 23, 2007, on progress in staffing its overseas locations, listing all planned and actual VSU positions and funding for fiscal years 2006 and 2007; the number of positions and locations not yet filled: the numbers and posting of VSU officers not deployed to their intended locations; and specific actions planned and underway, resources required, and administrative decisions necessary to ensure all planned visa security units are fully operational as soon as possible.

TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees include $4,750,000 to continue textile transshipment enforcement and direct ICE to report on its execution of the five-year strategic plan submitted to Congress, including details on ICE textile enforcement cases (number initiated, closed, and resulting in prosecutions, arrests, and penalties), as well as a status report of personnel responsible for enforcing textile laws.

FEDERAL PROTECTIVE SERVICE

The conferees agree to provide bill language making revenues and security fees collected by the Federal Protective Service (FPS) available until expended, without the limitation of $516,011,000 proposed by the House and Senate, and requiring a report from the Secretary on FPS financial management. The conferees understand the current projection for fiscal year 2007 collections is $567,000,000, and direct FPS to notify the Committees on Appropriations should this estimate change.

FPS FINANCIAL MANAGEMENT

The conferees are disappointed with the slow response of the Department and the Office of Management and Budget (OMB) to the growing FPS funding shortfall. OMB and the Department failed to evaluate and properly set fees for fiscal year 2006, allowing a festering funding imbalance to explode into full-blown crisis, forcing reductions in other homeland security priorities. Furthermore, the Department has indicated FPS could face even larger shortfalls in fiscal year 2007. The conferees direct ICE, the Department, and OMB, as they continue efforts to resolve weaknesses in FPS financial management and procurement, to ensure no transfers are used to cover basic FPS operations, activities and investment. The conferees expect such fiscal year 2007 costs to be covered by the fees FPS assesses and collects from the federal agencies whose facilities it protects. The conferees direct the Secretary, in consultation with OMB, to report to the Committees on Appropriations no later than November 1, 2006, on the extent and cause of any budgetary shortfall; the Department's detailed plan to provide sufficient revenue to operate in fiscal year 2007; and how the Department will fix FPS financial, procurement, and accounting processes and policies. Furthermore, the conferees direct the Secretary to submit an updated report no later than April 30, 2007, including actual and estimated collections and obligations by month for the full fiscal year.

AUTOMATION MODERNIZATION

The conferees agree to provide $15,000,000 for Automation Modernization instead of no appropriation as proposed by the House and $20,000,000 as proposed by the Senate. Of these funds, $13,000,000 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan.

CONSTRUCTION

The conferees agree to provide $56,281,000 instead of $26,281,000 as proposed by the House and $101,281,000 as proposed by the Senate. The conferees include $30,000,000 for infrastructure improvements at current Detention Centers in order to improve the overall efficiency of the detention process, as described in the Senate report. The conferees direct the Department to submit a detailed spending plan for the infrastructure improvement project described in the Senate report.

The following table specifies funding by project and activity:

Projects and Activity:	
Krome, Florida: 250-bed secure dormitory	$6,409,000
Krome, Florida, maintenance	5,000,000
Port Isabel, Texas, Infrastructure	9,000,000
Facility Repair and Alterations	5,872,000
Infrastructure Improvement Project	30,000,000
Total, Construction	56,281,000

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

The conferees agree to provide $4,731,814,000 instead of $4,704,414,000 as proposed by the House and $4,751,580,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $2,420,000,000 from aviation user fees as authorized. The following table specifies funding by budget activity:

Screener Workforce:	
Privatized screening	$148,600,000
Passenger and baggage screeners, personnel, compensation and benefits	2,470,700,000
Subtotal, screener workforce	2,618,800,000
Screening training and other	244,466,000

Human resource services	207,234,000
Checkpoint support	173,366,000
EDS/ETD Systems.	
EDS purchase	141,400,000
EDS installation	138,000,000
EDS/ETD maintenance	222,000,000
Operation integration	23,000,000
Subtotal, EDS/ETD systems	524,400,000
Total, screening operations	$3,768,266,000
Aviation, regulation and other enforcement	217,516,000
Airport management, information technology and support	666,032,000
Federal flight deck officer and flight crew training	25,000,000
Air cargo	55,000,000
Subtotal, aviation security direction and enforcement	963,548,000
Total, Aviation Security	$4,731,814,000

STAFFING LEVELS

The conferees agree to provide $2,470,200,000 for federal screeners, as requested in the budget. The conferees continue longstanding bill language capping the full-time equivalent (FTE) workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 FTE screeners by the end of fiscal year 2007. At this time, TSA is about 4,000 screeners below this level. As such, the conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain sufficient aviation security and customer service.

PRIVATIZED SCREENING AIRPORTS

The conferees agree to provide $148,600,000 as proposed by the House and the Senate. TSA is directed to notify the Committees on Appropriations if TSA expects to spend less than the appropriated amount due to situations where no additional airports express interest in converting, either fully or partially, to privatized screening, or where airports currently using privatized screening convert to using federal screeners. TSA shall adjust its program, project, and activity (PPA) line items, within ten days, to account for any changes in private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the screening partnership program, or the movement from privatized screening into federal screening.

SCREENERS AT COMMERCIAL AIRPORTS AND HELIPORTS

The conferees are concerned with TSA's current screening policy at 24 commercial airports and heliports in the United States that have requested TSA screening but continue to operate with temporary screening or none at all. The conferees remind TSA that section 44901 of the Aviation and Transportation Security Act requires all passengers to be screened, by either TSA or contracted screeners, before they board commercial aircraft. Vision 100—the Century of Aviation Reauthorization Act (P.L. 108-176) further clarified TSA's screening requirements for charter air carriers with a maximum take-off weight of more than 12,500 pounds and for the deployment of screeners to certain airports. The conferees direct TSA to provide screening at those airports and heliports that have requested screening and encourage TSA to consider contracting out the screening function if TSA does not believe it would be efficient to place TSA personnel in these locations.

CHECKPOINT SUPPORT

The conferees agree to provide $173,366,000 as proposed by the House instead of $180,966,000 as proposed by the Senate. TSA shall place a priority on expanding the use of emerging technologies at the highest risk airports so screeners can better detect threats to our aviation system. The conferees do not increase funding for this activity above the budget request because TSA projects it will have about $56,000,000 in carryover balances from previous fiscal years to address checkpoint support activities in 2007. The conferees direct TSA to develop a strategic plan for screening passengers and carry on baggage for all types of explosives, including a timeline for deploying emerging technologies to airports and the percent of passengers and carry on baggage currently and projected to be screened by these emerging technologies. This plan should take into account appropriations included in this Act, as well as all prior year unobligated balances.

EXPLOSIVE DETECTION SYSTEMS PURCHASES

The conferees agree to provide $141,400,000 for explosive detection systems (EDS) procurement as proposed by the Senate instead of $136,000,000 as proposed by the House. Of this total, up to $6,000,000 shall be for refurbishment of EDS machines to maximize and extend the useful life of those EDS machines manufacturers are willing to place back under warranty. In addition, $47,000,000 shall be for the procurement of multiple next-generation, in-line and stand alone EDS systems. The conferees direct that no EDS funding shall be used to procure explosive trace detection machines (ETDs) unless they are necessary for secondary screening of checked baggage, to replace an aging ETD system in those airports that are primarily dependent on ETD technologies, or to procure new ETD systems for new, small airports or heliports that are federalized.

EDS INSTALLATIONS

The conferees agree to provide a total of $388,000,000 for EDS installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $138,000,000 in this Act. This funding is sufficient to fulfill the Letters of Intent, install next-generation EDSs at airports nationwide, and complete other pending airport modifications.

EDS/ETD MAINTENANCE

The conferees agree to provide $222,000,000 for EDS/ETD maintenance instead of $234,000,000 as proposed by the House and $210,000,000 as proposed by the Senate. The conferees encourage TSA to combine funding for maintenance of all equipment (Checkpoint, EDS, and ETD) into one PPA in fiscal year 2008 to provide a more complete picture of all maintenance costs for equipment deployed throughout our nation's airports.

AIR CARGO

TSA has been slow to obligate funding for air cargo security. TSA projects one-tenth of the air cargo budget will be carried into fiscal year 2007. The conferees encourage TSA to use some of these unobligated balances or the fiscal year 2007 appropriation to hire additional permanent staff to enhance TSA's analytic air cargo security capabilities.

WAIT TIMES

The conferees direct TSA to review airport wait times over the past three years, identify those airports with above average times, and provide this review with the fiscal year 2008 budget.

ALTERNATIVE SCREENING PROCEDURES

Both the House and Senate reports expressed concern over TSA's occasional use of alternative screening procedures. The conferees support reporting requirements contained in both House Report 109-476 and Senate Report 109-273, including: develop performance measures and targets; track the use of alternative screening procedures at airports; assess the effectiveness of these measures; conduct covert testing at airports using these techniques; and develop a plan to stop alternative screening measures. TSA shall report to the Committees on Appropriations; the House Committee on Homeland Security; and the Senate Committee on Commerce, Science and Transportation on implementation of these requirements.

CHANGES TO AVIATION SECURITY POLICY

The conferees are aware that TSA is considering revising the aviation security policy. These revisions may require changes to staffing, such as who monitors airport exit lanes, who may be a ticket checker, and who may move baggage to and from EDS machines. Each of these policy decisions has a cost implication. Before moving forward with any proposed change, TSA shall brief the Committees on Appropriations on the security and fiscal impact of each change and outline the ramifications to the fiscal year 2007 appropriation. If these costs exceed transfer and reprogramming thresholds, TSA must notify the Committees as required by section 503 of this Act.

PROHIBITED ITEMS

The conferees direct the Comptroller General to report to the Committees on Appropriations no later than six months after the enactment of this Act on the impact on public safety and on the effectiveness of screening operations resulting from the modification announced by TSA on December 2, 2005, to the list of items permitted and prohibited from being carried aboard a passenger aircraft.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $37,200,000 as proposed by the House and the Senate. Within this total, $24,000,000 is for surface transportation staffing and operations and $13,200,000 is for rail security inspectors and canines.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

The conferees agree to provide a direct appropriation of $39,700,000 instead of $74,700,000 as proposed by the House and $29,700,000 as proposed by the Senate. In addition, the conferees anticipate TSA will collect $76,101,000 in fees. Funding is provided as follows:

Direct Appropriation:	
Secure flight	$15,000,000
Crew vetting	14,700,000
Screening administration and operations	10,000,000
Subtotal, direct appropriations	39,700,000
Fee Collections:	
Registered traveler	35,101,000
Transportation worker identification credential	20,000,000
Hazardous materials	19,000,000
Alien flight school (transfer from DOJ)	2,000,000
Subtotal, fee collections	76,101,000

TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees are very supportive of expeditious implementation of the transportation worker identification credential (TWIC) program. Because TSA submitted a reprogramming request to expedite this program, a direct appropriation is no longer necessary in fiscal year 2007. The conferees do not incorporate either House or Senate language on TWIC.

SECURE FLIGHT

The conferees agree to provide $15,000,000 as proposed by the Senate instead of $40,000,000 as proposed by the House. While the conferees remain supportive of the Secure Flight concept, TSA has been reviewing and rebaselining this program since the beginning of 2006, resulting in further delays to this program. At this time, TSA cannot justify its fiscal year 2007 budget request, cannot explain how this program will move forward or detail the associated costs. More than $21,000,000 of funding provided in fiscal year 2006 will remain available for obligation in fiscal year 2007. Within 90 days after enactment of this Act, TSA shall submit a detailed plan on achieving key milestones, as well as certification of this program as discussed in section 514 of this Act.

In addition, the conferees are concerned TSA has made little progress in ensuring the security of its Secure Flight passenger screening program, and because of this, names are checked only against the No Fly and Selectee lists, not the full terrorist watch list. The conferees direct TSA to provide a detailed program plan if the Administration believes that security vulnerability exists between the lists used for Secure Flight and the full terrorist watch list as discussed in the House report.

TECHNICAL ASSISTANCE TO AIRLINES

The conferees direct TSA to provide airlines with technical or other assistance to better align their reservation and ticketing systems with terrorist databases to assist in alleviating travel delays and other problems associated with mistaken identification.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $10,000,000 for screening administration and operations. The conferees expect these funds may be used to support the following programs, if necessary: transportation worker identification credential, armed law enforcement officer identity verification, alien flight school, and sterile area credential checks. None of the funds may be used to augment the Secure Flight program. In addition, the conferees do not expect these funds to be used to pay for airmen and pilot checks, activities that are currently a Federal Aviation Administration responsibility. TSA shall provide the Committees on Appropriations a plan further elaborating how these funds will be utilized by January 23, 2007.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $525,283,000 instead of $503,283,000 as proposed by the House and $618,865,000 as proposed by the Senate. The conferees are aware of a large number of vacancies within this program. Funding is provided as follows:

Headquarters administration	$294,191,000
Information technology	210,092,000
Intelligence	21,000,000
Subtotal, transportation security support	525,283,000

EXPENDITURE PLAN

The conferees include bill language requiring TSA to submit an expenditure plan to the Committees on Appropriations detailing explosive detection systems procurement, refurbishment, and installation on an airport-by-airport basis for fiscal year 2007 no later than 60 days after enactment of this Act, as discussed in the House report. The conferees include bill language withholding $5,000,000 from obligation until this plan is received.

TRANSPORTATION SECURITY LABORATORY

The conferees do not agree to a Senate provision transferring the Transportation Security Lab (TSL) from the Science and Technology Directorate (S&T) to TSA. This action is taken in large part as a result of the successful negotiation of a Memorandum of Understanding between the two agencies signed on August 22, 2006. The conferees direct TSA to work with S&T to determine appropriate research and technology requirements to sustain current and advance future aviation security capabilities. Further, S&T should clearly reflect resource needs for the TSL in the fiscal year 2008 budget request to achieve these requirements. The conferees further direct S&T to work expeditiously with TSA to develop a research execution plan that meets the needs of TSA within the amounts provided.

FINANCIAL MANAGEMENT

The conferees are concerned financial management within TSA has not fully recovered from the lack of internal controls that were in place in its two start-up years. The conferees understand the TSA may face financial obligations due to this mismanagement and direct TSA to work expeditiously to determine if a violation of the Anti-Deficiency Act took place. If there is a shortfall, TSA shall submit a plan to the Committees on Appropriations that addresses the shortfall.

FEDERAL AIR MARSHALS

The conferees agree to provide $714,294,000 for the Federal Air Marshals (FAMs) instead of $699,294,000 as proposed by the House and the Senate. Within this total, $628,494,000 is for management and administration and $85,800,000 is for travel and training.

MULTI-MODAL SECURITY ENHANCEMENT TEAMS

TSA has been piloting a program to use FAMs in multi-modal security enhancement teams to counter potential criminal or terrorist activities throughout the transportation sector, as well as supplement local or state law enforcement agencies in railroad and transit systems, within ports, and on ferries. The conferees recognize that this mission goes beyond what has been authorized for FAMs. Following the events in London, it is imperative air marshals first and foremost focus is protecting the aviation environment, including passenger flights deemed to be a high security threat, before expanding their roles into other transportation modes.

UNITED STATES COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $5,477,657,000 instead of $5,481,643,000 as proposed by the House and $5,534,349,000 as proposed by the Senate. Within this amount, $340,000,000 is available for defense-related activities as proposed by both the House and the Senate. The conferees have fully funded the budget request except $5,986,000 is reduced from centrally managed accounts due to high unobligated balances and no funding is provided for the new Coast Guard headquarters at the St. Elizabeths campus. In addition, the conferees include $15,000,000 for port security inspections to double the amount of foreign port assessments, to conduct unannounced inspections of domestic port facilities, and for additional port vulnerability and threat assessments, if necessary. Funding for operating expenses shall be allocated as follows:

Military pay and allowance:	
Military pay and allowance	$2,342,434,000
Military health care	337,324,000
Permanent change of station	108,518,000
Subtotal, military pay and allowance	2,788,276,000
Civilian pay and benefits:	569,434,000
Training and recruiting	
Training and education	83,556,000
Recruitment	97,320,000
Subtotal, training and recruiting	180,876,000

Operating funds and unit level maintenance:	
Atlantic Command	188,982,000
Pacific Command	196,449,000
1st District	50,388,000
7th District	63,771,000
8th District	39,985,000
9th District	28,756,000
13th District	20,569,000
14th District	15,754,000
17th District	25,604,000
Headquarters directorates	255,253,000
Headquarters managed units	125,104,000
Other activities	759,000
Subtotal, operating funds and unit level maintenance	1,011,374,000
Centrally managed accounts	201,968,000
Intermediate and depot level maintenance:	
Aeronautical maintenance	265,979,000
Electronic maintenance	111,736,000
Civil/ocean engineering and shore facilities maintenance	176,394,000
Vessel maintenance	156,620,000
Subtotal, intermediate and depot level maintenance	710,729,000
Port security inspections	15,000,000
Total, operating expenses	5,477,657,000

PERSONNEL

Bill language is provided in this Act to allow the Coast Guard to transfer up to five percent of the Operating Expenses (OE) appropriation to the Acquisition, Construction, and Improvements (AC&I) appropriation for personnel, compensation and benefits provided notice is given to the Committees on Appropriations within 30 days of the transfer. The conferees are aware of the Coast Guard's interest in consolidating OE and AC&I personnel funding in the OE account in order to provide greater flexibility to meet changing personnel requirements. While the conferees support this consolidation, a new PPA structure reflective of this consolidation does not accompany this Act in order to allow the Coast Guard to provide sufficient background materials to the Committees. The conferees encourage the Coast Guard to include the consolidation of OE and AC&I personnel funding, and personnel funding in other accounts, as appropriate, into the OE account in its fiscal year 2008 budget submission. The budget submission shall include a crosswalk of the merged accounts, which tracks personnel and resources from the current PPA structure to the new structure proposed in the budget submission.

NEW HEADQUARTERS BUILDING

The conferees have not provided funding for a new Coast Guard headquarters building. According to DHS, relocating the Coast Guard headquarters to St. Elizabeths campus in Washington, D.C. would be the first phase of a larger effort to move most or all of DHS headquarters' functions to that location. However, the Department has not finalized a plan identifying what specific components would move to the site; the total space requirements for DHS headquarters; and total costs associated with using the St. Elizabeths site as a headquarters' location. Until such a plan has been completed and reviewed by Congress, it is premature to relocate the Coast Guard headquarters.

MERCHANT MARINERS LICENSING

The conferees support increasing locations where merchant mariner applicants may appear for fingerprinting and identification, as discussed in the House report, and direct the Coast Guard to complete this new rule expeditiously.

LONG RANGE AIDS TO NAVIGATION (LORAN)-C

The President's budget proposed terminating the LORAN-C program. The conferees assume the continuation of the LORAN-C program until: (1) the appropriate entities within the Executive Branch have agreed in writing to the termination, (2) the public has been notified, and (3) the appropriate countries have been notified under existing international agreements. Within 15 days of a coordinated Executive Branch decision to terminate LORAN-C, the Coast Guard is directed to provide a report to the Committees on Appropriations on the entities within the Executive Branch that agreed to the termination, the date such entities agreed to the termination, and names of the officials who agreed to the termination. Further, the report shall also include the date and methods used to notify the public and foreign countries, as appropriate under existing international agreements, of the program's termination.

INAPPROPRIATE BEHAVIOR AT THE COAST GUARD ACADEMY

As discussed in the House report, the conferees direct GAO to study the progress made by the Coast Guard Academy in response to sexual harassment claims and report its findings to the Committees on Appropriations; the House Committee on Transportation and Infrastructure; and the Senate Committee on Commerce, Science, and Transportation no later than 180 days after enactment.

LIVE-FIRE EXERCISES

The conferees are concerned Coast Guard's recent proposal to establish live-fire zones on the Great Lakes was not well-coordinated with the public, and therefore direct Coast Guard to provide public notice of safety zone closures for weapons training beyond just marine band radio to include notices to harbormasters and local media.

REPORT ON BASE CLOSURES AND THE FEDERAL CITY PROJECT

The conferees direct Coast Guard to comply with the reporting requirement of Senate bill section 553 no later than 90 days after the enactment of this Act.

MISSION HOUR EMPHASIS AND ACQUISITION REPORTS

The conferees direct Coast Guard to continue submitting quarterly mission hour emphasis and acquisition reports to the Committees on Appropriations consistent with the deadlines articulated under section 360 of Division I of Public Law 108-7.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferees agree to provide $10,880,000 as proposed by the Senate instead of $11,880,000 as proposed by the House.

RESERVE TRAINING

The conferees agree to provide $122,448,000 instead of $122,348,000 as proposed by the House and $123,948,000 as proposed by the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferees agree to provide $1,330,245,000 instead of $1,139,663,000 as proposed by the House and $1,145,329,000 as proposed by the Senate. Funding is provided as follows:

Vessels and Critical Infrastructure:	
Response boat medium	$24,750,000
Special purpose craft-law enforcement	1,800,000
Subtotal, vessels and critical infrastructure	26,550,000
Aircraft:	
Replacement HH-60 aircraft	15,000,000
Subtotal, aircraft	15,000,000
Other Equipment:	
Rescue 21	39,600,000
Automatic identification system	11,238,000
High frequency recap	2,475,000
National Capital Region air defense	66,510,000
Subtotal, Other Equipment	119,823,000
Shore Facilities and Aids to Navigation	22,000,000
Personnel and Related Support:	
Direct personnel costs	80,500,000
AC&I core	500,000
Subtotal, Personnel and Related Support	81,000,000
Integrated Deepwater System:	
Aircraft:	
Maritime patrol aircraft	148,116,000
VTOL unmanned aerial vehicles (UAVs)	4,950,000

HH-60 conversion projects	49,302,000
HC-130H conversion/sustainment projects	48,955,000
HH-65 re-engining project	32,373,000
Armed helicopter equipment	55,740,000
C-130J missionization	4,950,000
Subtotal, Aircraft	344,386,000
Surface Ships:	
National security cutter, construction	417,780,000
Fast response cutter	41,580,000
IDS patrol boat long range interceptor	1,188,000
Medium endurance cutter sustainment	45,318,000
Replacement patrol boat	48,000,000
Subtotal, Surface Ships	553,866,000
C4ISR	50,000,000
Logistics	36,000,000
System engineering and management	35,145,000
Government program management	46,475,000
Subtotal, Integrated Deepwater System	1,065,872,000
Total, Acquisition, Construction, and Improvements	1,330,245,000

REPLACEMENT PATROL BOAT

The conferees remain concerned with the lack of Coast Guard leadership in addressing the impending patrol boat crisis and note Coast Guard's surface ship management assessment is "red" for cost, schedule and contract administration. The Coast Guard has yet to decide the deployment profile, drydocking, service life, crewing, and concept of operations of the much needed replacement patrol boat in part because the Coast Guard did not admit to the need for a replacement patrol boat until recently despite repeated direction from the conferees. Given the significant gap in patrol boat hours and the delays of the Fast Response Cutter (FRC) program, the conferees strongly encourage the Coast Guard to proceed expeditiously to evaluate replacement patrol boat designs and conduct a proposal effort as early in 2007 as possible. The conferees provide $126,693,508 for replacement patrol boats to address an immediate need. This funding consists of a reappropriation of $78,693,508 as discussed in section 521 of this Act and a new appropriation of $48,000,000 as shown on the table above. Any delay in this acquisition negates the purpose of this funding: to fill the gap in patrol boat hours until the Fast Response Cutters are operational. This funding may also be used for service life extensions of the existing 110 foot Island class patrol boats, which become increasingly critical as replacement patrol boat decisions are delayed. The conferees direct the Coast Guard to provide monthly briefings on the patrol boat replacement effort and development of FRC, as well as a detailed plan for the replacement patrol boat, including critical decision points and dates, and planned service life extensions of existing 110-foot patrol boats, within two months after enactment of this Act.

C4ISR

Even though C4ISR is pointed to by the Coast Guard as a Deepwater success due to new capabilities like AIS and SIPRNET, Coast Guard listed C4ISR design efforts as over cost and behind schedule in a report submitted to the Committees on Appropriations in August 2006. The conferees understand a stop work order has been issued for Increment 2 and this increment is being "rescoped". The conferees are concerned the Coast Guard needs to devote more management attention to resolving C4ISR design problems and directs the Coast Guard to provide a briefing on its plan to resolve them. Furthermore, the conferees direct the Coast Guard to improve the linkage between C4ISR and demonstrate its value to operations.

RESCUE 21

The conferees agree to provide $39,600,000 for Rescue 21. Funding may be expended to complete the Anuenue Project as proposed by the Senate. Bill language limiting the obligation of funding for vessel subsystem, as proposed by the House, is not included.

The Rescue 21 program has had repeated problems with software development, cost overruns, and schedule delays, causing the Coast Guard to terminate the vessel subsystem portion of this contract. Due to past failures, the conferees direct the Coast Guard to brief the Committees on Appropriations on a quarterly basis, the first briefing by January 31, 2007, on the status of this program and provide supporting documentation, including a detailed breakout of its revised cost and schedule and fully justify each estimate, as discussed in the House report.

REPLACEMENT OF GULFPORT STATION

Public Law 109-234 provides funds for the relocation of the Coast Guard Station in Gulfport, Mississippi. Due to changing circumstances after Hurricane Katrina, these funds are for design and construction of a replacement station on the current site in keeping with the architectural design of the community.

COUNTERTERRORISM TRAINING INFRASTRUCTURE SHOOT HOUSE

The conferees do not provide funding for the counterterrorism training infrastructure shoot house as proposed by the House instead of $1,683,000 as proposed by the Senate. While the conferees are not predisposed against the need for a counterterrorism training infrastructure shoot house, the Coast Guard failed to adequately explain the complete costs of this project and outyear funding needs.

ALTERATION OF BRIDGES

The conferees agree to provide $16,000,000 instead of $17,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. Within this total, funds shall be allocated as follows:

Burlington Northern Railroad Bridge in Burlington, Iowa	$1,000,000
Canadian Pacific Railway Bridge in LaCrosse, Wisconsin	2,000,000
Chelsea Street Bridge in Chelsea, Massachusetts	3,000,000
Elgin, Joliet, and Eastern Railway Company Bridge in Morris, Illinois	1,000,000
Fourteen Mile Bridge in Mobile, Alabama	7,000,000
Galveston Causeway Bridge in Galveston, Texas	2,000,000
Total	16,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conferees agree to provide $17,000,000 instead of $13,860,000 as proposed by the House and $17,573,000 as proposed by the Senate.

MEDICARE ELIGIBLE RETIREE HEALTH CARE FUND CONTRIBUTION

The conferees include a permanent and indefinite appropriation of $278,704,000 for Medicare-eligible retiree health care fund contribution as proposed by both the House and the Senate.

RETIRED PAY

The conferees agree to provide $1,063,323,000 as proposed by both the House and the Senate.

UNITED STATES SECRET SERVICE

NEW APPROPRIATIONS ACCOUNT STRUCTURE

The conferees are very concerned about the ability of the U.S. Secret Service (USSS) to effectively align its resource requirements to workload and mission needs. To ensure accountability in budgeting for the dual missions of protection and investigations, the conferees provide funding for the USSS in a new appropriations account structure, depicted in detail tables that follow. The conferees recognize the agency's concerns regarding the ability of its budgetary systems to obligate and track funds in line with this new structure and have included language under the Office of the Chief Financial Officer directing support in budget execution and the real-time tracking of resource hours. The conferees direct the Secret Service to apply the reprogramming and transfer guidelines contained within section 503 of this Act, as needed, to adapt to the new account structure as well as to preserve the interdependent relationship between protection and investigations. The conferees direct the USSS to report on the status of its budgetary improvements, including the implementation of refined performance metrics, as specified by the House report.

PROTECTION, ADMINISTRATION, AND TRAINING

The conferees agree to provide $961,779,000 instead of $956,399,000 as proposed by the House and $918,028,000 as proposed by the Senate. This includes: $18,400,000 for Presidential candidate nominee protection; $1,000,000 for National Special Security Events; and an additional $11,500,000 to support the protection costs of the 2008 Presidential Campaign and the President's post-Presidency protective detail. Of the funds provided under this heading, $2,000,000 is not available for obligation until the Committees on Appropriations receive the overdue workload rebalancing report, specified in the House report. The conferees include a general provision (section 559) that rescinds $2,500,000 in unobligated balances for National Special Security Events and reappropriates the same amount, extending its availability until expended.

The following table specifies funding by budget program, project, and activity:

Protection:	
Protection of persons and facilities	$651,217,000
Protective intelligence activities	55,509,000
National Special Security Events	1,000,000
Presidential Candidate Nominee Protection	18,400,000
White House mail screening	16,201,000
Subtotal, Protection	742,357,000
Administration Headquarters, management and administration	169,370,000

Training: James J. Rowley Training Center	50,052,000
Total, Protection, Administration, and Training	961,779,000

2008 PRESIDENTIAL CAMPAIGN

The conferees do not agree to create a new appropriation for protective activities related to the 2008 Presidential Campaign and National Special Security Events and instead provide requested funds in a separate program, project, and activity within the Protection, Administration, and Training appropriation. Funds provided for the 2008 Presidential campaign are available until September 30, 2009. The conferees direct the Secret Service to submit a comprehensive expenditure plan, as specified by the House report, for the 2008 Presidential Campaign through the 2009 Presidential inauguration. Further, the conferees direct the Secret Service to submit quarterly reports, with the first report due on January 23, 2007, on the status of filling the required special agent billets to support the post-Presidency protective detail.

FUNDING PRIORITIES

The conferees are concerned with the Secret Service's ability to address its critical resource needs while carrying an apparent shortfall within base budget for protection. The conferees have fully funded the request for protective terrorist countermeasures at $17,200,000 and have provided an additional $11,500,000 for the 2008 Presidential campaign and the post-Presidency protective detail. Prior to the obligation of these funds, the Secret Service shall assess the status of its base budget shortfall in fiscal year 2007 and apply these resources where required to meet the agency's highest priority needs, in accordance with section 503 of this Act.

INVESTIGATONS AND FIELD OPERATIONS

The conferees agree to provide $311,154,000 instead of $312,499,000 as proposed by the House and $304,205,000 as proposed by the Senate. The amount provided under this heading fully funds the budget request and includes: $236,093,000 for domestic field operations; $22,616,000 for international field office administration and operations, including an additional $1,000,000 to support the costs of re-constituting a resident office in Moscow, Russia; $44,079,000 for the Electronic Crimes Special Agent Program and Electronic Crimes Task Forces; and $8,366,000 for the National Center for Missing and Exploited Children, of which $6,000,000 is for grants and $2,366,000 is for forensic support.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,725,000 as proposed by the House and Senate. Of the total provided under this heading, $500,000 is unavailable for obligation until the Committees on Appropriations receive the revised James J. Rowley Training Center master plan.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $30,572,000 for management and administration of the Preparedness Directorate as proposed by the Senate instead of $39,468,000 as proposed by the House. Included in this amount is $16,392,000 for the immediate Office of the Under Secretary for Preparedness; $4,980,000 for the Office of the Chief Medical Officer; $2,741,000 for the Office of National Capital Region Coordination; and $6,459,000 for the National Preparedness Integration Program (NPIP).

In spite of clear direction in sections 503 and 504 of P.L. 109–90, the conferees are troubled by an apparent disregard for consistent and transparent budget execution within the Preparedness Directorate. As a result, the conferees direct the Government Accountability Office (GAO) to review the Department's use of shared services within the entire Preparedness Directorate and report to the Committees on Appropriations. The review shall focus on compliance with appropriation law and the proper use of the Economy Act. The conferees are concerned that the Preparedness Directorate is funding new activities for which funds were not specifically appropriated and are not shared services. The conferees direct the Preparedness Directorate to provide all relevant supporting documents to GAO on an expedited basis. The conferees further direct the Preparedness Directorate to provide to the Committees on Appropriations, within 30 days after enactment, a budget execution plan by program, project, and activity.

NATIONAL CAPITAL REGION COORDINATION

The conferees are concerned that planning for evacuation of the National Capital Region during a disaster has not incorporated all of the pertinent officials from the appropriate states. Despite requests for such officials to be included by Congress and the effected states, no such joint planning efforts have occurred. Therefore, the conferees include bill language requiring the Preparedness Directorate to include the Governors of the State of West Virginia and the Commonwealth of Pennsylvania in the National Capital Region planning process for mass evacuations. Further, the conferees direct the Preparedness Directorate to include officials from the counties and municipalities that contain the evacuation routes and their tributaries in the planning process. The Secretary shall provide a report to the Committees on Appropriations on the implementation of the planning process, including a list of participants, no later than January 23, 2007, and quarterly thereafter, on the progress made to implement such plans.

NATIONAL PREPAREDNESS INTEGRATION PROGRAM

The conferees note requests for a prioritization of the initiatives proposed to be accomplished by the NPIP have not been fulfilled. Without this prioritization, the conferees were unable to support a level above that recommended by the Senate. The conferees include bill language withholding the funds provided for the NPIP until the Committees on Appropriations receive and approve an expenditure plan.

The conferees are concerned with the concept of creating a Federal Preparedness Coordinator (FPC) for placement in each Federal Emergency Management Agency (FEMA) Regional Office. The conferees agree that an official overseeing preparedness by region is appropriate. However, the conferees are not convinced that creating a senior executive position in the Preparedness Directorate, who reports through a chain of command that does not include response and recovery personnel in FEMA, will further the nation's readiness. Separating preparedness and response functions is detrimental during a disaster and, as demonstrated in past disasters, leads to a lack of communication and a lack of situational awareness, with dire consequences. During emergencies, state emergency managers need clear communications and missions, not confusion and redundancy. The conferees direct the Under Secretary to focus NPIP funding on plan modernization and resolving interoperability issues, as outlined by the Under Secretary, and discourage the use of funds to hire FPCs.

NATIONAL PREPAREDNESS GOAL

The conferees are disturbed by the delay in issuing the final National Preparedness Goal (Goal). In the fiscal year 2006 statement of managers accompanying the conference report (H. Report 109–241), the conferees directed the Department to issue the final Goal, including the final Universal Task List and Target Capabilities List, no later than December 31, 2005. To date, the final Goal and its component pieces have not been published. Absent the final Goal, national preparedness lacks clear direction and resources cannot be most efficiently allocated. The conferees direct the Department to publish the final Goal, without further unnecessary delay. In addition, the Secretary shall provide a report to the Committees on Appropriations explaining what substantive improvements have been made to the Goal as a result of the delay.

INSPECTOR GENERAL REPORT ON THE NATIONAL ASSET DATABASE

Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations a report addressing compliance with the recommendations set forth in the July 6, 2006, Inspector General report entitled "Progress in Developing the National Asset Database." The report shall include the status of the prioritization of assets into high-value, medium-value, and low-value asset tiers, and how such tiers will be used by the Secretary in the allocation of grant funds.

HURRICANE KATRINA LESSONS LEARNED

One year after Hurricanes Katrina, Rita and Wilma the conferees remain concerned by slow progress of improvement particularly in the areas of training and exercises to better prepare for future emergencies. The conferees expect the relevant Congressional Committees will be briefed by November 1, 2006, on improvements to training and exercises as recommended by the White House, House, and Senate investigations into Katrina.

NATIONAL EMERGENCY COMMUNICATIONS STRATEGY

The conferees direct the Preparedness Directorate and FEMA to coordinate revised strategy, procedures, and instructions for supporting national emergency response communications operations. The Department shall consider the findings and recommendations of the after action reports for Hurricane Katrina and other disasters produced by the White House, federal agencies, the Congress, the GAO, and the Inspector General, as well as state and local government commissions who have reported on communications. The conferees direct the Secretary to report to the Committees on Appropriations on the progress of this effort by March 1, 2007. The report shall also include an assessment of short-term (defined as within two years after the date of enactment of this Act), intermediate-term (defined as between two years and four years after such date of enactment), and long-term (defined as more than four years after such date of enactment) actions necessary for the Department to take in order to assist federal, state, and local governments achieve communications interoperability, including equipment acquisition, governance structure, and training.

OFFICE OF GRANTS AND TRAINING

SALARIES AND EXPENSES

The conferees agree that not to exceed three percent of Homeland Security Grant Program funds and discretionary grants may be used to fund salaries and expenses.

STATE AND LOCAL PROGRAMS

The conferees agree to provide $2,531,000,000 instead of $2,594,000,000 as proposed by the House and $2,400,000,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

State Formula Grants:	
State Homeland Security Program	$525,000,000
Law Enforcement Terrorism Prevention Program	375,000,000
Subtotal, State Formula Grants	900,000,000
Discretionary Grants:	
High-Threat, High-Density Urban Area	770,000,000
Port Security	210,000,000
Trucking Security	12,000,000
Intercity Bus Security	12,000,000
Rail and Transit Security	175,000,000
Buffer Zone Protection Plan	50,000,000
Subtotal, Discretionary Grants	1,229,000,000
Commercial Equipment Direct Assistance Program	50,000,000
National Programs:	
National Domestic Preparedness Consortium	145,000,000
National Exercise Program	49,000,000
Metropolitan Medical Response System	33,000,000
Technical Assistance	18,000,000
Demonstration Training Grants	30,000,000
Continuing Training Grants	31,000,000
Citizen Corps	15,000,000
Evaluations and Assessments	19,000,000
Rural Domestic Preparedness Consortium	12,000,000
Subtotal, National Programs	352,000,000
Total, State and Local Programs	$2,531,000,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a "local unit of government".

The conferees urge the Department to work with state and local governments to ensure regional authorities, such as port, transit, or tribal authorities, are given due consideration in the distribution of state formula grants.

The conferees direct the Office of Grants and Training (G and T) to continue to distribute Homeland Security Grant Program grants in a manner consistent with the fiscal year 2006 practice. The conferees disagree with House language regarding the use of authorized and traditional terrorist focused funding and direct G and T to not alter the manner in which grant funds are distributed. While certain grants are authorized to be all-hazard, G and T is directed to ensure that terrorism-focused funds provided herein are not misdirected. The Department should continue its efforts to evaluate State Homeland Security Program (SHSP), Law Enforcement Terrorism Protection Program (LETPP), and High-Threat, High-Density Urban Area grants (also known as the Urban Areas Security Initiative or UASI) applications based on risk and on how effectively these grants will address identified homeland security needs. In those areas of the country where the risk is very high, the Department shall work aggressively to ensure these applications are produced in a manner in which appropriate levels of funding reflect the level of threat. The conferees agree that states must identify gaps in levels of preparedness and how funding will close those gaps. The Department is encouraged to consider the need for mass evacuation planning and pre-positioning of equipment for mass evacuations in allocating first responder funds and in allocating training, exercises and technical assistance funds through the national programs.

The conferees include bill language requiring the GAO to report on the validity, relevance, reliability, timeliness, and availability of the risk factors, and the application of those factors in the allocation of discretionary grants to the Committees on Appropriations no later than 45 days after enactment. The Secretary is required to provide GAO with the necessary information seven days after enactment of this Act. The conferees direct the Preparedness Directorate to brief the Committees on Appropriations by November 1, 2006, on the steps it is taking to make transparent to states its risk-based grant methodology.

The conferees agree that for SHSP, LETPP, and UASI grants, application kits shall be made available 45 days after enactment of this Act, states shall have 90 days to apply after the grant is announced, and G and T shall act on an application 90 days after receipt of an application. The conferees further agree that no less than 80 percent of these funds shall be passed by the state to local units of government within 60 days of the state receiving funds, except in the case of Puerto Rico, where no less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds. The conferees direct the Secretary to submit a report to the Committees on Appropriations containing an assessment of state compliance in fiscal years 2005 and 2006 with the requirement to pass through funds in 60 days, accompanied by recommendations, if appropriate, to improve compliance.

The conferees are disappointed with the slow pace of discretionary transportation and infrastructure grant awards in fiscal year 2006. Bill language is included requiring port, trucking, intercity bus, intercity passenger rail transportation, and buffer zone protection grant applications to be made available 75 days after enactment; applicants shall have 45 days to apply after the grant is announced; and G and T shall act on an application within 60 days after receipt of an application.

The conferees continue and modify a provision requiring notification of the Committees on Appropriations before grant notifications are made. For Homeland Security Grant Program funds, G and T will brief the Committees on Appropriations five full business days in advance of any notifications.

The conferees expect G and T to continue all current overtime reimbursement practices. The conferees continue bill language prohibiting the use of funds for construction, except for Port Security, Rail and Transit Security, and the Buffer Zone Protection grants. However, bill language is included to allow SHSP, LETPP, and UASI grants to be used for minor perimeter security projects and minor construction or renovation of necessary guard facilities, fencing, and related efforts, not to exceed $1,000,000 as deemed necessary by the Secretary. The conferees further agree the installation of communication towers that are included in a jurisdiction's interoperable communications plan does not constitute construction for the purposes of this Act.

The Secretary of Homeland Security is encouraged to consult with the National Council on Radiation Protection and Measurements and other qualified governmental and non-governmental organizations in preparing guidance and recommendation for emergency responders to assist recovery operations, and to protect the general public with respect to radiological terrorism, threats, and events.

STATE FORMULA GRANTS

The conferees agree to provide $525,000,000 for the State Homeland Security Program instead of $545,000,000 as proposed by the House and $500,000,000 as proposed by the Senate. The conferees provide $375,000,000 for the Law Enforcement Terrorism Protection Program instead of $400,000,000 as proposed by the House and $350,000,000 as proposed by the Senate.

DISCRETIONARY GRANTS

The conferees agree to provide $1,229,000,000 instead of $1,235,000,000 as proposed by the House and $1,172,000,000 as proposed by the Senate. Within this total, $770,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas. The conferees include bill language requiring the Secretary to distribute funds allocated in fiscal year 2006 for grants to non-profit organizations determined by the Secretary to be at high risk of terrorist attack. The Secretary shall consider prior threats or attacks against like organizations when determining risk, and shall notify the Committees on Appropriations of the high risk or potential high risk to each designated tax exempt grantee at least five full business days in advance of the announcement of any grant award.

The conferees agree that for discretionary transportation and infrastructure grants, Transportation Security Administration (TSA) and Infrastructure Protection and Information Security (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the administration of related grant programs. The Office of Grants and Training shall also continue to work with the Science and Technology Directorate (S&T) on the identification of possible research and design requirements for rail and transit security.

PORT SECURITY

The conferees agree to provide $210,000,000 as proposed by the Senate instead of $200,000,000 as proposed by the House. The conferees direct G and T to ensure all port security grants are coordinated with the state, local port authority, and the Captain of the Port, so all vested parties are aware of grant determinations and that limited resources are maximized. The conferees further direct G and T to work with IPIS to determine the threat environment at individual ports and with the Coast Guard to evaluate each port's vulnerability. The conferees expect funds to be directed to ports with the highest risk and largest vulnerabilities.

TRUCKING INDUSTRY SECURITY

The conferees agree to provide $12,000,000 for this program, $7,000,000 above the House and Senate levels, to maintain and enhance current training levels, and to work toward the Highway Watch stated goal of enrolling 1,000,000 truckers.

INTERCITY BUS SECURITY

The conferees agree to provide $12,000,000 for Intercity Bus Security grants as proposed by the Senate instead of $10,000,000 as proposed by the House. The conferees agree with language in the Senate report that intercity bus security grants will support the improvement of ticket identification, the installation of driver shields, the enhancement of emergency communications, enhancement of facility security, and further implementation of passenger screening.

RAIL AND TRANSIT SECURITY

The conferees agree to provide $175,000,000, instead of $200,000,000 as proposed by the House and $150,000,000 as proposed by the Senate.

The conferees are concerned the nation's rails are vulnerable, at-risk systems since they are not designed to adequately resist, respond to, manage or rapidly recover from natural or manmade crises. The conferees encourage G and T to coordinate with short line and regional railroads to address the rail system's security and safety challenges for both manmade and natural disasters.

BUFFER ZONE PROTECTION PROGRAM

The Committee recommends $50,000,000 for the Buffer Zone Protection Program (BZPP), as proposed by the House and Senate. The conferees concur with House report language directing G and T to continue to work with IPIS to identify critical infrastructure, assess vulnerabilities at those sites, and direct funding to resolve those vulnerabilities. The conferees do not agree to language contained in the Senate report relating to BZPP grants and the protection of federal facilities. The conferees note that under current guidance, federal facilities are not eligible for BZPP grants.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP)

The conferees agree to provide $50,000,000, instead of $75,000,000 as proposed by the House and $40,000,000 as proposed by the Senate. The conferees direct the Department to award funding through CEDAP only if projects or equipment are consistent with State Homeland Security Strategies and the unmet essential capabilities identified through HSPD–8.

NATIONAL PROGRAMS

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $145,000,000 as proposed by the Senate instead of $135,000,000 as proposed by the House. This funding shall be distributed in a manner consistent with fiscal year 2006. The conferees concur with Senate report language directing G and T to prepare a long-range strategic plan for the National Domestic Preparedness Consortium.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferees agree to provide $33,000,000 instead of $30,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

TECHNICAL ASSISTANCE

The conferees agree to provide $18,000,000 as proposed by the Senate instead of $25,000,000 as proposed by the House.

The conferees support the House language that the Department continues the National Memorial Institute for the Prevention of Terrorism's (MIPT) Lessons Learned Information Sharing and Responder Knowledge Base under the oversight of the Preparedness Directorate. The conferees direct the Department to continue these important public service programs and ensure MIPT's inclusion in any competition.

DEMONSTRATION TRAINING GRANTS

The conferees agree to provide $30,000,000 as proposed by the House instead of $25,000,000 as proposed by the Senate.

CONTINUING TRAINING GRANTS

The conferees agree to provide $31,000,000 instead of $35,000,000 as proposed by the House and $30,000,000 as proposed by the Senate. The conferees recommend full funding for the graduate-level homeland security education programs currently supported by the Department and encourage the Department to leverage these existing programs to meet the growing need for graduate-level education.

CITIZEN CORPS

The conferees agree to provide $15,000,000 instead of $20,000,000 as proposed by the Senate. The House did not provide funds for this program.

RURAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $12,000,000 as proposed by the House. The Senate did not provide funds for this program. The conferees direct G and T to continue the development of specialized and innovative training curricula for rural first responders and ensure the coordination of such efforts with existing Office of Grants and Training partners.

NATIONWIDE PLAN REVIEW PHASE 2 REPORT

The Preparedness Directorate and the Federal Emergency Management Agency are directed to brief the Committees on Appropriations 45 days after the date of enactment of this Act and quarterly thereafter, on the progress made to implement each of the conclusions of the June 16, 2006, Nationwide Plan Review Phase 2 Report. The first briefing shall include a detailed timeline for the completion of implementing each conclusion with major milestones and how the implementation of the conclusions are being coordinated with the guidelines developed by the Department for state and local governments as required in Public Law 109–90. The conferees direct the Department to work with all stakeholders to resolve the findings of the Nationwide Plan Review Phase 2 in accordance with the fiscal year 2007 Senate Report.

EMERGENCY MEDICAL SERVICES

The conferees remain concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community and direct G and T to require in its grant guidance that state and local governments include EMS representatives in planning committees as an equal partner and to facilitate a nationwide EMS needs assessment. In addition, no later than January 23, 2007, the Department shall report to the Committees on Appropriations, the House Committee on Homeland Security, and the Senate Committee on Homeland Security and Governmental Affairs, on the use of Homeland Security Grant Program funds and Firefighter Assistance Grant funds for EMS.

FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $662,000,000 instead of $655,200,000 as proposed by the House and $680,000,000 as proposed by the Senate. Of this amount, $115,000,000 shall be for firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $112,100,000 as proposed by the House and $127,500,000 as proposed by the Senate.

The conferees concur with language in the Senate report directing the Department to favor those grant applications that take a regional approach in equipment purchases and their future deployment.

The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–169, the United States Fire Administration Reauthorization Act of 2003.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The conferees agree to provide $200,000,000 instead of $186,000,000 as proposed by the House and $220,000,000 as proposed by the Senate.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105–276 and as proposed by both the House and Senate.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

The conferees agree to provide $46,849,000 for the United States Fire Administration and Training as proposed by the House and instead of $45,887,000 as proposed by the Senate. Of this amount, $5,500,000 is for the Noble Training Center.

The FIRE Act requires the United States Fire Administration to submit to the Congress by April 28, 2006, an assessment of capability gaps that fire departments currently possess in equipment, training and staffing. While the U.S. Fire Administration has completed the assessment, it has not been submitted to the Congress. The conferees direct the Secretary to submit the report no later than November 1, 2006.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

The conferees agree to provide $547,633,000 for Infrastructure Protection and Information Security (IPIS) instead of $549,140,000 as proposed by the House and $525,056,000 as proposed by the Senate. Funding is allocated as follows:

Management and Administration	$77,000,000
Critical Infrastructure Outreach and Partnership	101,100,000
Critical Infrastructure Identification and Evaluation	69,000,000
National Infrastructure Simulation and Analysis Center	25,000,000
Biosurveillance	8,218,000
Protective Actions	32,043,000
Cyber Security	92,000,000
National Security/Emergency Preparedness Telecommunications	143,272,000
Total	$547,633,000

BUDGET

The conferees support language contained in the House report concerning the format of the IPIS fiscal year 2008 budget justification with budget lines that align with the operational divisions and programs of IPIS as well as language directing the Department to fully display program transfers. The conferees direct the Department to work with the Committees on Appropriations to create an acceptable budget structure.

BUDGET OFFICE

The conferees direct DHS to establish a budget office within IPIS and include sufficient funds for two positions. The budget officer and staff will support the Office of Infrastructure Protection and the Office of Information Security in its efforts to align its budget with its organizational structure, better formulate and execute its resources, and perform other budgetary and financial activities, as necessary.

CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $69,000,000 for Critical Infrastructure Identification and Evaluation instead of $71,631,000 as proposed by the House and $67,815,000 as proposed by the Senate. The conferees support the budget request for the Protective Security Analysis Center.

CHEMICAL SITE SECURITY

The conferees support language in the House report providing $10,000,000 for the Chemical Site Security program and direct the Department to provide the Committees on Appropriations an expenditure plan showing how these resources will be used.

CHEMICAL SECTOR SECURITY RESOURCE NEEDS

The conferees include bill language withholding $10,000,000 until the Committees on Appropriations receive the report required in the statement of the managers (House Report 109–241) accompanying P.L. 109–90 on departmental resources necessary to implement mandatory security requirements for the nation's chemical sector.

CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIP

The conferees agree to provide $101,100,000 for Critical Infrastructure Outreach and Partnership as proposed by the House instead of $104,600,000 as proposed by the Senate. The conferees provide $5,000,000 for the Homeland Secure Information Network, as requested.

CYBER SECURITY AND INFORMATION SHARING INITIATIVE

The conferees agree to provide $16,700,000 to continue the National Cyber Security Division's Cyber Security and Information Sharing Initiative instead of $11,700,000 as proposed by the Senate.

BOMBING PREVENTION

The conferees support language contained in the Senate report on the Office of Bombing Prevention directing the Secretary to develop a national strategy for bombing prevention, including a review of existing federal, state, and local efforts in this effort. The strategy shall be submitted to the Committees on Appropriations no later than January 23, 2007.

BUFFER ZONE PROTECTION PROGRAM

The conferees encourage the Department to continue the chemical and other high risk sector Buffer Zone Protection Program in fiscal year 2007. The conferees note $25,000,000 was allocated in fiscal year 2006 for this program and encourage IPIS to utilize section 503 of this Act to provide appropriate funding in fiscal year 2007, if funding is available.

TRANSPORTATION VULNERABILITY REPORT

The conferees direct the Secretary to submit a report to the Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; and the House Committee on Transportation and Infrastructure no later than March 1, 2007, describing the security vulnerabilities of all rail, transit, and highway bridges and tunnels connecting Northern New Jersey, New York and the five boroughs of New York City.

Federal Emergency Management Agency

The conferees do not incorporate Senate language on an organization review.

ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $282,000,000 instead of $254,499,000 as proposed by the House and $249,499,000 as proposed by the Senate.

WORKFORCE STRATEGY

The conferees remain concerned about the numerous personnel and senior leadership vacancies within the Federal Emergency Management Agency (FEMA). Therefore, the conferees provide an additional $30,000,000 to fund up to 250 permanent disaster staff to replace the existing temporary Stafford Act workforce. The House and Senate reports direct FEMA to develop a comprehensive workforce strategy, which includes hiring goals for vacant positions, retention initiatives, training needs, and resource needs to bolster its workforce. The conferees direct the Administrator to submit to the Committees on Appropriations the strategic human capital plan outlined in Title VI.

The conferees concur with House report language directing the Department to finish the national build-out of the Digital Emergency Alert System with Public Television and to provide for origination of emergency alert messages from authorized local and state officials.

READINESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $244,000,000 instead of $240,199,000 as proposed by the House and $240,000,000 as proposed by the Senate.

URBAN SEARCH AND RESCUE

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $25,000,000 for urban search and rescue instead of $19,817,000 as proposed by the House and $30,000,000 as proposed by Senate.

CATASTROPHIC PLANNING

The conferees concur with House report language requesting an expenditure plan for catastrophic planning but do not withhold funding until such time as this plan is submitted.

HURRICANE KATRINA LESSONS LEARNED

The conferees continue to be concerned about FEMA's ability to incorporate the lessons learned from Hurricane Katrina, in particular in the areas of logistics tracking, incident management capability of the National Response Coordination Center, temporary housing for evacuated residents, and debris removal. The conferees direct FEMA to brief the Committees on Appropriations on the status of continuing improvements and changes to FEMA as a result of lessons learned from Hurricane Katrina.

DISASTER SPENDING PROGRAMS

The conferees are concerned by the findings of the Government Accountability Office, the DHS Inspector General, and others regarding the fraud and abuse associated with victim assistance programs and other disaster spending for the 2005 Gulf Coast hurricanes. The conferees concur with language in the House and Senate reports directing FEMA to correct weaknesses in its disaster assistance claims system. The conferees expect FEMA to include corrective actions for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina Lessons Learned.

The conferees understand FEMA has begun comprehensive modernization of its legacy information management systems into an Enterprise Content Management System and development of such a system is a basic requirement for FEMA to have the capacity to handle expected future caseloads. The conferees encourage FEMA to pursue this improved document reporting and tracking system.

CONTRACTS

FEMA shall provide a quarterly report to the Committees on Appropriations regarding all contracts issued during any disaster. The report shall include a detailed justification for any contract entered into using procedures based upon the unusual and compelling urgency exception to competitive procedures requirements under section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) or section 2304(c)(2) of title 10, United States Code. Justification details by individual contract are to include, at least: the amount of funds, the timeframe, the contractor, a specific reason why the contract could not be competed and how action may be taken to ensure competition of the contract in the future without impeding timely disaster response.

LOGISTICS CENTERS

The conferees direct the Department to brief the Committees on Appropriations on the strategic or business plan that guided the site selection for the logistics centers and locations for prepositioned items and any plans for future movement of assets or actions to extend or add centers or the locations of prepositioned items. The conferees concur with language in the House and Senate reports regarding pre-positioning Meals-Ready-to-Eat.

The conferees direct FEMA to use no less than $5,000,000 to develop a demonstration program with regional and local governments in the formation of innovative public and private logistical partnerships and centers to improve readiness, increase response capacity, and maximize the management and impact of homeland security resources.

The conferees agree the lack of coordinated incident management contributed to failures at all levels of government during Hurricane Katrina. The White House Report: "The Federal Response to Hurricane Katrina: Lessons Learned" states, "DHS should establish and maintain a deployable communications capability to quickly gain and retain situational awareness when responding to catastrophic events". The conferees agree and direct DHS to support deployment of integrated and regional near real-time information and incident tracking systems. The conferees encourage DHS to work with regional state emergency managers to deploy an operationally ready National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

The conferees encourage FEMA to assess how the National Center for Missing and Exploited Children and state family assistance call centers can best contribute to the National Response Plan in helping disaster victims locate family members. The Secretary shall submit a report to the Committees on Appropriations no later than 45 days after enactment of this Act.

NATIONAL INCIDENT MANAGEMENT SYSTEM

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $30,000,000 for the National Incident Management System (NIMS) as proposed by the House. The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

LEVEE RECERTIFICATION

The conferees understand FEMA is in the process of revising its levee certification regulations and guidance. The conferees expect FEMA to utilize the latest findings of the Army Corps of Engineers levee inventory when developing its regulations and guidance. The conferees direct FEMA to provide a status report, no later than 60 days after enactment of this Act, on its processes for levee certification. This status report should include the Army Corps of Engineers levee inventory, the number and location of levees that require certification, the estimated costs of recertifying, the resources required to fulfill the new certification regulations, and a description of the Administration's policy on how these cost requirements should be met.

EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM

The conferees understand the emergency preparedness demonstration program is in the information collection phase. The conferees direct FEMA to expand this pilot demonstration project so information from Hurricane Katrina victims can be added to this study. The conferees recognize this may cause the time of the study to lengthen and direct FEMA to provide an interim report to the Committees on Appropriations by March 31, 2007.

PUBLIC HEALTH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

The conferees provide $33,885,000 for public health programs to fund the National Disaster Medical System (NDMS), as proposed in the budget, and include bill language transferring all the funding, components, and functions of the NDMS to the Department of Health and Human Service, effective January 1, 2007.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $1,500,000,000, instead of $1,676,891,000, as proposed by the House and $1,582,000,000 as proposed by the Senate. The conferees include bill language as proposed by the Senate, permitting up to $13,500,000 for the Office of Inspector General to be drawn from the Disaster Relief Fund for audits and investigations related to natural disasters.

The conferees understand FEMA intends to use the almost 20,000 manufactured housing units that were not used in the 2005 hurricane season for future disasters, and encourage FEMA to do so. The conferees are concerned a portion of the 128,000 units currently occupied will come back into the FEMA stock as previous disaster victims find other living arrangements and units are refurbished in accordance with FEMA policy. The conferees direct FEMA to take an aggressive approach in managing the manufactured housing supply in a cost-effective manner and to brief the Committees on Appropriations regarding the supply on hand, the cost of maintenance and storage, the anticipated use, and strategic storage location of unoccupied manufactured units.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $569,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $198,980,000 as proposed by both the House and Senate for Flood Map Modernization Fund. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating funds, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the Mississippi River Delta region, and the participation of the state in leveraging nonfederal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, transportation planning and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars.

The conferees are concerned the Flood Map Modernization Program is using outdated and inaccurate data when developing its maps. The conferees direct FEMA, in consultation with the Office of Management and Budget, to review technologies by other Federal agencies, such as the National Oceanic and Atmospheric Administration, the National Geospatial Intelligence Agency, and the Department of Defense, use to collect elevation data. The conferees expect a briefing no later than 180 days after enactment of this Act on the technologies available, the resources needed for each technology, and a recommendation of what is most effective for the Flood Map Modernization Program.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $38,230,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $50,000,000 for severe repetitive loss property mitigation expenses under section 1361A of the National Flood Insurance Act of 1968 and a repetitive loss property mitigation pilot program under section 1323 of the National Flood Insurance Act; and up to $90,358,000 for other flood mitigation activities, of which up to $31,000,000 is available for transfer to the National Flood Mitigation Fund. Total funding of $128,588,000 is offset by premium collections. The conferees further agree on limitations of $70,000,000 for operating expenses, $692,999,000 for agents' commissions and taxes, and "such sums" for interest on Treasury borrowings.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $31,000,000 by transfer from the National Flood Insurance Fund as proposed by the House and Senate.

NATIONAL PREDISASTER MITIGATION FUND

The conferees agree to provide $100,000,000 as proposed by the House instead of $149,978,000 as proposed by the Senate. While the conferees are supportive of the Predisaster Mitigation program, they remain concerned by the slow pace of implementation and the obligation of the funds. This program has a large unobligated balance of $53,000,000. The conferees encourage FEMA to implement lessons learned, as described in the report on impediments to timely obligations of the Fund submitted to the Committees on Appropriations in compliance with the Senate Report 109-83 accompanying the fiscal year 2006 Department of Homeland Security Appropriations Act (P.L. 109-90) and direct FEMA to brief the Committees on Appropriations on the progress of the implementation.

EMERGENCY FOOD AND SHELTER

The conferees agree to provide $151,470,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The conferees agree to provide $181,990,000 as proposed by the House instead of $134,990,000 as proposed by the Senate for United States Citizenship and Immigration Services (USCIS), of which $93,500,000 is available until expended. The conference agreement includes $47,000,000 for USCIS business system and information technology transformation, including converting immigration records into digital format, to remain available until expended; $21,100,000 for the Systematic Alien Verification for Entitlements (SAVE) program; and $113,890,000 to expand the Employment Eligibility Verification (EEV) program. Current estimates of fee collections are $1,804,000,000, for total resources available to USCIS of $1,985,990,000. The conferees direct that, of these collections, not to exceed $5,000 shall be for official reception and representation expenses.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

Direct Appropriations:	
Business and IT Transformation	$47,000,000
Systematic Alien Verification for Entitlements (SAVE)	21,100,000
Employment Eligibility Verification (EEV)	113,890,000
Subtotal, Direct Appropriations	181,990,000
Adjudication Services (fee accounts):	
Pay and Benefits	624,600,000
Operating Expenses:	
District Operations ..	385,400,000
Service Center Operations	267,000,000
Asylum, Refugee and International Operations	75,000,000
Records Operations ..	67,000,000
Subtotal, Adjudication Services	1,419,000,000

Information and Customer Services (Immigration Examination Fee Accounts):	
Pay and Benefits	81,000,000
Operating Expenses:	
National Customer Service Center	48,000,000
Information Services	15,000,000
Subtotal, Information and Customer Services	144,000,000
Administration (Immigration Examination Fee Accounts):	
Pay and Benefits	45,000,000
Operating Expenses	196,000,000
Subtotal, Administration	241,000,000
Fraud Prevention and Detection Fee Account ...	31,000,000
H–1B Non-Immigrant Petitioner Fee Account	13,000,000
Total, U.S. Citizenship and Immigration Services	1,985,990,000

BUSINESS AND INFORMATION TECHNOLOGY TRANSFORMATION

The conferees include $47,000,000 to support the business system and information technology transformation process at USCIS. The conferees direct USCIS not to obligate these funds until the Committees on Appropriations have received and approved a strategic transformation plan and expenditure plan that has been reviewed by the Secretary and the Government Accountability Office. The expenditure plan should include a detailed breakout of costs associated with the USCIS business and information technology transformation effort in fiscal year 2007, a report on how the transformation process is aligned with USCIS and Departmental Enterprise Architecture, and details on expected project performance and deliverables.

The Department stated in its request that it would also apply $65,000,000 in fee revenues to this effort, for a total fiscal year 2007 program of $112,000,000. The conferees expect the aforementioned expenditure plan will reflect all resources associated with transformation efforts, and address the impact of availability of such fee revenue.

SECURITY AND INTERNAL AFFAIRS

The conferees are concerned with reports that USCIS may be at risk for security lapses, in part because the Office of Security and Investigations has a significant case backlog, and in part because some USCIS adjudicators may lack necessary security clearances. As a result, critical enforcement actions could be delayed, or adjudicators could find themselves unable to access relevant watchlist databases, increasing the risk that immigration benefits could be granted to ineligible recipients. The conferees direct USCIS to work closely with Immigration and Customs Enforcement and the Office of the Inspector General to address these security vulnerabilities.

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

The conferees agree to provide $211,033,000, instead of $210,507,000 as proposed by the House and $207,634,000 as proposed by the Senate. Included in this amount is $1,042,000 for salaries and expenses at the Counterterrorism Operations Training Facility. The increase from the budget request includes $4,691,000 for training resources proposed to be funded in Customs and Border Protection and $4,444,000 for training resources proposed to be funded in Immigration and Customs Enforcement. The conferees also extend the rehired annuitant authority through December 31, 2007.

Acquisition, Construction, Improvements, and Related Expenses

The conferees agree to provide $64,246,000, instead of $42,246,000 as proposed by the House and $63,246,000 as proposed by the Senate. Included in this amount is $1,000,000 for the construction of the Counterterrorism Operations Training Facility. The increase from the budget request includes $22,000,000 for renovation and construction needs at the Artesia, New Mexico training center.

Science and Technology

Management and Administration

The conferees agree to provide $135,000,000 for management and administration of Science and Technology (S&T) instead of $180,901,000 as proposed by the House and $104,414,000 as proposed by the Senate. This amount includes $7,594,000 for the immediate Office of the Under Secretary and $127,406,000 for other salaries and expenses.

The conferees provide funding under this account for the salary, expenses and benefits of full-time federal and contract employees; S&T's portion of the Working Capital Fund; and for S&T Business Operations.

Funding for other management and administration costs such as laboratory construction and maintenance; individuals and detailees provided through the Intergovernmental Personnel Act; and contract support associated with certain projects within the portfolio will be provided within the "Research, Development, Acquisition and Operations" account. The conferees direct S&T to report to the Committees on Appropriations any assessment of the aforementioned costs exceeding five percent of the total program appropriation, which shall be subject to section 503 of this Act. The conferees include bill language withholding $60,000,000 until the Committees receive and approve an expenditure plan described in the bill.

FIVE-YEAR RESEARCH PLAN AND BUSINESS MODEL

The conferees expect S&T to greatly improve its research strategic plan and its budget documents. These documents should reflect the new vision for S&T as proposed by the Under Secretary. The conferees direct the Under Secretary to develop a five-year research plan, which outlines its priorities, performance measures for each portfolio and resources needed to meet its mission. This plan should also incorporate a business model for its output of services and technologies to its end user. The conferees expect the Under Secretary to brief the Committees on Appropriations no later than 180 days after the date of enactment of this Act.

Research, Development, Acquisition, and Operations

The conferees agree to provide $838,109,000 for research, development, acquisition, and operations instead of $775,370,000 as proposed by the House and $714,041,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Biological Countermeasures	$350,200,000
Chemical Countermeasures	60,000,000
Explosives Countermeasures	86,582,000
Threat and Vulnerability, Testing and Assessment	35,000,000
Conventional Missions	85,622,000
Standards Coordination	22,131,000
Emergent Prototypical Technologies	19,451,000
Critical Infrastructure Protection	35,413,000
University Programs	50,000,000
Counter MANPADS	40,000,000
Safety Act	4,710,000
Cyber Security	20,000,000
Interoperability and Compatibility	27,000,000
Pacific Northwest National Laboratory	2,000,000
Total	838,109,000

BIOLOGICAL COUNTERMEASURES

The conferees agree to provide for Biological Countermeasures instead of $337,200,000 as proposed by the House and $327,200,000 as proposed by the Senate. Of the amount provided, the conferees agree to provide up to $82,800,000 for the BioWatch program. The conferees also agree to provide $23,000,000 for site selection and other pre-construction activities for the National Bio and Agrodefense Facility. The conferees expect the Department to submit a project schedule, including expected completion dates and funding requirements for all phases of the project, to the Committees on Appropriations within 45 days after the date of enactment of this Act.

BIOLOGICAL COUNTERMEASURES STRATEGIC PLAN

The conferees believe DHS should establish an architecture to outline and coordinate federal biological activities, and to chart future federal activities and goals. S&T, in consultation with the DHS Chief Medical Officer, Department of Health and Human Services, United States Department of Agriculture, and other participating federal departments, shall submit a strategic plan to the Committees on Appropriations; the House Homeland Security Committee; the House Science Committee; the Senate Commerce, Science and Transportation Committee; the Senate Energy and Natural Resources Committee; and the Senate Homeland Security and Governmental Affairs Committee outlining the various missions of each agency and how they relate to one another. Further, the strategic plan should specifically describe DHS' roles and responsibilities; its framework for deploying biological sensors, including how detector alerts will be managed; its plans to enhance advanced animal vaccine research and other agro-terrorism defense efforts; its overall fulfillment of the Department's obligations under HSPD–10; and how its other activities relate to and will be coordinated with similar efforts by other government agencies.

URBAN DISPERSION

The conferees support the House report language on Urban Dispersion recommending continued funding of this program.

EXPLOSIVES COUNTERMEASURES

The conferees agree to provide $86,582,000 for explosive countermeasures, instead of $76,582,000 as proposed by the House and a total of $86,582,000 as proposed by the Senate, of which $81,582,000 was included in the Transportation Security Administration account. The conferees include $13,500,000 for Manhattan II as proposed by the House.

The conferees are concerned about the recent discoveries by British officials of terrorist efforts to bring explosives aboard aircraft. S&T has efforts underway to find and develop practical technologies for detecting explosive substances regardless of their shape or form. The conferees direct S&T to aggressively pursue its efforts to develop such technologies and strengthen any efforts to find explosives.

TRANSPORTATION SECURITY LABORATORY (TSL)

The conferees agree to keep the TSL within S&T. The conferees direct S&T to work with Transportation Security Administration (TSA) to determine appropriate detection research and technology requirements to sustain current and advance future aviation security capabilities. S&T should clearly reflect resource needs for the TSL in the fiscal year 2008 budget request to achieve these requirements. The conferees further direct S&T to work expeditiously with TSA to develop a research execution plan that meets the needs of TSA within the amounts provided.

PACIFIC NORTHWEST NATIONAL LABORATORY

The conferees include $2,000,000 for construction of radiological laboratories at the Pacific Northwest National Laboratory and direct the Department to fully fund its obligations and characterize its efforts at this site in the fiscal year 2008 budget submission.

CONVENTIONAL MISSIONS

The conferees agree to provide $85,622,000 for Conventional Missions, as proposed by the House instead of $80,000,000 as proposed by the Senate. The conferees provide funding for the Regional Technology Integration initiative at the fiscal year 2007 request level. The conferees support Senate report language encouraging S&T to continue funding for technology which enables users to collect and analyze surveillance data to detect suspicious activities in the vicinity of critical ports and infrastructure. The conferees also support Senate report language continuing the Regional Research Pilot program at the fiscal year 2006 level.

NEW TECHNOLOGIES

The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such technologies as singlet oxygen generating chemical and enzymatic systems, airborne rapid imaging, privacy Real ID technology, anti-microbial coating free masks, lightweight miniature cooling systems for protective gear, body armor designed to reduce back problems, security of open source systems, nanotechnology based flow cytometer, doorless maritime cargo container security technology, deployment research of water and air system biosensors, photonic and microsystem technologies for high threat problem-solving and coordinate standards for intelligent video software.

EMERGENT AND PROTOTYPICAL TECHNOLOGIES

The conferees provide $19,451,000 for Emergent and Prototypical Technologies as proposed by the House instead of $12,500,000 as proposed by the Senate. The conferees support House report language supporting the budget request for the Public Safety and Security Institute for Technology centralized clearinghouse. The conferees direct DHS to work with the operators of the relevant databases, websites and portals within DHS, including the Responder Knowledge Base, to integrate this information into the centralized clearinghouse.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $35,413,000 for Critical Infrastructure Protection research, including $20,000,000 to support existing work in research and development and application of technology for community-based critical infrastructure protection efforts. The conferees provide up to $5,000,000 for modeling and simulation.

UNIVERSITY PROGRAMS

The University program has the potential to facilitate cutting-edge research on homeland security issues. The conferees encourage S&T to solicit a wide variety of research projects from the plethora of universities engaged in homeland security research that focus on the greatest risks facing the nation. The conferees direct the Under Secretary of Science and Technology to brief the Committees on Appropriations, no later than 60 days after the date of the enactment of this Act, on the University-Based Centers of Excellence Program goals for fiscal year 2007 and outcomes projected for each center for the next three years.

COUNTER-MAN PORTABLE AIR DEFENSE SYSTEMS

The conferees provide $35,000,000 as proposed by the Senate for a comprehensive passenger aircraft suitability assessment. The conferees urge S&T to include the passenger airline industry in the evaluation phase of this assessment. The conferees direct the Under Secretary to brief the Committees on Appropriations, no later than 60 days after the enactment of this Act, on the expenditure plan for this suitability assessment.

PROJECT 25 STANDARDS

Federal funding for first responder communication equipment should be compliant with Project 25 standards, where necessary. The Committee directs the Under Secretary of Science and Technology, in conjunction with the Director of the National Institute of Standards and Technology, to establish a program to assess the compliance of first responder communication equipment with Project 25 standards.

TUNNEL DETECTION

The conferees support the language in Senate Report 109–273 requiring a briefing by the Under Secretary on tunnel detection technologies being researched and developed to detect and prevent illegal entry into the United States. The briefing should also provide an assessment of the applicability of using existing military and other tunnel detection technologies along our borders.

INTERNET PROTOCOL INTEROPERABILITY

The conferees direct the Office of Interoperability and Compatibility to amend SAFECOM guidelines to clarify that, for purposes of providing near-term interoperability, funding requests to improve interoperability need not be limited to the purchase of new radios, but can also fund the purchase of Internet-Protocol (IP) based interoperability solutions that connect existing and future radios over an IP interoperability network. Likewise, funding requests for transmission equipment to construct mutual aid channels and upgrade such channels with IP connectivity will also be considered, so long as P–25 and other digital radios utilizing the public safety portions of the 700 MHz band can operate over an IP interoperability network.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $30,468,000 for management and administration as proposed by both the House and the Senate.

ARCHITECTURE INVESTMENTS AND BUDGETING

The conferees direct the Domestic Nuclear Detection Office (DNDO) to provide a report to the Committees on Appropriations, no later than November 1, 2006, on the budget crosscut of federal agencies involved in domestic nuclear detection. The budget crosscut should include investments of all agencies, how these investments will meet the goals of the global strategy, the performance measures associated with these investments, identification of investment gaps, and what budgetary mechanisms DNDO will use to ensure it requests appropriate resources.

RADIOACTIVE SOURCES

The conferees are concerned the risks and vulnerabilities of radioactive sources may not have not been adequately characterized and addressed. DNDO should work with the Nuclear Regulatory Commission to determine the risks associated with, and strengthen the regulation and control of, radioactive sources as necessary.

RESEARCH, DEVELOPMENT, AND OPERATIONS

The conferees agree to provide $272,500,000 for Research, Development, and Operations. Within the total, sufficient funds are provided for the Cargo Advanced Automated Radiography Systems as well as the Radiological and Nuclear Forensic and Attributions programs. The total also includes no more than $9,000,000 for the new university research program proposed in the budget. The conferees make $15,000,000 unavailable for obligation until the Secretary provides notification it has entered into a Memorandum of Understanding with each federal agency and organization participating in its global architecture, which describe the role, responsibilities, and resource commitments of each.

SYSTEMS ACQUISITION

ADVANCED SPECTROSCOPIC PORTAL MONITORS

The conferees are concerned preliminary testing of Advanced Spectroscopic Portal (ASP) monitors indicates the effectiveness of the new technology may fall well short of levels anticipated in DNDO's cost-benefit analysis. To date, the conferees have not received validated quantitative evidence that ASP monitors perform more effectively in an operational environment compared to current generation portal monitors. Therefore, the conferees include bill language prohibiting DNDO from full scale procurement of ASP monitors until the Secretary has certified and reports to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision. The conferees recognize the potential benefit of ASP technology and encourage continued testing and piloting of these systems.

CONTAINER SECURITY

As described under the Office of the Secretary and Executive Management, the conferees strongly support port, container, and cargo security. As part of the Department's strategic plan, U.S. Customs and Border Protection and DNDO are directed to achieve 100 percent radiation examination of containers entering the United States through the busiest 22 seaports of entry by December 31, 2007.

TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision proposed by the House and Senate that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision proposed by the House and Senate that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue a provision proposed by the House and Senate that provides authority to reprogram appropriations within an account and to transfer not to exceed 5 percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this report. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act. 2007.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to the Committees should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) levels for the current fiscal year and to the levels requested in the President's budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency or situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

Section 504. The conferees continue a provision proposed by the Senate that none of the funds appropriated or otherwise available to the Department may be used to make payment to the Department's Working Capital Fund, except for activities and amounts allowed in the President's fiscal year 2007 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing. The House bill contained no similar provision.

Section 505. The conferees continue a provision proposed by the House and Senate that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2007 from appropriations made for salaries and expenses shall remain available through fiscal year 2008 subject to reprogramming guidelines.

Section 506. The conferees continue a provision proposed by the House and Senate deeming that funds for intelligence activities are specifically authorized during fiscal year 2007 until the enactment of an Act authorizing intelligence activities for fiscal year 2007.

Section 507. The conferees continue a provision proposed by the House and Senate directing the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue and modify a provision proposed by the House and Senate requiring notification of the Committees on Appropriations three business days before any grant allocation, discretionary grant award, discretionary contract award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000. Additionally, the Department is required to brief the Committees on Appropriations five full business days prior to announcing publicly the intention to make a State Homeland Security Program; Law Enforcement Terrorism Prevention Program; or High-Threat, High-Density Urban Areas grant award.

Section 509. The conferees continue a provision proposed by the House and Senate that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the Committees on Appropriations.

Section 510. The conferees continue a provision proposed by the House and Senate that FLETC shall schedule basic and advanced law enforcement training at all four training facilities under its control to ensure that these training centers are operated at the highest capacity.

Section 511. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been approved.

Section 512. The conferees continue a provision proposed by the House and Senate that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees continue a provision proposed by the House and Senate related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to DHS. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management, Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate for Preparedness. The conferees direct this authority be used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 514. The conferees continue and modify a provision proposed by the House and Senate to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108–334 have been met and certified by the Secretary of DHS and reported by the Government Accountability Office (GAO). The conferees direct the GAO to continue to evaluate DHS and Transportation Security Administration (TSA) actions to meet the ten conditions listed in section 522(a) of Public Law 108–334 and to report to the Committees on Appropriations, either incrementally as the Department meets additional conditions, or when all conditions have been met by the Department. The provision also prohibits the obligation of funds to develop or test algorithms assigning risk to passengers not on government watch lists and for a commercial database that is obtained from or remains under the control of a non-federal entity, excluding Passenger Name Record data obtained from air carriers. Within 90 days after enactment of this Act, TSA shall submit a detailed plan on achieving key milestones, as well as certification of this program.

Section 515. The conferees continue a provision proposed by the House and Senate prohibiting funds to be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 516. The conferees continue a provision proposed by the House and Senate regarding competitive sourcing.

Section 517. The conferees continue and modify a provision proposed by the House and Senate regarding the reimbursement to the Secret Service for the cost of protective services.

Section 518. The conferees continue a provision proposed by the House and Senate directing the Secretary of Homeland Security, in consultation with industry stakeholders, to develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

Section 519. The conferees continue and modify a provision proposed by the House and Senate directing TSA to utilize existing checked baggage explosive detection equipment and screeners to screen cargo on passenger aircraft when practicable and requiring TSA to report air cargo inspection statistics to the Committees on Appropriations within 45 days of the end of each quarter of the fiscal year.

Section 520. The conferees include a new provision regarding the designation of funds.

Section 521. The conferees include and modify a provision proposed by the House rescinding $78,693,508 for the Coast Guard's service life extension program of the 110-foot Island Class patrol boat and accelerated design and production of the fast response cutter and appropriating the same amount for acquisition of replacement patrol boats and service life extensions. The Senate bill contained a similar provision in Title II.

Section 522. The conferees continue a provision proposed by the House and Senate that directs that only the Privacy Officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct that changes be made to, delay or prohibit the transmission of a Privacy Officer report to Congress.

Section 523. The conferees continue a provision proposed by the House and Senate requiring only those employees who are trained in contract management to perform contract management.

Section 524. The conferees continue and modify a provision proposed by the House and Senate directing that any funds appropriated or transferred to TSA "Aviation Security", "Administration" and "Transportation Security Support" in fiscal years 2004, 2005, and 2006 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage and checkpoint screening systems subject to notification.

Section 525. The conferees continue and modify a provision proposed by the House and Senate requiring DHS to revise, within 30 days after enactment, its management directive on Sensitive Security Information (SSI) to among other things, provide for the release of certain SSI information that is three years old unless the Secretary makes a written determination that identifies a rational reason why the information must remain SSI. The conferees expect this rational reason written determination to identify and describe the specific risk to the national transportation system. The provision also contains a mechanism for SSI to be used in civil judicial proceedings if the judge determines that is needed. The conferees expect that a party will be able to demonstrate undue hardship to the judge if equivalent information is not available in one month's time. The conferees expect the criminal history records check and terrorist threat assessment on the persons seeking access to SSI in civil proceedings to be identical to that conducted for aviation workers. The conferees further expect any DHS demonstration of risk or harm to the nation in a judicial proceeding include a description of the specific risk to the national transportation system. This is consistent with demonstrations made for classified information.

Section 526. The conferees continue a provision proposed by the House and Senate extending the authorization of the Working Capital Fund in fiscal year 2007.

Section 527. The conferees continue a provision proposed by the House and Senate rescinding $16,000,000 from the unobligated balances from prior year appropriations made available for the "Counterterrorism Fund".

Section 528. The conferees continue and modify a provision proposed by the House requiring monthly Disaster Relief Fund financial reports. These changes are in part based on recommendations made by the Government Accountability Office in report GAO-06-834. The Senate bill contained no similar provision.

Section 529. The conferees continue and modify a provision proposed by the Senate rescinding $125,000,000 from unexpended balances of the Science and Technology Directorate, as proposed by the Senate and modified by the conferees. The House bill contained no similar provision.

Section 530. The conferees continue a provision proposed by the Senate regarding the enforcement of section 4025(1) of Public Law 108-458. The House bill contained no similar provision.

Section 531. The conferees continue and modify a provision proposed by the House and Senate requiring the Chief Financial Officer to submit monthly budget execution and staffing reports within 45 days after the close of each month.

Section 532. The conferees continue and modify a provision proposed by the House relating to undercover investigative operations authority of the Secret Service for fiscal year 2007. The Senate bill contained no similar provision.

Section 533. The conferees continue a provision proposed by the House directing the Director of the Domestic Nuclear Detection Office to operate extramural and intramural research, development, demonstration, testing, and evaluation programs so as to distribute funding through grants, cooperative agreements, other transactions and contracts. The Senate bill contained no similar provision.

Section 534. The conferees continue a provision proposed by the Senate regarding the Hancock County Port and Harbor Commission of Mississippi. The House bill contained no similar provision.

Section 535. The conferees continue and modify a provision proposed by the House and Senate regarding the importation of prescription drugs.

Section 536. The conferees continue a provision proposed by the Senate directing the Department of Homeland Security to account for the needs of household pets and service animals in approving standards for state and local emergency preparedness operational plans under the Stafford Act. The House bill contained no similar provision.

Section 537. The conferees continue a provision proposed by the House and Senate rescinding $4,776,000 of unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security" and "Headquarters Administration".

Section 538. The conferees continue a provision proposed by the Senate rescinding $61,936,000 from the unobligated balances of prior year appropriations for TSA "Aviation Security". The House bill contained no similar provision.

Section 539. The conferees continue a provision proposed by the Senate rescinding $20,000,000 from unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account identified in House Report 109-241 for the development of the Offshore Patrol Cutter. The House bill contained no similar provision.

Section 540. The conferees include a new provision rescinding $4,100,000 from the Coast Guard's Automatic Identification System. The Senate bill contained a similar proposal. The House bill contained no similar proposal.

Section 541. The conferees continue a provision proposed by the House permitting the Army Corps of Engineers to use specific Meadowview Acres Addition lots in Augusta, Kansas, for building portions of the flood-control levee. The conferees expect FEMA to cooperate with and assist the Army Corps of Engineers with regard to this section. The Senate bill contained no similar provision.

Section 542. The conferees continue a provision proposed by the Senate permitting the City of Cuero, Texas, to use grant funds awarded under title I, chapter 6, Public Law 106-31 until September 30, 2007. The House bill contained a similar provision.

Section 543. The conferees continue a provision proposed by the House prohibiting the use of funds to contravene the federal buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005. The Senate bill contained no similar provision.

Section 544. The conferees continue a provision proposed by the Senate classifying the instructor staff at the Federal Law Enforcement Training Center as inherently governmental for purposes of the Federal Activities Inventory Reform Act of 1998. The House bill contained no similar provision.

Section 545. The conferees continue a provision proposed by the House prohibiting the use of funds to contravene section 303 of the Energy Policy Act. The Senate bill contained no similar provision.

Section 546. The conferees continue and modify a provision proposed by the Senate regarding the Western Hemisphere Travel Initiative. The House bill contained no similar provision.

Section 547. The conferees continue a provision proposed by the House prohibiting the use of funds to award a contract for major disaster or emergency assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, except in accordance with section 307 of that Act. The Senate bill contained no similar provision.

Section 548. The conferees continue a provision proposed by the House prohibiting funds to be used to reimburse L.B. & B. Associates, Inc. or Olgoonik Logistics LLC for attorney fees related to litigation against Local 30 of the International Union of Operating Engineers. The Senate bill contained no similar provision.

Section 549. The conferees continue and modify a provision proposed by the Senate regarding the Transportation Security Administration's Acquisition Management System. The House bill contained no similar provision.

Section 550. The conferees continue and modify a provision proposed by the Senate to require the Secretary to issue interim risk-based security regulations on high risk chemical facilities. This three-year authorization gives the Secretary and facilities flexibility to achieve the appropriate risk reduction, but also provides the Secretary the means to inspect and sanction non-compliant facilities, including authority to shut down non-compliant facilities until they comply. The provision protects sensitive information, but allows it to be shared with appropriate authorities. The House bill contained no similar provision.

Section 551. The conferees continue a provision proposed by the Senate regarding unlawful border tunnels. The House bill contained no similar provision.

Section 552. The conferees continue and modify a provision proposed by the Senate prohibiting the Secretary of Homeland Security from altering or reducing the Coast Guard's civil engineering program until Congress receives and approves any planned changes. The House bill contained no similar provision.

Section 553. The conferees continue a provision proposed by the Senate prohibiting the use of funds in contravention to Executive Order 13149, relating to fleet and transportation efficiency. The House bill contained no similar provision.

Section 554. The conferees continue a provision proposed by the Senate requiring each air carrier to submit a plan to the Transportation Security Administration on how it will participate in the voluntary provision of the emergency services program. The House bill contained no similar provision.

Section 555. The conferees continue a provision proposed by the Senate requiring the Director of the Federal Emergency Management Agency, in conjunction with the Director of the National Institute of Standards and Technology, to report on federal earthquake response plans for high-risk earthquake regions. The House bill contained no similar provision.

Section 556. The conferees continue a provision proposed by the Senate directing the Secretary of Homeland Security to revise procedures for clearing individuals who have been mistakenly placed on a terrorist database list. The House bill contained no similar provision.

Section 557. The conferees continue and modify a provision proposed by the Senate prohibiting the confiscation of firearms during certain national emergencies. The House bill contained no similar provision.

Section 558. The conferees continue and modify a provision proposed by the Senate to pilot an integrated scanning system at foreign seaports. The House bill contained no similar provision.

Section 559. The conferees include a new provision rescinding $2,500,000 from the United States Secret Service National Special Security Event Fund and re-appropriating the same amount to the same account available until expended.

Section 560. The conferees include a new provision requiring the transfer authority contained in section 505 of the Homeland Security Act, as amended by Title VI of this Act, concerning the reorganization of FEMA be subject to 31 U.S.C. 1531 (a)(2).

PROVISIONS NOT ADOPTED

The conference agreement deletes section 516 of the House bill maintaining the United States Secret Service as a distinct entity within the Department of Homeland Security. The provision is already enacted into law (section 607 of Public Law 109–177).

The conference agreement deletes section 520 of the House bill and Section 520 of the Senate bill relating to the transportation worker identification credential.

The conference agreement deletes section 534 of the Senate bill transferring the Transportation Security Laboratory to the Transportation Security Administration.

The conference agreement deletes section 536 of the House bill prohibiting the Transportation Security Administration from employing nonscreener personnel in certain situations.

The conference agreement deletes section 536 of the Senate bill prohibiting the use of funds for the Office of the Federal Coordinator for Gulf Coast Rebuilding until certain conditions are met. This issue is addressed in the statement of managers under Departmental Management and Operations.

The conference agreement deletes section 541 of the House bill reducing funds for the Office of the Secretary and Executive Management and adding funds to Fire Fighter Assistance Grants.

The conference agreement deletes section 541 of the Senate bill requiring a report on agriculture inspections. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 542 of the House bill adding funds to the Secret Service and Federal Emergency Management Agency.

The conference agreement deletes section 542 of the Senate bill requiring the conference report accompanying H.R. 5441 to contain any limitation, directive, or earmarking agreed upon by both the House and Senate.

The conference agreement deletes section 543 of the House bill relating to a limitation on funds to be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The conference agreement deletes section 543 of the Senate bill requiring reports submitted to the Committees on Appropriations and the annual budget justifications to be posted on the Department's website with 48 hours. The conferees note the Director of the Office of Management and Budget's decision to post budget justifications and related material on a public web site within two weeks of submitting the material to Congress (OMB circular A–11).

The conference agreement deletes section 544 of the House bill prohibiting the use of funds to provide information to foreign governments about activities of organized volunteer civilian action groups, unless required by international treaty.

The conference agreement deletes section 544 of the Senate bill providing funds to the Chief Financial Officer from the Office of Domestic Preparedness. This requirement is addressed in the statement of managers under Office of the Chief Financial Officer.

The conference agreement deletes section 545 of the Senate bill prohibiting the use of funds for the Long Range Aids to Navigation stations, except for certain geographic areas. This requirement is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 546 of the Senate bill regarding statutory limitations of the number of TSA employees.

The conference agreement deletes section 547 of the Senate bill requiring a report on actions to achieve interoperable communications. This issue is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 549 of the Senate bill relating to datamining. This requirement is addressed in the statement of managers under Office of the Secretary and Executive Management.

The conference agreement deletes section 551 of the Senate bill requiring the Department of Homeland Security to conduct a pilot program at the Northern Border air wing bases to test unmanned aerial vehicles. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 552 of the Senate bill requiring Immigration and Customs Enforcement to report on the costs and need of establishing a suboffice in Greeley, Colorado. This requirement is addressed in the statement of managers under Immigration and Customs Enforcement.

The conference agreement deletes section 553 of the Senate bill requiring a report on locating existing Louisiana facilities and assets of the Coast Guard in the Federal City Project of New Orleans, Louisiana. This requirement is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 554 of the Senate bill that authorizes the Coast Guard to buy law enforcement patrol boats. This requirement is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 555 of the Senate bill regarding the screening of municipal solid waste.

The conference agreement deletes section 557 of the Senate bill requiring the Secretary of Homeland Security to inspect and levy a fee to inspect international shipments of municipal solid waste.

The conference agreement deletes section 558 of the Senate bill requiring the evaluation of interoperable communications for the 2010 Olympics. This requirement is addressed in the statement of managers under Office of the Secretary and Executive Management.

The conference agreement deletes section 560 of the Senate bill reducing the amounts made available under this Act for travel, transportation, printing, and reproduction.

The conference agreement deletes section 565 of the Senate bill allowing the Coast Guard to use funds from its Operating Expenses for the National Capital Region Air Defense mission. This issue is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 566 of the Senate bill reflecting the sense of the Senate on combating methamphetamine. This is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 567 of the Senate bill requiring the Secretary of Homeland Security to report on the compliance with the recommendations of the Inspector General relating to the National Asset Database. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 568 of the Senate bill requiring the Inspector General to review any Secure Border Initiative contracts awarded over $20,000,000. This requirement is addressed in the statement of managers under Office of Inspector General.

The conference agreement deletes section 569 of the Senate bill permitting funds from Title VI to be used for the establishment of the Northern Border air wing site in Michigan. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 572 of the Senate bill to expand the National Infrastructure Simulation and Analysis Center. This issue is addressed in Title VI of this Act.

The conference agreement deletes section 573 of the Senate bill requiring the Secretary of Homeland Security to consult with the National Council on Radiation Protection and Measurement and other organizations in preparing guidance with respect to radiological terrorism, threats, and events. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 574 of the Senate bill requiring the Comptroller General to report on the effect on public safety and screening operations from modifications to the list of items prohibited from being carried on commercial aircraft. This requirement is addressed in the statement of managers under Transportation Security Administration.

TITLE VI—BORDER SECURITY INFRASTRUCTURE ENHANCEMENTS

The conference agreement does not include Title VI of the Senate bill, "Border Security Infrastructure Enhancements." The House bill contained no similar matter. These matters are addressed in Titles I–IV of this Conference Report and the accompanying statement of managers.

The conference agreement includes new National Emergency Management authority in Title VI of this Conference Report. The Senate bill included "United States Emergency Management Authority" in Title VIII. The House bill contained no similar matter.

TITLE VII—SUPPLEMENTAL APPROPRIATIONS FOR PORT SECURITY ENHANCEMENTS

The conference agreement does not include Title VII of the Senate bill, "Supplemental Appropriations for Port Security Enhancements." The House bill contained no similar matter. These matters are addressed in Titles I–IV of this Conference Report and the accompanying statement of managers.

TITLE VIII—UNITED STATES EMERGENCY MANAGEMENT AUTHORITY

The conference agreement does not include Title VIII of the Senate bill, "United States Emergency Management Authority." The House bill contained no similar matter. The conferees include new National Emergency Management authority in Title VI of this Conference Report.

TITLE IX—BORDER ENFORCEMENT RELIEF ACT

The conference agreement does not include Title IX of the Senate bill, "Border Enforcement Relief Act." The House bill contained no similar matter.

The conference agreement contains no appropriations as defined in House Resolution 1000 that were not otherwise addressed in the House or Senate bills or reports.

CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in this bill are contained in the table listed below.

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS		
Departmental Operations		
Office of the Secretary and Executive Management:		
Immediate Office of the Secretary	3,148	2,540
Immediate Office of the Deputy Secretary	1,648	1,185
Chief of Staff	2,901	2,560
Office of Counternarcotics Enforcement	2,878	2,360
Executive Secretary	5,001	4,450
Office of Policy	31,093	29,305
Secure Border Coordination Office	---	4,500
Office of Public Affairs	6,808	6,000
Office of Legislative and Intergovernmental Affairs	6,479	5,449
Office of General Counsel	14,065	12,759
Office of Civil Rights and Liberties	13,125	13,000
Citizenship and Immigration Services Ombudsman	5,927	5,927
Privacy Officer	4,435	4,435
Subtotal, Office of the Secretary and Executive Management	97,508	94,470
Office of Screening Coordination and Operations	3,960	---
Office of the Under Secretary for Management:		
Under Secretary for Management	2,012	1,870
Office of Security	58,514	52,640
Business Transformation Office	2,017	---
Office of the Chief Procurement Officer	16,895	16,895
Office of the Chief Human Capital Officer:		
Salaries and expenses	9,827	8,811
MAX - HR System	71,449	25,000
Subtotal, Office of the Chief Human Capital Officer	81,276	33,811
Office of the Chief Administrative Officer:		
Salaries and expenses	40,218	40,218
Nebraska Avenue Complex (NAC-DHS Headquarters)	8,206	8,206
Subtotal, Office of the Chief Administrative Officer	48,424	48,424
Subtotal, Office of the Under Secretary for Management	209,138	153,640
Office of the Chief Financial Officer:		
Salaries and expenses	26,018	26,000
Emerge2	18,362	---
Subtotal, Office of the Chief Financial Officer	44,380	26,000
Office of the Chief Information Officer:		
Salaries and expenses	79,521	79,521
Information technology services	61,013	61,013
Security activities	64,139	89,387
Wireless program	86,438	86,438
Homeland Secure Data Network (HSDN)	32,654	32,654
Subtotal, Office of the Chief Information Officer	323,765	349,013
Analysis and Operations	298,663	299,663

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Total, Departmental Operations	977,414	922,786
Office of the Federal Coordinator for Gulf Coast Rebuilding	---	3,000
Office of Inspector General		
Operating expenses	96,185	85,185
Total, title I, Departmental Management and Operations	1,073,599	1,010,971
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS		
U.S. Visitor and Immigrant Status Indicator Technology	399,494	362,494
Customs and Border Protection		
Salaries and expenses:		
Headquarters, Management, and Administration:		
Management and administration, border security inspections and trade facilitation	663,943	658,943
Management and administration, border security and control between ports of entry	594,446	589,446
Subtotal, Headquarters, Mgt. & Admin	1,258,389	1,248,389
Border security inspections and trade facilitation:		
Inspections, trade, and travel facilitation at ports of entry	1,282,102	1,326,665
Harbor maintenance fee collection (trust fund)	3,026	3,026
Container security initiative	139,312	139,312
Other international programs	8,701	8,701
Customs-Trade Partnership Against Terrorism/ Free and Secure Trade (FAST) NEXUS/SENTRI	75,909	---
Customs-Trade Partnership Against Terrorism (C-TPAT)	---	54,730
Free and Secure Trade (FAST) NEXUS/SENTRI	---	11,243
Inspection and detection technology investments	94,317	141,317
Emergency appropriations	---	100,000
Subtotal	94,317	241,317
Automated targeting systems	27,298	27,298
National Targeting Center	23,635	23,635
Other technology investments, including information technology	1,027	---
Training	24,564	24,564
Subtotal, Border security inspections and trade facilitation	1,679,891	1,860,491
Border security and control between ports of entry:		
Border security and control	2,243,619	2,239,586
Border technology	131,559	---
Training	45,688	37,924
Subtotal, Border security and control between ports of entry	2,420,866	2,277,510

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Air and Marine Personnel Compensation and Benefits	159,876	175,796
Subtotal, Salaries and expenses	5,519,022	5,562,186
Appropriations	(5,515,996)	(5,459,160)
Emergency appropriations	---	(100,000)
Trust fund	(3,026)	(3,026)
Automation modernization:		
Automated commercial environment/International Trade Data System (ITDS)	318,490	316,800
Automated commercial system and legacy IT costs	142,717	134,640
Subtotal, Automation modernization	461,207	451,440
Border security fencing, infrastructure, and technology (BSFIT)	---	28,365
Emergency appropriations	---	1,159,200
Subtotal, BSFIT	---	1,187,565
Air and Marine Interdiction, Operations, Maintenance, and Procurement:		
Operations and maintenance	265,966	236,454
Unmanned aerial vehicles	10,353	---
Procurement	61,380	133,733
Emergency appropriations	---	232,000
Subtotal	61,380	365,733
Subtotal, Air and marine interdiction, operations, maintenance, and procurement	337,699	602,187
Appropriations	(337,699)	(370,187)
Emergency appropriations	---	(232,000)
Construction:		
Construction	255,954	122,978
Construction (Border Patrol) (emergency)	---	110,000
Subtotal, Construction	255,954	232,978
Total, Direct appropriations for Customs and and Border Protection	6,573,882	8,036,356
Fee accounts:		
Immigration inspection user fee	(529,300)	(529,300)
Immigration enforcement fines	(1,724)	(1,724)
Land border inspection fee	(28,071)	(28,071)
COBRA passenger inspection fee	(387,804)	(387,804)
APHIS inspection fee	(214,287)	(214,287)
Puerto Rico collections	(97,815)	(97,815)
Small airport user fees	(6,230)	(6,230)
Subtotal, fee accounts	(1,265,231)	(1,265,231)
Total, Customs and Border Protection	(7,839,113)	(9,301,587)
Appropriations	(6,573,882)	(6,435,156)
Emergency apropriations	---	(1,601,200)
(Fee accounts)	(1,265,231)	(1,265,231)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Immigration and Customs Enforcement		
Salaries and expenses:		
Headquarters Management and Administration (non-Detention and Removal Operations):		
Personnel compensation and benefits, service and other costs	---	140,000
Headquarters managed IT investment	---	134,013
Subtotal, Headquarters management and administration	---	274,013
Legal proceedings	206,511	187,353
Investigations:		
Domestic	1,456,650	1,285,229
International	104,744	104,681
Subtotal, Investigations	1,561,394	1,389,910
Intelligence:		
Intelligence	57,932	51,379
Subtotal, Intelligence	57,932	51,379
Detention and removal operations:		
Custody Operations	1,432,702	1,381,767
Fugitive operations	173,784	183,200
Criminal Alien program	110,250	137,494
Alternatives to detention	42,702	43,600
Transportation and removal program	317,016	238,284
Subtotal, Detention and removal operations	2,076,454	1,984,345
Subtotal, Salaries and expenses	3,902,291	3,887,000
Federal protective service:		
Basic security	123,310	---
Building specific security (including capital equipment replacement/acquisition)	392,701	---
Subtotal, Federal Protective Service	516,011	---
Offsetting fee collections	-516,011	---
Automation modernization:		
ATLAS	---	15,000
Construction	26,281	26,281
Emergency appropriations	---	30,000
Subtotal, Construction	26,281	56,281
Total direct appropriations for Immigration and Customs Enforcement	3,928,572	3,958,281
Fee accounts:		
Federal Protective Service	---	(516,011)
Immigration inspection user fee	(108,000)	(108,000)
Breached bond/detention fund	(90,000)	(90,000)
Student exchange and visitor fee	(54,349)	(54,349)
Subtotal, fee accounts	(252,349)	(768,360)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Immigration and Customs Enforcement (gross)	(4,696,932)	(4,726,641)
Offsetting fee collections	(-516,011)	---
Total, Immigration and Customs Enforcement	(4,180,921)	(4,726,641)
Appropriations	(3,928,572)	(3,928,281)
Emergency appropriations	---	(30,000)
Fee accounts	(252,349)	(768,360)
Transportation Security Administration		
Aviation security:		
Screening operations:		
Screener workforce:		
Privatized screening	148,600	148,600
Passenger screener - personnel, compensation, and benefits	1,556,226	---
Baggage screener - personnel, compensation, and benefits	913,974	---
Passenger & Baggage screener - personnel, compensation, and benefits	---	2,470,200
Subtotal, Sceener workforce	2,618,800	2,618,800
Screening training and other:		
Passenger screeners, other	23,352	---
Baggage screeners, other	133,114	---
Screener training	88,000	---
Subtotal, Screening training and other	244,466	---
Screening Training and Other	---	244,466
Human resource services	207,234	207,234
Checkpoint support	173,366	173,366
EDS/ETD Systems:		
EDS Purchase	91,000	141,400
EDS Installation	94,000	138,000
EDS/ETD Maintenance	234,000	222,000
Operation integration	23,000	23,000
Subtotal, EDS/ETD Systems	442,000	524,400
Subtotal, Screening operations	3,685,866	3,768,266
Aviation direction and enforcement:		
Aviation regulation and other enforcement	217,516	217,516
Airport management, IT, and support	666,032	666,032
FFDO and flight crew training	30,470	25,000
Air cargo	55,000	55,000
Subtotal, Aviation direction and enforcement	969,018	963,548
Aviation security capital fund	(250,000)	(250,000)
Subtotal, Aviation security (gross)	4,654,884	4,731,814
Offsetting fee collections (non-mandatory)	-3,650,000	-2,420,000
Aviation security capital fund	(250,000)	(250,000)
Total, Aviation security (net)	1,004,884	2,311,814

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Surface transportation security:		
Staffing and operations	24,000	24,000
Rail security inspectors and canines	13,200	13,200
Subtotal, Surface transportation security	37,200	37,200
Transportation Threat Assessment and Credentialing:		
SecureFlight	40,000	15,000
Crew vetting	14,700	14,700
Screening administration and operations	---	10,000
Registered Traveler Program fees	(35,101)	(35,101)
TWIC fees	(20,000)	(20,000)
Hazardous materials fees	(19,000)	(19,000)
Alien Flight School (by transfer from DOJ) - fees	(2,000)	(2,000)
Subtotal, Transportation Threat Assessment and Credentialing (Gross)	(130,801)	(115,801)
Fee funded programs	(76,101)	(76,101)
Subtotal, Transportation Threat Assessment and Credentialing (net)	54,700	39,700
Transportation security support:		
Administration:		
Headquarters administration	296,191	294,191
Information technology	210,092	210,092
Subtotal, Administration	506,283	504,283
Intelligence	21,000	21,000
Subtotal, Transportation security support	527,283	525,283
Federal Air Marshals:		
Management and administration	628,494	628,494
Travel and training	70,800	85,800
Subtotal, Federal Air Marshals	699,294	714,294
Total, Transportation Security Administration (gross)	6,299,462	6,374,392
Offsetting fee collections	-3,650,000	-2,420,000
Aviation security capital fund	(250,000)	(250,000)
Fee accounts	(76,101)	(76,101)
Total, Transportation Security Administration (net)	2,323,361	3,628,291
United States Coast Guard		
Operating expenses:		
Military pay and allowances	2,788,276	2,788,276
Civilian pay and benefits	569,434	569,434
Training and recruiting	180,876	180,876
Operating funds and unit level maintenance	1,061,574	1,011,374
Centrally managed accounts	207,954	201,968
Intermediate and depot level maintenance	710,729	710,729
Port Security	---	15,000
Less adjustment for defense function	-340,000	-340,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Defense function	340,000	340,000
Subtotal, Operating expenses	5,518,843	5,477,657
Appropriations	(5,178,843)	(5,137,657)
Defense function	(340,000)	(340,000)
Environmental compliance and restoration	11,880	10,880
Reserve training	123,948	122,448
Acquisition, construction, and improvements:		
Vessels:		
Response boat medium (41ft UTB and NSB replacement)	24,750	24,750
Special purpose craft - Law enforcement (emergency)	---	1,800
Subtotal, Vessels	24,750	26,550
Aircraft:		
HH-60 replacement	---	15,000
Other equipment:		
Automatic identification system	11,238	11,238
National distress and response system modernization (Rescue 21)	39,600	39,600
HF Recap	2,475	2,475
National Capital Region Air Defense	48,510	48,510
Emergency appropriations	---	18,000
Subtotal	48,510	66,510
Counter Terrorism Training Infrastructure - shoothouse	1,683	---
Subtotal, Other equipment	103,506	119,823
Personnel compensation and benefits:		
Core acquisition costs	500	500
Direct personnel cost	80,500	80,500
Subtotal, Personnel compensation and benefits	81,000	81,000
Integrated deepwater systems:		
Aircraft:		
Aircraft, other	216,513	211,513
Emergency appropriations	---	100,500
HH-65 re-engining	32,373	32,373
Subtotal, Aircraft	248,886	344,386
Surface ships	498,366	498,366
Emergency appropriations	---	55,500
Subtotal, Surface ships	498,366	553,866
C4ISR	60,786	50,000
Logistics	42,273	36,000
Systems engineering and integration	35,145	35,145
Government program management	48,975	46,475
Subtotal, Integrated deepwater systems	934,431	1,065,872
Shore facilities and aids to navigation:		
Shore operational and support projects	2,600	---

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Shore construction projects	2,850	---
Renovate USCGA Chase Hall barracks, phase I	2,000	---
Coast Guard housing - Cordova, AK	5,500	---
ISC Seattle Group, sector admin ops facility phase II	2,600	---
Replace multi-purpose building - Group Long Island Sound	1,000	---
Construct breakwater - Station Neah Bay	1,100	---
Rebuild station and waterfront at Base Galveston phase I	5,200	---
Waterways aids to navigation infrastructure	3,000	---
Undistributed distributions	---	22,000
Subtotal, Shore facilities and aids to navigation	25,850	22,000
Subtotal, Acquisition, construction, and improvements	1,169,537	1,330,245
Appropriations	(1,169,537)	(1,154,445)
Emergency appropriations	---	(175,800)
Alteration of bridges	---	16,000
Research, development, test, and evaluation	13,860	17,000
Health care fund contribution	278,704	278,704
Subtotal, U.S. Coast Guard discretionary	7,116,772	7,252,934
Retired pay (mandatory)	1,063,323	1,063,323
Total, United States Coast Guard	8,180,095	8,316,257
Appropriations	(8,180,095)	(8,140,457)
Emergency appropriations	---	(175,800)
United States Secret Service		
Protection, Administration, and Training:		
Protection:		
Protection of persons and facilities	639,747	651,247
Protective intelligence activities	55,509	55,509
National special security event	---	1,000
Presidental candidate nominee protection	---	18,400
White House mail screening	16,201	16,201
Subtotal, Protection	711,457	742,357
Field operations:		
Domestic field operations	236,093	---
International field office administration, operations and training	21,616	---
Electronic crimes special agent program and electronic crimes task forces	44,079	---
Subtotal, Field operations	301,788	---
Administration:		
Headquarters, management and administration	169,370	169,370
Grants for National Center for Missing and Exploited Children	7,811	---
Subtotal, Administration	177,181	169,370
Training:		
Rowley training center	50,052	50,052
Subtotal, Protection, Admin and Training	1,240,478	961,779

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Investigations and Field Operations:		
Domestic field operations	---	236,093
International field administration and operations	---	22,616
Electronic crimes special agent program and electronic crimes task forces	---	44,079
Forensic support and grants to NCMEC	---	8,366
Subtotal, Investigations and Field operations	---	311,154
Special Event Fund:		
National special security event fund	2,500	---
Candidate nominee protection (equip and training)	18,400	---
Subtotal, Special Event Fund	20,900	---
Acquisition, construction, improvements and related expenses (Rowley training center)	3,725	3,725
Total, United States Secret Service	1,265,103	1,276,658
Total, title II, Security, Enforcement, and Investigations	22,670,507	25,578,337
Appropriations	(22,670,507)	(23,771,337)
Emergency appropriations	---	(1,807,000)
(Fee Accounts)	(1,593,681)	(2,109,692)
TITLE III - PREPAREDNESS AND RECOVERY		
Preparedness		
Management and administration:		
Immediate Office of the Under Secretary	17,497	16,392
Office of the Chief Medical Officer	4,980	4,980
Office of National Capital Region Coordination	1,991	2,741
National Preparedness Integration Program	50,000	6,459
Subtotal, Management and administration	74,468	30,572
Grants and Training:		
State and Local Programs:		
State formula grants:		
State Homeland Security Grant Program	633,000	525,000
Emergency management performance grants	170,000	---
Citizen Corps	35,000	---
Law enforcement terrorism prevention grants	---	375,000
Subtotal, State formula grants	838,000	900,000
Discretionary grants:		
High-threat, high-density urban area	838,000	770,000
Port security grants	---	210,000
Trucking security grants	---	12,000
Intercity bus security grants	---	12,000
Rail and transit security	---	175,000
Buffer zone protection program	---	50,000
Targeted infrastructure protection	600,000	---
Subtotal, Discretionary grants	1,438,000	1,229,000
Commercial equipment direct assistance program	---	50,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
National Programs:		
National Domestic Preparedness Consortium	89,351	145,000
National exercise program	48,708	49,000
Technical assistance	11,500	18,000
Metropolitan Medical Response System	---	33,000
Demonstration training grants	---	30,000
Continuing training grants	3,000	31,000
Citizen Corps	---	15,000
Evaluations and assessments	23,000	19,000
Rural Domestic Preparedness Consortium	---	12,000
Management and Administration	5,000	---
Subtotal, National Programs	180,559	352,000
Subtotal, State and Local Programs	2,456,559	2,531,000
Firefighter assistance grants:		
Grants	293,450	547,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	---	115,000
Subtotal, Firefighter Assistance Grants	293,450	862,000
Emergency management performance grants	---	200,000
Subtotal, Grants and Training	2,750,009	3,393,000
Radiological Emergency Preparedness Program	-477-	-477
U.S. Fire Administration and Training:		
United States Fire Administration	40,887	41,349
Noble Training Center	5,962	5,500
Subtotal, U.S. Fire Administration and Training	46,849	46,849
Infrastructure Protection and Information Security		
Management and administration	84,650	77,000
Critical infrastructure outreach and partnership	101,100	101,100
Critical infrastructure identification and evaluation	71,631	69,000
National Infrastructure Simulation and Analysis Center	16,021	25,000
Biosurveillance	8,218	8,218
Protective actions	32,043	32,043
Cyber security	92,205	92,000
National Security/Emergency Preparedness Telecommunications	143,272	143,272
Subtotal, Infrastructure Protection and Information Security	549,140	547,633
Total, Preparedness	3,419,989	4,017,577
Federal Emergency Management Agency		
Administrative and regional operations	206,259	232,760
Defense function	49,240	49,240
Readiness, mitigation, response, and recovery:		
Operating activities	213,682	219,000
Urban search and rescue teams	19,817	25,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Readiness, mitigation, response, and recovery	233,499	244,000
Public health programs	33,885	33,885
Disaster relief	1,941,390	1,500,000
Disaster assistance direct loan program account:		
(Limitation on direct loans)	(25,000)	(25,000)
Administrative expenses	569	569
Flood map modernization fund	198,980	198,980
National flood insurance fund:		
Salaries and expenses	38,230	38,230
Flood hazard mitigation	90,358	90,358
Offsetting fee collections	-128,588	-128,588
Transfer to National flood mitigation fund	(-31,000)	(-31,000)
National flood mitigation fund (by transfer)	(31,000)	(31,000)
National predisaster mitigation fund	149,978	100,000
Emergency food and shelter	151,470	151,470
Total, Federal Emergency Management Agency	2,965,270	2,510,904
Total, title III, Preparedness and Recovery	6,385,259	6,528,481
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out) (including emergency)	(-31,000)	(-31,000)
(By transfer) (including emergency)	(31,000)	(31,000)
TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES		
U.S. Citizenship and Immigration Services		
Salaries and expenses:		
Business transformation	47,000	47,000
Systematic Alien Verification for Entitlements (SAVE)	24,500	21,100
Employment Eligibility Verification (EEV) program	110,490	113,890
Subtotal, Salaries and expenses	181,990	181,990
Adjudication services (fee account):		
Pay and benefits	(624,600)	(624,600)
District operations	(385,400)	(385,400)
Service center operations	(267,000)	(267,000)
Asylum, refugee and international operations	(75,000)	(75,000)
Records operations	(67,000)	(67,000)
Subtotal, Adjudication services	(1,419,000)	(1,419,000)
Information and customer services (fee account):		
Pay and benefits	(81,000)	(81,000)
Operating expenses:		
National Customer Service Center	(48,000)	(48,000)
Information services	(15,000)	(15,000)
Subtotal, Information and customer services	(144,000)	(144,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Administration (fee account):		
Pay and benefits	(45,000)	(45,000)
Operating expenses	(196,000)	(196,000)
Subtotal, Administration	(241,000)	(241,000)
Total, U.S. Citizenship and Immigration Services	(1,985,980)	(1,985,990)
Appropriations	(181,990)	(181,990)
(Immigration Examination Fee Account)	(1,760,000)	(1,760,000)
(Fraud prevention and detection fee account)	(31,000)	(31,000)
(H1B Non-Immigrant Petitioner fee account)	(13,000)	(13,000)
Federal Law Enforcement Training Center		
Salaries and expenses:		
Law enforcement training	201,020	209,743
Accreditation	1,290	1,290
Subtotal, Salaries and expenses	202,310	211,033
Acquisition, Construction, Improvements, and Related expenses:		
Direct appropriation	42,246	42,246
Construction (emergency)	---	22,000
Subtotal	42,248	64,246
Total, Federal Law Enforcement Training Center	244,558	275,279
Appropriations	244,556	253,279
Emergency appropriations	---	22,000
Science and Technology		
Management and administration:		
Office of the Under Secretary for Science and Technology	7,594	7,594
Other salaries and expenses	188,307	127,406
Subtotal, Management and administration	195,901	135,000
Research, development, acquisition, and operations:		
Biological countermeasures:		
Defense function	337,200	350,200
Chemical countermeasures	83,092	60,000
Explosives countermeasures	88,582	88,582
Threat and vulnerability, testing and assessment	39,851	35,000
Conventional missions in support of DHS	86,622	85,622
Standards coordination	22,131	22,131
Emergent and prototypical technology	19,451	19,451
Critical infrastructure protection	15,413	35,413
University programs/homeland security fellowship	51,970	50,000
Counter MANPADs	4,880	40,000
SAFETY Act	4,710	4,710
Cybersecurity	22,733	20,000
Office of interoperability and compatibility	29,735	27,000
Pacific Northwest National Library	---	2,000
Subtotal, Research, development, acquisition, and operations	806,370	838,109
Total, Science and Technology	1,002,271	973,109

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Domestic Nuclear Detection Office		
Management and administration	30,468	30,468
Research, development, and operations	327,320	272,500
Systems acquisition	178,000	178,000
Subtotal, Domestic Nuclear Detection Office	535,788	480,968
Total, title IV, Research and Development, Training, and Services	1,864,605	1,911,346
Appropriations	(1,864,605)	(1,889,346)
Emergency appropriations	---	(22,000)
(Fee Accounts)	(1,804,000)	(1,804,000)
TITLE V - GENERAL PROVISIONS		
Sec. 521 (fiscal year 2007):		
Rescission, Fast Response Cutter (P.L. 109-90)	---	-78,693
Replacement patrol boat	---	78,693
Sec. 527: Rescission, Counter Terrorism Fund	-16,000	-16,000
Sec. 529: Rescission, S&T unobligated balances	---	-125,000
Sec. 537: Rescission, TSA unobligated balances	---	-4,776
Sec. 538: Rescission, TSA unobligated balances	---	-61,936
Sec. 539. Rescission, USCG AC&I/OPC unobligated bal	---	-20,000
Sec. 540: Rescission, USCG AC&I/AIS unobligated bal	---	-4,100
Sec. 560:		
Rescission, US Secret Service unobligated balances	---	-2,500
US Secret Service national special security events	---	2,500
Total, title V, General Provisions	-16,000	-231,812
Appropriations	---	(81,193)
Rescissions	(-16,000)	(-313,005)
Grand total	32,077,970	34,797,323
Appropriations, fiscal year 2007	(32,093,970)	(33,281,328)
Emergency appropriations	---	(1,829,000)
Rescissions	(-16,000)	(-313,005)
Fee funded programs	(3,397,681)	(3,913,692)
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out) (including emergency)	(-31,000)	(-31,000)
(By transfer) (including emergency)	(31,000)	(31,000)

CONFERENCE TOTAL—WITH COMPARISONS.

The total new budget (obligational) authority for the fiscal year 2007 recommended by the Committee of Conference, comparisons to the 2007 budget estimates, and the House and Senate bills for 2007 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2007	32,077,970
House bill, fiscal year 2007	33,143,147
Senate bill, fiscal year 2007	33,441,323
Conference agreement, fiscal year 2007	34,797,323
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2007	+2,719,353
House bill, fiscal year 2007	+1,654,176
Senate bill, fiscal year 2007	+1,356,000

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
MARION BERRY,
CHET EDWARDS,
DAVID R. OBEY,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
RICHARD C. SHELBY,
LARRY E. CRAIG,
R.F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT—Continued

(By unanimous consent, Mr. BOEHNER was allowed to speak out of order.)

LEGISLATIVE SCHEDULE

Mr. BOEHNER. Mr. Speaker, I want to give all Members an update on where we are so Members can make their travel arrangements if they would like to.

I believe that we are going to be able to complete all of our work by the end of tomorrow. I would like to be able to tell you it is going to be 4 o'clock or 6 o'clock or 8 o'clock or midnight. I can't do that, so don't ask. But here is what I would expect our schedule is for tomorrow.

We are completing the action on the terrorist surveillance bill tonight.

Tomorrow we expect a same-day rule, and Private Property Rights Implementation will be considered tomorrow. We believe the Department of Homeland Security appropriations conference report will be up tomorrow. The terrorist tribunal bill that we passed yesterday, the identical bill passed the Senate today; but under the rules we will likely take up the terrorist tribunal bill here tomorrow. And we have in conference the SAFE Ports Act which is moving along and could be considered tomorrow. We also have the DOD authorization bill which could be considered tomorrow.

So I am trying to do my best in giving all the Members, and I see my friend Mr. MILLER over there smiling at me, I am trying to give Members as much notice as I can. But I do expect that I will meet the commitment that I have made to all of you over the last couple of months that we will be finished tomorrow, and I hope tomorrow doesn't last any longer than it has to.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 220, noes 199, not voting 13, as follows:

[Roll No. 499]

AYES—220

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi

Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Ackerman
Bilbray
Castle
Chabot
Evans
Green (WI)
Harman
Hunter
Lewis (GA)
Meehan
Ney
Strickland
Stupak

☐ 1915

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4954, SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

MOTION TO INSTRUCT OFFERED BY MR. THOMPSON OF MISSISSIPPI

The SPEAKER pro tempore. The pending business is the vote on the motion to instruct on H.R. 4954 offered by the gentleman from Mississippi (Mr. THOMPSON) on which the yeas and nays are ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 281, nays 140, not voting 12, as follows:

[Roll No. 500]

YEAS—281

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fossella
Frank (MA)
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hayworth
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kingston
Kirk
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Renzi
Reyes
Reynolds
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Sherwood
Shimkus
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—140

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barton (TX)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boustany
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Carter
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Deal (GA)
Doolittle
Drake
Dreier
Duncan
Ehlers
Everett
Feeney
Flake
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gingrey
Goodlatte
Granger
Graves
Hall
Hastert
Hastings (WA)
Hayes
Hensarling
Herger
Hobson
Hoekstra
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
King (IA)
King (NY)
Kline
Knollenberg
Kolbe
Latham
Lewis (CA)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
McCaul (TX)
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Price (GA)
Putnam
Radanovich
Regula
Rehberg
Reichert
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Simmons
Simpson
Sodrel
Stearns
Sullivan
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Walden (OR)
Wamp
Weldon (FL)
Westmoreland
Wicker
Wilson (SC)
Young (AK)

NOT VOTING—12

Castle
Chabot
Evans
Green (WI)
Hunter
Lewis (GA)
Meehan
Ney
Oxley
Sabo
Strickland
Stupak

☐ 1924

Mr. MARKEY changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, the Chair appoints the following conferees:

From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. KING of New York, YOUNG of Alaska, DANIEL E. LUNGREN of California, LINDER, SIMMONS, MCCAUL of Texas, REICHERT, THOMPSON of Mississippi, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Ms. HARMAN, and Mr. PASCRELL.

From the Committee on Energy and Commerce, for consideration of titles VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Science, for consideration of sections 201 and 401 of the House bill, and sections 111, 121, 302, 303, 305, 513, 607, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SODREL, and MELANCON.

From the Committee on Transportation and Infrastructure, for consideration of sections 101-104, 107-109, and 204 of the House bill, and sections 101-104, 106–108, 111, 202, 232, 234, 235, 503, 507-512, 514, 517-519, title VI, sections 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Messrs. LOBIONDO, SHUSTER, and OBERSTAR.

From the Committee on Ways and Means, for consideration of sections 102, 121, 201, 203, and 301 of the House bill, and sections 201, 203, 304, 401-404, 407, and 1105 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, SHAW, and RANGEL.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3930. An act to authorize trial by military commission for violations of the law of war, and for other purposes.

ESTABLISHING A PILOT PROGRAM IN CERTAIN DISTRICT COURTS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5418) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges, as amended.

The Clerk read as follows:

H.R. 5418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PILOT PROGRAM IN CERTAIN DISTRICT COURTS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a program, in each of the United States district courts designated under subsection (b), under which—

(A) those district judges of that district court who request to hear cases under which one or more issues arising under any Act of Congress relating to patents or plant variety protection must be decided, are designated by the chief judge of the court to hear those cases;

(B) cases described in subparagraph (A) are randomly assigned to the judges of the district court, regardless of whether the judges are designated under subparagraph (A);

(C) a judge not designated under subparagraph (A) to whom a case is assigned under subparagraph (B) may decline to accept the case; and

(D) a case declined under subparagraph (C) is randomly reassigned to one of those judges of the court designated under subparagraph (A).

(2) SENIOR JUDGES.—Senior judges of a district court may be designated under paragraph (1)(A) if at least 1 judge of the court in regular active service is also so designated.

(3) RIGHT TO TRANSFER CASES PRESERVED.—This section shall not be construed to limit the ability of a judge to request the reassignment of or otherwise transfer a case to which the judge is assigned under this section, in accordance with otherwise applicable rules of the court.

(b) DESIGNATION.—The Director of the Administrative Office of the United States Courts shall, not later than 6 months after the date of the enactment of this Act, designate not less than 5 United States district courts, in at least 3 different judicial circuits, in which the program established under subsection (a) will be carried out. The Director shall make such designation from among the 15 district courts in which the largest number of patent and plant variety protection cases were filed in the most recent calendar year that has ended, except that the Director may only designate a court in which—

(1) at least 10 district judges are authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under other provisions of law; and

(2) at least 3 judges of the court have made the request under subsection (a)(1)(A).

(c) DURATION.—The program established under subsection (a) shall terminate 10 years after the end of the 6-month period described in subsection (b).

(d) APPLICABILITY.—The program established under subsection (a) shall apply in a district court designated under subsection (b) only to cases commenced on or after the date of such designation.

(e) REPORTING TO CONGRESS.—

(1) IN GENERAL.—At the times specified in paragraph (2), the Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the pilot program established under subsection (a). The report shall include—

(A) an analysis of the extent to which the program has succeeded in developing expertise in patent and plant variety protection cases among the district judges of the district courts so designated;

(B) an analysis of the extent to which the program has improved the efficiency of the courts involved by reason of such expertise;

(C) with respect to patent cases handled by the judges designated pursuant to subsection (a)(1)(A) and judges not so designated, a comparison between the 2 groups of judges with respect to—

(i) the rate of reversal by the Court of Appeals for the Federal Circuit, of such cases on the issues of claim construction and substantive patent law; and

(ii) the period of time elapsed from the date on which a case is filed to the date on which trial begins or summary judgment is entered;

(D) a discussion of any evidence indicating that litigants select certain of the judicial districts designated under subsection (b) in an attempt to ensure a given outcome; and

(E) an analysis of whether the pilot program should be extended to other district courts, or should be made permanent and apply to all district courts.

(2) TIMETABLE FOR REPORTS.—The times referred to in paragraph (1) are—

(A) not later than the date that is 5 years and 3 months after the end of the 6-month period described in subsection (b); and

(B) not later than 5 years after the date described in subparagraph (A).

(3) PERIODIC REPORTING.—The Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall keep the committees referred to in paragraph (1) informed, on a periodic basis while the pilot program is in effect, with respect to the matters referred to in subparagraphs (A) through (E) of paragraph (1).

(f) AUTHORIZATION FOR TRAINING AND CLERKSHIPS.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated not less than $5,000,000 in each fiscal year for—

(1) educational and professional development of those district judges designated under subsection (a)(1)(A) in matters relating to patents and plant variety protection; and

(2) compensation of law clerks with expertise in technical matters arising in patent and plant variety protection cases, to be appointed by the courts designated under subsection (b) to assist those courts in such cases.

Amounts made available pursuant to this subsection shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

☐ 1930

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5418, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5418 to establish a pilot program in certain U.S. district courts to encourage enhancements of expertise in patent cases among district judges. It is widely recognized that patent litigation has become too expensive, too time consuming, and too unpredictable. This addresses those concerns by authorizing a pilot program to improve the expertise of Federal district judges responsible for hearing patent cases.

The need for such a program is apparent. Patent cases account for nearly 10 percent of complex cases and consume significant judicial resources. Despite the investment of the additional resources by district judges to these cases, the rate of reversal on claim construction issues remains excessive.

One sitting Federal judge characterized the manner that the judiciary employs to resolve these cases as marked by "institutional ineptitude." I would say, parenthetically, that that is a remarkable admission by a Federal judge.

The premise underlying H.R. 5418 can be stated in three words: practice makes perfect. Judges who are able to focus more attention on patent cases are more likely to avoid error and thus reduce the likelihood of reversal.

The bill requires the director of the Administrative Office of the Courts to select five district courts to participate in a 10-year pilot program to enhance judicial patent expertise. The bill specifies criteria that the director must employ in determining eligible districts and then preserves the continued random assignment of cases to prevent the pilot districts from becoming magnets for forum-shopping litigants.

Finally, the legislation will require the director to provide both the House and Senate Judiciary Committees with periodic reports to help assess the program's efficiency and effectiveness.

Mr. Speaker, the bill does not purport to comprehensively address all of the ill associated with patent litigation, nor does it seek to substantively amend the patient laws or the judicial process. However, the program established by this bill will enhance judicial expertise in this crucial area while providing Congress important information to further improve the administration of patent claims.

Mr. Speaker, I commend the two gentlemen from California, Mr. SCHIFF and Mr. ISSA, for introducing this bill. I urge Members to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. SCHIFF) control time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5418, legislation that I introduced with my colleague, Representative ISSA, in order to establish a pilot program in the Federal district courts to encourage the enhancement of expertise in patent cases among district judges.

I want to thank my colleague from California for his leadership and tenacity on this issue that has brought us to this place. I also want to thank the chairman and ranking member of the Judiciary Committee and the Chair and ranking member of the Subcommittee on the Courts, the Internet and Intellectual Property for working to bring the bill to the floor today.

Mr. Speaker, I join with my colleague, Mr. ISSA, in introducing this legislation because I believe it is a worthy proposal that is narrowly drafted and will provide us with valuable and important insight on the operation of patent litigation in the Federal court system.

This patent pilot program, created under the bill, is designed to enhance expertise in patent cases among district judges, provides district courts with resources and training to reduce error rates in patent cases, and helps reduce the high cost and lost time associated with patent litigation.

The legislation has received an impressive display of broad-based support from a wide-ranging spectrum of interested parties, including the technology industry, the pharmaceutical industry, the consumer electronics industry, biotech, intellectual property owners and other IP organizations, as well as a U.S. district chief judge.

Several months ago, the Judiciary Subcommittee on the Courts, Internet and Intellectual Property held a hearing on improving Federal court adjudication of patent cases. At this hearing a number of proposed solutions were discussed, serious concerns were expressed with other proposals that would have called for the creation of a new specialized court as well as proposals that would move all patent cases to an existing specialized court.

These concerns centered around the need to maintain generalist judges, random case assignment, and to maintain the important legal percolation that occurs currently among the various district courts.

Our approach avoids these pitfalls and is a worthwhile program that Congress should establish on a test basis. It also bears mentioning that we have consulted very closely with the Administrative Office of the U.S. Courts, the representative of the Federal judiciary.

Indeed, these discussions led to a number of important improvements to the legislation that are reflected in the final product. We are also pleased that companion legislation has been introduced in the other body by Senators HATCH and FEINSTEIN.

In closing, I would like to stress that while this legislation is an important first step to addressing needed patent reforms, I believe that Congress must continue to work to address a number of issues surrounding patent litigation that require broad-based reforms to our patent system.

Mr. Speaker, I look forward to continuing my work with my colleagues on the Judiciary Committee and in Congress to address these issues

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the author of the bill, the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, I will be brief, not because this is not a great piece of legislation. I am very proud of the work we have done on a bipartisan basis in our committee, but because the fact is, this is a piece of legislation whose time has come.

This bill was voted unanimously out of the Judiciary Subcommittee and brought to the floor on suspension because in fact all of the details necessary to make a good piece of legislation were worked out with the community that will need it, use it, and benefit from it.

That includes members of the Federal bench, the AO, the Administrative Office of the judicial branch. It also includes both branches here in the Capitol and members from the administration. I believe this is an example of bipartisan work at its finest.

I thank my coauthor on this, Mr. SCHIFF, for working tirelessly on this, and for his good words. I would particularly like to thank the chairman, Mr. SENSENBRENNER, and Mr. CONYERS for taking the work we did in subcommittee as sufficient and bringing it quickly to the floor.

Last but not least, I very much want to thank the staff of the subcommittee and the chairman and ranking member of the subcommittee, who encouraged us all along the way, held the necessary hearings, and have told us to do this and then do more.

Mr. SCHIFF. Mr. Speaker, I want to acknowledge the superb work done by my colleague, who really was the driving force behind this legislation.

Mr. SMITH of Texas. Mr. Speaker, H.R. 5418, a bill "[t]o Establish a Pilot Program in Certain United States District Courts to Encourage Enhancement of Expertise in Patent Cases Among District Judges," deserves the support of the Members of the House.

For the past 2 years, the Subcommittee on Courts, the Internet and Intellectual Property has conducted a thorough review of problems associated with the issuance of patents and the adjudication of patent claims.

H.R. 5418 focuses on one aspect of patent litigation—the recognition that judges are too often inexperienced in dealing with technical areas of the law and that they rarely have the opportunity to have a patent case go all the way through trial.

Patent cases equal only 1 percent of cases filed in U.S. District Courts but are responsible for nearly 10 percent of complex cases. On average, an individual federal judge has only 1 patent case go all the way through trial every 7 years, which means trial-level judges may have no more than 3 or 4 such cases over their entire judicial career.

These statistics suggest judges could benefit from the development of greater expertise and that they might develop this ability by handling these cases, which are so vital to American companies.

Mr. Speaker, the bill before us is designed to enable designated federal judges to have the opportunity to enhance their expertise in handling these cases and to measure the effects, if any, on patent litigation.

Introduced by Representatives DARRELL ISSA and ADAM SCHIFF, the bill followed an October 2005 Subcommittee oversight hearing on proposals to structurally reform the patent litigation system.

This bipartisan measure was approved by the Subcommittee on July 27, 2006 and approved by the full Judiciary Committee on September 13, 2006.

As amended, the bill will require the Director of the Administrative Office of the Courts to select 5 districts to participate in a 10-year pilot project.

It will also require the Director, on a periodic basis, to prepare and report to Congress on aspects of the project and to make a recommendation on whether the program should be extended, expanded, or made permanent.

Mr. Speaker, I urge my colleagues to support this bipartisan bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5418, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 1052. I. call up the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1052, in lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence printed in the bill, the amendment in the nature of a substituted printed in House Report 109-696 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Surveillance Modernization Act".

SEC. 2. FISA DEFINITIONS.

(a) AGENT OF A FOREIGN POWER.—Subsection (b)(1) of section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended—

(1) in subparagraph (B), by striking "; or" and inserting ";"; and

(2) by adding at the end the following:

"(D) is reasonably expected to possess, control, transmit, or receive foreign intelligence information while such person is in the United States, provided that the official making the certification required by section 104(a)(7) deems such foreign intelligence information to be significant; or".

(b) ELECTRONIC SURVEILLANCE.—Subsection (f) of such section is amended to read as follows:

"(f) 'Electronic surveillance' means—

"(1) the installation or use of an electronic, mechanical, or other surveillance device for acquiring information by intentionally directing surveillance at a particular known person who is reasonably believed to be in the United States under circumstances in which that person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes; or

"(2) the intentional acquisition of the contents of any communication under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, if both the sender and all intended recipients are reasonably believed to be located within the United States.".

(c) MINIMIZATION PROCEDURES.—Subsection (h) of such section is amended—

(1) in paragraph (2), by striking "importance;" and inserting "importance; and";

(2) in paragraph (3), by striking "; and" and inserting "."; and

(3) by striking paragraph (4).

(d) WIRE COMMUNICATION AND SURVEILLANCE DEVICE.—Subsection (l) of such section is amended to read as follows:

"(l) 'Surveillance device' is a device that allows surveillance by the Federal Government, but excludes any device that extracts or analyzes information from data that has already been acquired by the Federal Government by lawful means.".

(e) CONTENTS.—Subsection (n) of such section is amended to read as follows:

"(n) 'Contents', when used with respect to a communication, includes any information concerning the substance, purport, or meaning of that communication.".

SEC. 3. AUTHORIZATION FOR ELECTRONIC SURVEILLANCE AND OTHER ACQUISITIONS FOR FOREIGN INTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended by striking section 102 and inserting the following:

"AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

"SEC. 102. (a) IN GENERAL.—Notwithstanding any other law, the President, acting through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

"(1) the electronic surveillance is directed at—

"(A) the acquisition of the contents of communications of foreign powers, as defined in paragraph (1), (2), or (3) of section 101(a), or an agent of a foreign power, as defined in subparagraph (A) or (B) of section 101(b)(1); or

"(B) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a); and

"(2) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h);

if the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days prior to the effective date of such minimization procedures, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

"(b) MINIMIZATION PROCEDURES.—An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 108(a).

"(c) SUBMISSION OF CERTIFICATION.—The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless—

"(1) an application for a court order with respect to the surveillance is made under section 104; or

"(2) the certification is necessary to determine the legality of the surveillance under section 106(f).

"AUTHORIZATION FOR ACQUISITION OF FOREIGN INTELLIGENCE INFORMATION

"SEC. 102A. (a) IN GENERAL.—Notwithstanding any other law, the President, acting through the Attorney General may, for periods of up to one year, authorize the acquisition of foreign intelligence information concerning a person reasonably believed to be outside the United States if the Attorney General certifies in writing under oath that—

"(1) the acquisition does not constitute electronic surveillance;

"(2) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a wire or electronic communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to wire or electronic communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

"(3) a significant purpose of the acquisition is to obtain foreign intelligence information; and

"(4) the proposed minimization procedures with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

"(b) SPECIFIC PLACE NOT REQUIRED.—A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

"(c) SUBMISSION OF CERTIFICATION.—The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 102B.

"(d) MINIMIZATION PROCEDURES.—An acquisition under this section may be conducted only in accordance with the certification of the Attorney General and the minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

"DIRECTIVES RELATING TO ELECTRONIC SURVEILLANCE AND OTHER ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION

"SEC. 102B. (a) DIRECTIVE.—With respect to an authorization of electronic surveillance under section 102 or an authorization of an acquisition under section 102A, the Attorney General may direct a person to—

"(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition of foreign intelligence information in such a manner as will protect the secrecy of the electronic surveillance or acquisition and produce a minimum of interference with the services that such person is providing to the target; and

“(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the electronic surveillance or acquisition or the aid furnished that such person wishes to maintain.

“(b) COMPENSATION.—The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (a).

“(c) FAILURE TO COMPLY.—In the case of a failure to comply with a directive issued pursuant to subsection (a), the Attorney General may petition the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person or entity to comply with the directive if it finds that the directive was issued in accordance with section 102(a) or 102A(a) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person or entity may be found.

“(d) REVIEW OF PETITIONS.—(1) IN GENERAL.—(A) CHALLENGE.—A person receiving a directive issued pursuant to subsection (a) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

“(B) ASSIGNMENT OF JUDGE.—The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 24 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

“(2) STANDARD OF REVIEW.—A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall affirm such directive, and order the recipient to comply with such directive.

“(3) DIRECTIVES NOT MODIFIED.—Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

“(e) APPEALS.—The Government or a person receiving a directive reviewed pursuant to subsection (d) may file a petition with the court of review established under section 103(b) for review of the decision issued pursuant to subsection (d) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition by the Government or any person receiving such directive for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

“(f) PROCEEDINGS.—Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

“(g) SEALED PETITIONS.—All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

“(h) LIABILITY.—No cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

“(i) USE OF INFORMATION.—Information acquired pursuant to a directive by the Attorney General under this section concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by section 102(a) or 102A(a). No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this section shall lose its privileged character. No information from an electronic surveillance under section 102 or an acquisition pursuant to section 102A may be used or disclosed by Federal officers or employees except for lawful purposes.

“(j) USE IN LAW ENFORCEMENT.—No information acquired pursuant to this section shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived from such information, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

“(k) DISCLOSURE IN TRIAL.—If the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance conducted under section 102 or an acquisition authorized pursuant to section 102A, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to disclose or use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to disclose or use such information.

“(l) DISCLOSURE IN STATE TRIALS.—If a State or political subdivision of a State intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision of a State, against an aggrieved person, any information obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A, the State or political subdivision of such State shall notify the aggrieved person, the court, or other authority in which the information is to be disclosed or used and the Attorney General that the State or political subdivision intends to disclose or use such information.

“(m) MOTION TO EXCLUDE EVIDENCE.—(1) IN GENERAL.—Any person against whom evidence obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A is to be, or has been, used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance or such acquisition on the grounds that—

“(A) the information was unlawfully acquired; or

“(B) the electronic surveillance or acquisition was not properly made in conformity with an authorization under section 102(a) or 102A(a).

“(2) TIMING.—A person moving to suppress evidence under paragraph (1) shall make the motion to suppress the evidence before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

“(n) REVIEW OF MOTIONS.—If a court or other authority is notified pursuant to subsection (k) or (l), a motion is made pursuant to subsection (m), or a motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State—

“(1) to discover or obtain an Attorney General directive or other materials relating to an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A, or

“(2) to discover, obtain, or suppress evidence or information obtained or derived from an electronic surveillance authorized pursuant to section 102 or an acquisition authorized pursuant to section 102A,

the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to such electronic surveillance or such acquisition as may be necessary to determine whether such electronic surveillance or such acquisition authorized under this section was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the directive or other materials relating to the acquisition only where such disclosure is necessary to make an accurate determination of the legality of the acquisition.

“(o) DETERMINATIONS.—If, pursuant to subsection (n), a United States district court determines that the acquisition authorized under this section was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived or otherwise grant the motion of the aggrieved person. If the court determines that such acquisition was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(p) BINDING ORDERS.—Orders granting motions or requests under subsection (m), decisions under this section that an electronic surveillance or an acquisition was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of directives, orders, or other materials relating to such acquisition shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

"(q) COORDINATION.—(1) IN GENERAL.—Federal officers who acquire foreign intelligence information may consult with Federal law enforcement officers or law enforcement personnel of a State or political subdivision of a State, including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision, to coordinate efforts to investigate or protect against—

"(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

"(B) sabotage, international terrorism, or the development or proliferation of weapons of mass destruction by a foreign power or an agent of a foreign power; or

"(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

"(2) CERTIFICATION REQUIRED.—Coordination authorized under paragraph (1) shall not preclude the certification required by section 102(a) or 102A(a).

"(r) RETENTION OF DIRECTIVES AND ORDERS.—A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 102 the following:

"102A. Authorization for acquisition of foreign intelligence information.
"102B. Directives relating to electronic surveillance and other acquisitions of foreign intelligence information.".

SEC. 4. JURISDICTION OF FISA COURT.

Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

"(g) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under this section, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.".

SEC. 5. APPLICATIONS FOR COURT ORDERS.

Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "detailed description" and inserting "summary description";

(B) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking "or officials designated" and all that follows through "consent of the Senate" and inserting "designated by the President to authorize electronic surveillance for foreign intelligence purposes";

(ii) in subparagraph (C), by striking "techniques;" and inserting "techniques; and";

(iii) by striking subparagraph (D); and

(iv) by redesignating subparagraph (E) as subparagraph (D);

(C) in paragraph (8), by striking "a statement of the means" and inserting "a summary statement of the means";

(D) in paragraph (9)—

(i) by striking "a statement" and inserting "a summary statement"; and

(ii) by striking "application;" and inserting "application; and";

(E) in paragraph (10), by striking "thereafter; and" and inserting "thereafter."; and

(F) by striking paragraph (11).

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(4) in paragraph (1)(A) of subsection (d), as redesignated by paragraph (3), by striking "or the Director of National Intelligence" and inserting "the Director of National Intelligence, or the Director of the Central Intelligence Agency".

SEC. 6. ISSUANCE OF AN ORDER.

Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(2) in subsection (c)(1)—

(A) in subparagraph (D), by striking "surveillance;" and inserting "surveillance; and";

(B) in subparagraph (E), by striking "approved; and" and inserting "approved."; and

(C) by striking subparagraph (F);

(3) by striking subsection (d);

(4) by redesignating subsections (e) through (i) as subsections (d) through (h), respectively;

(5) in subsection (d), as redesignated by paragraph (4), by amending paragraph (2) to read as follows:

"(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order and may be for a period not to exceed one year.";

(6) in subsection (e), as redesignated by paragraph (4), to read as follows:

"(e) Notwithstanding any other provision of this title, the Attorney General may authorize the emergency employment of electronic surveillance if the Attorney General—

"(1) determines that an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained:

"(2) determines that the factual basis for issuance of an order under this title to approve such electronic surveillance exists;

"(3) informs a judge having jurisdiction under section 103 at the time of such authorization that the decision has been made to employ emergency electronic surveillance; and

"(4) makes an application in accordance with this title to a judge having jurisdiction under section 103 as soon as practicable, but not more than 168 hours after the Attorney General authorizes such surveillance.

If the Attorney General authorizes such emergency employment of electronic surveillance, the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 168 hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.";

(7) in subsection (h), as redesignated by paragraph (4)—

(A) by striking "a wire or" and inserting "an"; and

(B) by striking "physical search" and inserting "physical search or in response to a certification by the Attorney General or a designee of the Attorney General seeking information, facilities, or technical assistance from such person under section 102B"; and

(8) by adding at the end the following new subsection:

"(i) In any case in which the Government makes an application to a judge under this title to conduct electronic surveillance involving communications and the judge grants such application, the judge shall also authorize the installation and use of pen registers and trap and trace devices to acquire dialing, routing, addressing, and signaling information related to such communications and such dialing, routing, addressing, and signaling information shall not be subject to minimization procedures.".

SEC. 7. USE OF INFORMATION.

Section 106(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(i)) is amended—

(1) by striking "radio communication" and inserting "communication"; and

(2) by striking "contents indicates" and inserting "contents contain significant foreign intelligence information or indicate".

SEC. 8. CONGRESSIONAL OVERSIGHT.

(a) ELECTRONIC SURVEILLANCE UNDER FISA.—Section 108 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the authority under which the electronic surveillance is conducted."; and

(2) by striking subsection (b) and inserting the following:

"(b) On a semiannual basis, the Attorney General additionally shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on electronic surveillance conducted without a court order.".

(b) INTELLIGENCE ACTIVITIES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) in section 501 (50 U.S.C. 413)—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

"(f) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

"(1) on a bipartisan basis, all members or any individual members of such committee, and

"(2) any essential staff of such committee, of a report submitted under subsection (a)(1) or subsection (b) as such Chair considers necessary.";

(2) in section 502 (50 U.S.C. 414), by adding at the end the following new subsection:

"(d) INFORMING OF COMMITTEE MEMBERS.—The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

"(1) on a bipartisan basis, all members or any individual members of such committee, and

"(2) any essential staff of such committee, of a report submitted under subsection (a) as such Chair considers necessary."; and

(3) in section 503 (50 U.S.C. 415), by adding at the end the following new subsection:

"(g) The Chair of each of the congressional intelligence committees, in consultation with the ranking member of the committee for which the person is Chair, may inform—

"(1) on a bipartisan basis, all members or any individual members of such committee, and

"(2) any essential staff of such committee, of a report submitted under subsection (b), (c), or (d) as such Chair considers necessary.".

SEC. 9. INTERNATIONAL MOVEMENT OF TARGETS.

(a) ELECTRONIC SURVEILLANCE.—Section 105(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)), as redesignated by section 6(4), is amended by adding at the end the following new paragraph:

"(4) An order issued under this section shall remain in force during the authorized period of surveillance notwithstanding the absence of the target from the United States, unless the Government files a motion to extinguish the order and the court grants the motion.".

(b) PHYSICAL SEARCH.—Section 304(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)) is amended by adding at the end the following new paragraph:

"(4) An order issued under this section shall remain in force during the authorized period of surveillance notwithstanding the absence of the target from the United States, unless the Government files a motion to extinguish the order and the court grants the motion.".

SEC. 10. COMPLIANCE WITH COURT ORDERS AND ANTITERRORISM PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and in addition to the immunities, privileges, and defenses provided by any other provision of law, no action, claim, or proceeding shall lie or be maintained in any court, and no penalty, sanction, or other form of remedy or relief shall be imposed by any court or any other body, against any person for an activity arising from or relating to the provision to an element of the intelligence community of any information (including records or other information pertaining to a customer), facilities, or assistance during the period of time beginning on September 11, 2001, and ending on the date that is 60 days after the date of the enactment of this Act, in connection with any alleged communications intelligence program that the Attorney General or a designee of the Attorney General certifies, in a manner consistent with the protection of State secrets, is, was, or would be intended to protect the United States from a terrorist attack. This section shall apply to all actions, claims, or proceedings pending on or after the effective date of this Act.

(b) JURISDICTION.—Any action, claim, or proceeding described in subsection (a) that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable pursuant to section 1441 of title 28, United States Code.

(c) DEFINITIONS.—In this section:

(1) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) PERSON.—The term "person" has the meaning given the term in section 2510(6) of title 18, United States Code.

SEC. 11. REPORT ON MINIMIZATION PROCEDURES.

(a) REPORT.—Not later than two years after the date of the enactment of this Act, and annually thereafter until December 31, 2009, the Director of the National Security Agency, in consultation with the Director of National Intelligence and the Attorney General, shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the effectiveness and use of minimization procedures applied to information concerning United States persons acquired during the course of a communications activity conducted by the National Security Agency.

(b) REQUIREMENTS.—A report submitted under subsection (a) shall include—

(1) a description of the implementation, during the course of communications intelligence activities conducted by the National Security Agency, of procedures established to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning United States persons;

(2) the number of significant violations, if any, of such minimization procedures during the 18 months following the effective date of this Act; and

(3) summary descriptions of such violations.

(c) RETENTION OF INFORMATION.—Information concerning United States persons shall not be retained solely for the purpose of complying with the reporting requirements of this section.

SEC. 12. AUTHORIZATION AFTER AN ARMED ATTACK.

(a) ELECTRONIC SURVEILLANCE.—Section 111 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1811) is amended by striking "for a period not to exceed" and all that follows and inserting the following: "for a period not to exceed 90 days following an armed attack against the territory of the United States if the President submits to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate notification of the authorization under this section.".

(b) PHYSICAL SEARCH.—Section 309 of such Act (50 U.S.C. 1829) is amended by striking "for a period not to exceed" and all that follows and inserting the following: "for a period not to exceed 90 days following an armed attack against the territory of the United States if the President submits to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate notification of the authorization under this section.".

SEC. 13. AUTHORIZATION OF ELECTRONIC SURVEILLANCE AFTER A TERRORIST ATTACK.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) by adding at the end of title I the following new section:

"AUTHORIZATION FOLLOWING A TERRORIST ATTACK UPON THE UNITED STATES

"SEC. 112. (a) IN GENERAL.—Notwithstanding any other provision of law, but subject to the provisions of this section, the President, acting through the Attorney General, may authorize electronic surveillance without an order under this title to acquire foreign intelligence information for a period not to exceed 90 days following a terrorist attack against the United States if the President submits a notification to the congressional intelligence committees and a judge having jurisdiction under section 103 that—

"(1) the United States has been the subject of a terrorist attack; and

"(2) identifies the terrorist organizations or affiliates of terrorist organizations believed to be responsible for the terrorist attack.

"(b) SUBSEQUENT CERTIFICATIONS.—At the end of the 90-day period described in subsection (a), and every 90 days thereafter, the President may submit a subsequent certification to the congressional intelligence committees and a judge having jurisdiction under section 103 that the circumstances of the terrorist attack for which the President submitted a certification under subsection (a) require the President to continue the authorization of electronic surveillance under this section for an additional 90 days. The President shall be authorized to conduct electronic surveillance under this section for an additional 90 days after each such subsequent certification.

"(c) ELECTRONIC SURVEILLANCE OF INDIVIDUALS.—The President, or an official designated by the President to authorize electronic surveillance, may only conduct electronic surveillance of a person under this section if the President or such official determines that—

"(1) there is a reasonable belief that such person is communicating with a terrorist organization or an affiliate of a terrorist organization that is reasonably believed to be responsible for the terrorist attack; and

"(2) the information obtained from the electronic surveillance may be foreign intelligence information.

"(d) MINIMIZATION PROCEDURES.—The President may not authorize electronic surveillance under this section until the Attorney General approves minimization procedures for electronic surveillance conducted under this section.

"(e) UNITED STATES PERSONS.—Notwithstanding subsection (a) or (b), the President may not authorize electronic surveillance of a United States person under this section without an order under this title for a period of more than 60 days unless the President, acting through the Attorney General, submits a certification to the congressional intelligence committees that—

"(1) the continued electronic surveillance of the United States person is vital to the national security of the United States;

"(2) describes the circumstances that have prevented the Attorney General from obtaining an order under this title for continued surveillance;

"(3) describes the reasons for believing the United States person is affiliated with or in communication with a terrorist organization or affiliate of a terrorist organization that is reasonably believed to be responsible for the terrorist attack; and

"(4) describes the foreign intelligence information derived from the electronic surveillance conducted under this section.

"(f) Use of Information.—Information obtained pursuant to electronic surveillance under this subsection may be used to obtain an order authorizing subsequent electronic surveillance under this title.

"(g) Reports.—Not later than 14 days after the date on which the President submits a certification under subsection (a), and every 30 days thereafter until the President ceases to authorize electronic surveillance under subsection (a) or (b), the President shall submit to the congressional intelligence committees a report on the electronic surveillance conducted under this section, including—

"(1) a description of each target of electronic surveillance under this section; and

"(2) the basis for believing that each target is in communication with a terrorist organization or an affiliate of a terrorist organization.

"(h) Congressional Intelligence Committees Defined.—In this section, the term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate."; and

(2) in the table of contents in the first section, by inserting after the item relating to section 111 the following new item:

"Sec. 112. Authorization following a terrorist attack upon the United States.".

SEC. 14. AUTHORIZATION OF ELECTRONIC SURVEILLANCE DUE TO IMMINENT THREAT.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) by adding at the end of title I the following new section:

"AUTHORIZATION DUE TO IMMINENT THREAT

"Sec. 113. (a) In General.—Notwithstanding any other provision of law, but subject to the provisions of this section, the President, acting through the Attorney General, may authorize electronic surveillance without an order under this title to acquire foreign intelligence information for a period not to exceed 90 days if the President submits to the congressional leadership, the congressional intelligence committees, and the Foreign Intelligence Surveillance Court a written notification that the President has determined that there exists an imminent threat of attack likely to cause death, serious injury, or substantial economic damage to the United States. Such notification—

"(1) shall be submitted as soon as practicable, but in no case later than 5 days after the date on which the President authorizes electronic surveillance under this section;

"(2) shall specify the entity responsible for the threat and any affiliates of the entity;

"(3) shall state the reason to believe that the threat of imminent attack exists;

"(4) shall state the reason the President needs broader authority to conduct electronic surveillance in the United States as a result of the threat of imminent attack;

"(5) shall include a description of the foreign intelligence information that will be collected and the means that will be used to collect such foreign intelligence information; and

"(6) may be submitted in classified form.

"(b) Subsequent Certifications.—At the end of the 90-day period described in subsection (a), and every 90 days thereafter, the President may submit a subsequent written notification to the congressional leadership, the congressional intelligence committees, the other relevant committees, and the Foreign Intelligence Surveillance Court that the circumstances of the threat for which the President submitted a written notification under subsection (a) require the President to continue the authorization of electronic surveillance under this section for an additional 90 days. The President shall be authorized to conduct electronic surveillance under this section for an additional 90 days after each such subsequent written notification.

"(c) Electronic Surveillance of Individuals.—The President, or an official designated by the President to authorize electronic surveillance, may only conduct electronic surveillance of a person under this section if the President or such official determines that—

"(1) there is a reasonable belief that such person is communicating with an entity or an affiliate of an entity that is reasonably believed to be responsible for imminent threat of attack; and

"(2) the information obtained from the electronic surveillance may be foreign intelligence information.

"(d) Minimization Procedures.—The President may not authorize electronic surveillance under this section until the Attorney General approves minimization procedures for electronic surveillance conducted under this section.

"(e) United States Persons.—Notwithstanding subsections (a) and (b), the President may not authorize electronic surveillance of a United States person under this section without an order under this title for a period of more than 60 days unless the President, acting through the Attorney General, submits a certification to the congressional intelligence committees that—

"(1) the continued electronic surveillance of the United States person is vital to the national security of the United States;

"(2) describes the circumstances that have prevented the Attorney General from obtaining an order under this title for continued surveillance;

"(3) describes the reasons for believing the United States person is affiliated with or in communication with an entity or an affiliate of an entity that is reasonably believed to be responsible for imminent threat of attack; and

"(4) describes the foreign intelligence information derived from the electronic surveillance conducted under this section.

"(f) Use of Information.—Information obtained pursuant to electronic surveillance under this subsection may be used to obtain an order authorizing subsequent electronic surveillance under this title.

"(g) Definitions.—In this section:

"(1) Congressional intelligence committees.—The term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(2) Congressional leadership.—The term 'congressional leadership' means the Speaker and minority leader of the House of Representatives and the majority leader and minority leader of the Senate.

"(3) Foreign intelligence surveillance court.—The term 'Foreign Intelligence Surveillance Court' means the court established under section 103(a).

"(4) Other relevant committees.—The term 'other relevant committees' means the Committees on Appropriations, the Committees on Armed Services, and the Committees on the Judiciary of the House of Representatives and the Senate."; and

(2) in the table of contents in the first section, by inserting after the item relating to section 112, as added by section 13(2), the following new item:

"Sec. 113. Authorization due to imminent threat.".

SEC. 15. TECHNICAL AND CONFORMING AMENDMENTS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) in section 105(a)(4), as redesignated by section 6(1)(B)—

(A) by striking "104(a)(7)(E)" and inserting "104(a)(7)(D)"; and

(B) by striking "104(d)" and inserting "104(c)";

(2) in section 106(j), in the matter preceding paragraph (1), by striking "105(e)" and inserting "105(d)"; and

(3) in section 108(a)(2)(C), by striking "105(f)" and inserting "105(e)".

The SPEAKER pro tempore. Debate shall not exceed 90 minutes, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 30 minutes equally divided and controlled by the chairman and ranking member of the Permanent Select Committee on Intelligence.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes, and the gentleman from Michigan (Mr. HOEKSTRA) and the gentlewoman from California (Ms. HARMAN) each will control 15 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5825, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5825, the Electronic Surveillance Modernization Act. In 1978, Congress enacted the Foreign Intelligence Surveillance Act, or FISA for short, in order to provide a mechanism for the domestic collection of foreign intelligence information.

The goal of FISA was to secure the integrity of the fourth amendment while protecting the national security interests of the United States. When FISA was enacted, domestic communications and international communications were fundamentally different from one another. Specifically, domestic communications were transmitted via wire, while international communications were transmitted via radio.

In modern times international communications are increasingly transmitted through undersea cables which are considered wire. H.R. 5825 provides a technology-neutral definition of electronic surveillance to ensure that international communications are treated the same under the law regardless of the technology used to transmit them.

The bill also simplifies the process for getting a FISA court order and returns the focus of FISA to protecting those with a fourth amendment expectation of privacy.

On December 16 of last year, based on the leak of classified information, the New York Times published a story regarding a terrorism surveillance program operated by the National Security Agency. The President subsequently acknowledged that he had authorized this program after 9/11 to intercept the international communications of those with known links to al Qaeda and related terrorist organizations.

Notwithstanding the administration's position that this program is fully consistent with U.S. law and the Constitution, the President has requested that Congress provide additional and specific authorization to ensure that U.S. laws governing electronic surveillance are updated to reflect modern modes of communication.

Mr. Speaker, terrorist organizations are global in scope, and rely on electronic communications to plan and execute their murderous designs. We can all agree that electronic communications must not be impervious to detection by U.S. law enforcement intelligence officers whose vigilance has helped avert another terrorist attack on our soil in the 5 years since the 9/11 attacks.

As General Hayden testified on July 26, 2006, the National Security Agency intercepts communications and does so for only one purpose: "To protect the lives, liberties and well beings of the citizens of the United States from those who would do us harm."

General Hayden also noted that "the revolution in telecommunications technology has extended the actual impact of the FISA regime far beyond what Congress could ever have anticipated in 1978, and I do not think that anyone can make a claim that the FISA statute was optimized to deal with 9/11 or to deal with the lethal enemy who likely already had combatants inside the United States."

Mr. Speaker, H.R. 5825 updates FISA to reflect modern technology and the changing nature of the terrorist threat. This legislation combines the Judiciary Committee's provisions that streamline the FISA process with the Intelligence Committee provisions that provided the President much needed statutory flexibility to conduct surveillance of foreign communications.

This legislation responds to the urgent need to provide our Nation's law enforcement intelligence communities with 21st-century tools to meet and defeat a 21st-century threat.

It is crucial to improving our national efforts to detect and disrupt acts of terrorism before they occur on American soil. This bill is the product of extensive discussion and thoughtful deliberation. It will make America safer while safeguarding American civil liberties.

Mr. Speaker, I urge support of this vital legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, ladies and gentlemen of the House, let me state from the outset that we support our government intercepting each and every conversation involving al Qaeda and its supporters. But I cannot support legislation that not only fails to bring the warrantless surveillance program under the law, but dramatically expands the administration's authority to conduct warrantless surveillance on innocent Americans.

This is the Bush bill. It is amazing to me that we would even be taking up a law that fails to regulate the present domestic spying program. Nearly 9 months after we first learned from the New York Times that there was a warrantless surveillance program going on, and we did not know it until then, there has been no attempt to conduct an independent inquiry into its legality.

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Not only has the Congress failed to conduct any sort of investigation, but the administration summarily rejected all requests for a special counsel or Inspector General review, and when the Office of Professional Responsibility finally opened an investigation, the President of the United States himself squashed it by denying the investigators security clearances.

Now, since 1978, there have been 12 amendments to this bill, 51 different changes. So let us not start off acting as though there have never been changes here before.

What we are doing, instead of restricting the administration and the National Security Agency, this bill grants the administration more and new authority to conduct warrantless surveillance of American citizens. Not only does the bill permit warrantless surveillance of the international communications of any American who is not a target, but it grants the administration new authority to conduct warrantless surveillance on domestic calls in many new circumstances.

We do not like this measure before us because, instead of bringing the President's warrantless surveillance program under the law, what has been done, without much finesse, is to dramatically expand his authority and permit even broader and more intrusive warrantless surveillance of the program and the phone calls and the e-mails of innocent Americans.

It raises severe constitutional questions, the fourth amendment and the equal protection of agencies and subjects everything in this area to ill-considered and unfair process.

But it is not just the law professors and the civil liberty unions that are supporting it. We have here a statement from former national security officials, and I will insert the statement of former national security officials in the RECORD at this time.

STATEMENT OF FORMER NATIONAL SECURITY OFFICIALS

The President has spoken repeatedly and emotionally in recent days about the need for intelligence professionals to have clarity in the law. He has emphasized that it is not fair to ask these men and women to operate in an uncertain legal environment and that, in fact, legal uncertainty hampers operational effectiveness and thereby jeopardizes our national security. Yet legal uncertainty is exactly what will result if Congress heeds the President's call to enact legislation that replaces the obligation to use the procedures of the Foreign Intelligence Surveillance Act with broad language about relying upon the President's constitutional authority.

Before FISA was enacted, courts addressed the issue of warrantless surveillance for domestic security purposes but did not clearly resolve the scope of the President's authority regarding foreign intelligence surveillance. FISA was enacted in order to clarify this murky legal area by setting forth a clear process for electronic surveillance of foreign powers and agents of foreign powers. The Executive Branch welcomed the clarity and this law has been viewed as an essential national security tool for 28 years.

This legislation would return a complex subject to the murky waters from which FISA emerged by making going to the FISA court or applying FISA in any way optional rather than mandatory. It leaves it to the President to decide when he has the authority to conduct warrantless surveillance of Americans or foreigners. Whether he has made the right determination will not be known unless and until it is challenged in court.

If advances in technology or other exigencies not contemplated in FISA present the

President with a national security emergency, he should have a window in which to act while promptly seeking appropriate amendments to FISA—and this could be provided for in the statute. But this extraordinary emergency authority should not be permitted effectively to repeal FISA.

FISA was a political compromise between the Legislative and Executive branches of government; unforeseen exigencies should require those branches of government to continue to coordinate, not condone unilateralism by either branch. Indeed, the world has become so much more complex, both technologically and socially, than it was in 1978, that making FISA optional rather than mandatory would significantly destabilize the balance struck then between law and policy.

As individuals with extensive experience in national security and intelligence, we strongly urge that the requirements of FISA remain just that—requirements, not options. Congress should continue to work to get the facts and if, once they are provided, these facts demonstrate the need for changes in the law, amend it only as needed to meet genuine national security imperatives. Legal clarity is just as essential in this context as any other in which intelligence or law enforcement officers are asked to operate. FISA provides that clarity and should not be abandoned or amended in ways that render it irrelevant.

Ken Bass

Formerly Counsel for Intelligence Policy, Department of Justice

Eugene Bowman

Formerly Deputy General Counsel, Federal Bureau of Investigation

Mary DeRosa

Formerly Special Assistant to the President

Formerly Legal Advisor, National Security Counsel

Juliette Kayyem

Formerly Member, National Commission on Terrorism (The Bremer Commission)

Formerly Legal Advisor to the Attorney General, Department of Justice

Elizabeth Larson

Formerly Senior Staff, House Pennanent Select Committee on Intelligence

Formerly Senior Executive, Central Intelligence Agency

Elizabeth Rindskopf Parker

Formerly General Counsel, National Security Agency

Formerly General Counsel, Central Intelligence Agency

F. Whitten Peters

Formerly Secretary of the Air Force

Formerly Principal Deputy General Counsel, Department of Defense

Stephen Saltzburg

Formerly Deputy Assistant Attorney General, Criminal Division, Department of Justice

William S. Sessions

Formerly Director, Federal Bureau of Investigation

Formerly Chief United States District Judge for the Western District of Texas

Michael A. Smith

Formerly Assistant General Counsel, National Security Agency

Brit Snider

Formerly General Counsel, Senate Select Committee on Intelligence

Formerly Inspector General, Central Intelligence Agency

Suzanne E. Spaulding

Formerly General Counsel, Senate Select Committee on Intelligence

Formerly Assistant General Counsel, Central Intelligence Agency

Michael A. Vatis

Formerly Director, National Infrastructure Protection Center, Federal Bureau of Investigation

Formerly Associate Deputy Attorney General, Department of Justice

I lift up the names of two people in particular: William Sessions, the former Director of the Federal Bureau of Investigation, formerly Chief Judge of the Western District of Texas; and William H. Webster, formerly Director of the Federal Bureau of Investigation and former Director of the Central Intelligence Agency.

There is a wide agreement that this legislation is not what we should be doing. It should be rejected because we are giving the administration unilateral authority to review the call records and e-mails of millions of Americans and permits the administration to use surveillance devices without cause, thereby reinstituting the discredited "total information awareness" program that kept records on hundreds of millions of Americans.

Hidden in the fine print are provisions which grant the administration authority to maintain permanent records on innocent American citizens, granting the administration new authority to demand personal records without court review, and terminating any and all legal challenges to unlawful wiretapping.

So we are joined in our position by the Computer and Communications Industry Association, including Microsoft, Verizon, Google and Intuit; law school deans, 63 of them; 13 former national security officials; the Center for Democracy and Technology; and the Center for National Security Studies.

We must fight terrorism, but we must fight it in the right way, consistent with our Constitution and in a manner that serves as a model for the rest of the world. This bill fails that test.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, my speakers are on their way to the floor, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. NADLER), ranking subcommittee member.

Mr. NADLER. Mr. Speaker, I rise in opposition to this dangerous and unnecessary legislation. Dangerous because it threatens the fundamental rights all Americans hold dear, and unnecessary because the sponsors appear to believe that freedom is the enemy.

The right to engage in surveillance of communications is not at issue today. What is at issue is the right to spy on Americans in the United States without a warrant from a court.

Nowhere under current law is there any requirement that the government stop listening to terrorists until they get can a court order. Existing law gives the government 72 hours after it has begun surveillance to get a warrant from the secret FISA court.

Our colleagues, the gentleman from California (Mr. SCHIFF) and the gentleman from Arizona (Mr. FLAKE), have proposed to extend that time so the government has more time to make its case; and they have proposed to update the FISA law so as to make it unnecessary to get a warrant to tap a conversation between two persons outside the United States, even if the conversation is routed through the United States. That proposal solves all the legitimate concerns with FISA.

It is so reasonable a proposal that this Republican rubber-stamp Congress refused to let us even get a vote on it. It is not surprising that the process of taking away liberty should trample on democracy as well.

What the President wants, and the Republican Congress is prepared to give, is unrestrained authority to spy on anyone, without having to answer to anyone. Once again, the President wants to be above the law, and this House appears ready to oblige him.

The power to use every tool we have to gain as much intelligence on the terrorists as we can is a vitally important power, and we support that power as long as it is constrained by law.

It is also a dangerous and easily abused power. We have plenty of experience with the abuse of that power. Remember J. Edgar Hoover wiretapping Martin Luther King, for example. That is why we have a Constitution. That is why we have courts. That is why we have checks and balances. That is why we have legal controls on the executive branch, not to protect the bad guys but to protect the rest of us from abuses of power.

Unchecked power, no matter what the purpose is dangerous. It is also unnecessary. History will judge this Congress harshly when this inevitably bad bill is approved.

Do not be stampeded into signing away our freedom. Let us insist that this be done right, by rejecting this very wrong and dangerous bill and considering the very reasonable alternative given to us by the bipartisan gentlemen, Mr. SCHIFF and Mr. FLAKE.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Mexico (Mrs. WILSON), the author of the bill.

Mrs. WILSON of New Mexico. Mr. Speaker, I think it is important for people to understand tonight why we are doing this.

I believe very strongly that intelligence is the first line of defense in the war on terrorism. That means we have to have intelligence agencies and capabilities that are agile, that are responsive to changes in technology, and that also protect the civil liberties of Americans.

It is hard to understand and hard to explain, frankly, the FISA law to people who do not deal day in and out with these things, but I have got to tell you this is how I have tried to explain it.

I live in New Mexico very near Route 66. Route 66 is the mother road that went from Chicago to LA through every little town along the way. But then modernization came along, and we replaced Route 66 with Interstate 40. We no longer have the stoplights and the intersections. We created on ramps and off ramps and concrete barriers to protect the citizens where traffic was moving very, very quickly. That is kind of like what we are trying to do here with the Foreign Intelligence Surveillance Act.

Now, it bothers me a little bit that for 4 years Democrat leaders in this House, including the minority leader and the ranking member of the Intelligence Committee, were briefed on the President's terrorist surveillance program multiple times, and now, when I come to the floor of the House with a bill that proposes putting signs and rules of the road in place to protect American civil liberties, you object to the controls and protections. If there were concerns about the fourth amendment, those concerns should have been raised 4 years ago.

The fourth amendment requires that people in America be free from unreasonable search and seizure. We have set in place rules of the road in the wake of a terrorist attack, when there is an armed attack on the United States or when an attack is imminent on the United States, rules of the road that are reasonable, that are constitutional, that protect civil liberties and that also keep us safe in the event of terrorist attack.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Judiciary Committee.

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to the legislation.

First, we are legislating in the dark. We do not even know what the President is doing now because he will not tell us, but we do know that he says he will not continue doing what he is doing unless we retroactively authorize it and immunize everyone who participated in the illegal activity from any criminal and civil liability.

But for the New York Times disclosure that the administration had authorized secret surveillance of domestic conversations, we would not even know about it now. When exposed, the President claimed he was operating under inherent powers, but court decisions have found that the President cannot simply declare administration actions constitutional and lawful, whether or not they are.

Yet rather than finding out what is going on, we are moving forward with this legislation not only to authorize something in the future but to retroactively legalize whatever has been going on in the past.

Yesterday, under the military tribunal bill, we authorized what had previously been considered torture and retroactively immunized everybody involved in it. Today, we do the same type of retroactive approval and immunization to what may be illegal domestic surveillance.

The President already has broad latitude to conduct domestic surveillance, including surveillance of American citizens under the Foreign Intelligence Surveillance Act, totally in secret, so long as it is overseen by the FISA court.

So this is not a question of whether or not dangerous terrorists should be wiretapped. Of course they should, and they can be under present law, but in a democratic society with checks and balances, we should insist that some checks and balances occur, either before the wiretap or after the wiretap in the case of an emergency.

This bill does not enhance security, but it does allow surveillance without the traditional checks and balances that have served our Nation well. This bill, therefore, should be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am not sure what bill I just heard referred to. As I read this bill, as one of those who helped to write this bill, we have time limits in this bill. We have notices in this bill. We have requirements in this bill. This bill attempts to do what we should want to do, that is, base it on the expectation of privacy of the individual involved.

This bill attempts to try and bring up to date the FISA law, a law that was established at a time when technology was far different than it is today. This is an attempt to try and bridge that gap that was created as a result of technology changing.

We set into motion by the law when FISA was first established and in accordance with those technologies which were then available. This is an attempt to allow us to still secure that kind of information that was always allowed under the FISA law, always anticipated to be under the FISA law, but which might be brought into question by the change in technology which has taken place.

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It also attempts to try and deal with that tension I mentioned before that exists as a result of the constitutional powers that the President has, that we have, and that the judicial branch has and in an area of law where for many years, since the beginning of this Republic, the Supreme Court has found that the President has not exclusive, but preeminent, power or preeminent authority.

And there is a reason for this. It is the reason Benjamin Franklin talked about in the quote I gave earlier this evening. It is the reason for the kind of functions that take place in a war-time scenario. It is a recognition that you can have one Commander in Chief and that one Commander in Chief has, as part of his responsibility, the requirement to be able to obtain intelligence about the enemy, intelligence about the foreign power.

So the question is. How do you construct a law which allows the President to exercise that responsibility and at the same time allows us to exercise our responsibility? There seems to be this idea where we say that there is an inherent power in the President, but then we don't recognize it at all. Or if he acts, and acts pursuant to that constitutional provision, what he has done is unconstitutional and illegal. And we therefore say, when we try to construct a law which we hope will cover most of the areas of activity by the President, where it will engender a greater spirit of cooperation, we say that what he did or if he asserts that authority, somehow that is unlawful or unconstitutional.

We have prerogatives in the House of Representatives. There are areas of cooperation. There are areas where we have preeminent power, such as the House of Representatives is given the responsibility and the authority to begin any law which would take money from the pockets of our constituents. The President of the United States cannot do that under the Constitution, yet he does work with us in that regard, in many different ways even before he gets the final bill.

What we have done here is to try to set up a structure which calls for the kind of activity that will be reported to us on a regular basis, with time requirements that don't exist in current law today. It circumscribes some of the activities that otherwise are questionable right now, and it sets up a framework for cooperation, it seems to me.

So I hear a lot of, and I have used this word before, but hyperbole here on the floor. We have men and women of good will on both sides of the aisle that have differences of opinion on this. But to condemn this as somehow an effort for us to give away our power; that somehow this allows the President to continue to act in an illegal way or to cover up previous illegal activity betrays a lack of understanding of the Constitution, of the structure of this House, and of activity of prior administrations, both Democrat and Republican.

I would ask us all to support this well-crafted bill.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to a distinguished member of the committee, Mr. SCHIFF.

Mr. SCHIFF. I thank the gentleman for yielding.

My colleague from California is right, we do have reasonable differences of opinion on this legislation. Regrettably, we won't get a chance to vote on them. The bipartisan substitute that I offered with Mr. FLAKE will not be permitted to come up for a vote tonight.

Let us look at where we are. It is 5 years since 9/11. And in those 5 years, the Justice Department, the NSA have not come to Congress to ask for the changes that are being proposed by this bill. Indeed, but for the fortuity of the disclosure of the secret program by the New York Times, we wouldn't be here at all. That says something about the efficacy of the current law and the current FISA court.

Now, I happen to think the FISA laws can be improved. We have amended them, though, in 25 different ways over the last several years, so it is not as if this 28-year-old act has been untouched. The question here, the rub here is not what we do with foreigners who are talking to other foreigners on foreign soil, as my colleagues in the majority would like us to believe. The rub here is what do we do about Americans on American soil.

Do we want to entrust to the government and say you can surveil an American here at home without any court supervision? We are going to take entire programs off the books. We are going to embody a philosophy that says to the government, we trust you. We don't need a check and balance. My colleague says that the transportation analogy would be rules of the road. Well, the more accurate analogy would be if we had a speed limit sign and people were racing past it and violating the speed limit, the base bill would say, tear down the sign or do away with the court that would enforce the law by stripping the court of the jurisdiction to review the program.

That is not what we are here to do. We are here to say to the American people that those that wish us harm we will go after with every tool. But you, who are law-abiding citizens of this country, have a reasonable expectation of privacy in your homes and we will respect that. When we intrude your home and your phone and your e-mail, you will have the confidence of knowing that a court is overseeing what the government does.

Because the Framers' philosophy was check and balance. It served us well for 200 years. It will continue to serve us well.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding, and I appreciate the gentleman from California and the opportunity to work with him on the substitute.

Mr. Speaker, I rise today in opposition to H.R. 5825. In 1978, Congress passed a seminal piece of legislation called FISA. This act recognized that while the President has inherent authority to protect American citizens, Congress has clear authority to regulate that surveillance.

There have been many technological changes over the past 28 years, and FISA has been amended many times to adapt to those changes. But, now, we here in Congress are confronted with the knowledge that the executive branch has chosen to conduct surveillance outside of the strictures of FISA. We must now choose whether to allow warrantless surveillance to continue or whether we should bring the terrorist surveillance program and any other programs that might be in operation under FISA's authority. If we do not, we will essentially have two categories of surveillance programs: one on the books and one that is off the books.

Now, perhaps the existence of FISA has made us all complacent. We have not been confronted for the past three decades with reports of executive branch abuse. But prior to FISA's passage, such abuses were legion. The Church Commission of the mid-1970s identified instances of abuse of the executive branch surveillance power that were so egregious that they thought it necessary to bring in FISA.

Do we want to return to the pre-FISA era? I would submit that we should not. Yet the bill we will vote on tonight will ensure that surveillance will continue to be gathered outside of FISA, effectively returning us to that era.

As I have said before, the acid test for Republicans should be as follows: Would I more jealously guard the congressional prerogative to regulate the President's inherent authority to conduct warrantless surveillance if the current occupant of the White House did not share my party affiliation? If the answer is yes, then it is our obligation to vote against the underlying bill and to vote instead for the motion to recommit.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the distinguished gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. I thank my colleague, Mr. Speaker.

Let us be clear about one thing. As we have all said, we understand that electronic surveillance is a vital tool in the war on terror. We all want to know when Osama bin Laden is calling: when he is calling, who he is calling, and what he is saying. Existing law, FISA, gives the President the authority to do that. And if the President wants greater flexibility in using that authority, he should come to the Congress and tell us exactly what additional authority he needs.

As has been said, this Congress has already amended FISA, the electronic surveillance law, more than 25 times since 9/11 to accommodate changing technologies. That is why it was so troubling to learn that what we as a Congress did in the PATRIOT Act with respect to electronic surveillance was essentially a meaningless exercise. We gave the President expanded authorities, but the President has since argued that he can go beyond the expanded authorities that we gave him, and he has ignored the work of the Judiciary Committee and this Congress.

On what basis does he do this? This President claims when it comes to conducting electronic surveillance he is, in the final analysis, not constrained by the laws passed by this Congress. He claims his constitutional authority as Commander in Chief under article II in this area ultimately allows him to ignore the will of the Congress.

Take a look at the administration's legal memorandum of January 19, 2006. Essentially, they say that we don't have the power ultimately to regulate in this area. And I find it incredibly curious that after the Judiciary Committee, on a bipartisan basis, adopted language proposed by Mr. FLAKE that simply said Congress finds that article I, section 8, clause 18 of the Constitution, known as the necessary and proper clause, grants Congress clear authority to regulate the President's inherent power to gather foreign intelligence. That was passed on a bipartisan basis. It is gone from this bill. Mr. FLAKE's amendment is gone from this bill. That is taken out of this bill.

Now, imagine, here we are as a Congress, in passing a law that seeks to regulate the President's authority in this area, albeit giving him additional authorities, that in passing that law we strip out the provision that says we as a Congress find that we have the power to regulate in this area. It is a total abdication of congressional responsibility. It is ceding the President's argument that Congress doesn't matter in this area.

I believe, ultimately, it is a dangerous power grab on behalf of the administration; and this Congress, on a bipartisan basis, has not stood up to our responsibilities under the Constitution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I am grateful to our chairman.

This is critical. We are in a war with people who want to destroy our way of life. Now, we are rightfully concerned about the civil rights of Americans, but the thing is this doesn't have to do with the civil rights of Americans. If the President, or any President, I don't care who it is, would authorize wiretapping surveillance of American to American, then I will be right here with anybody else calling them to task. That is not what we are about here.

And, in fact, in this act, it actually updates the definition of who is covered under FISA to ensure that electronic surveillance is narrowly focused on America's enemies. That is part of what is so important here.

Another aspect that makes this even more crucial today: some have said, why now? Why today? Is this all for politics? Well, I don't know. The question is, when a Federal judge in Detroit strikes this down, who was hand picked, let's face it. As I understand, there were 30 lawsuits filed around the country, so that as soon as the ACLU and most liberal folks got the judge they wanted from the draw in each of those jurisdictions, they dismissed all the others and got the most liberal judge they could get. That is inappropriate. That is not justice. This is putting our Nation at risk. This is something we have to do now.

Some have said, well, gee doesn't it really affect the rights of Americans? And the answer is no, not unless you are dealing directly with a foreign terrorist. This is not about domestic to domestic, American to American.

We have heard some on the other side bring up scripture, that we need to do unto others, even if they are not Americans. We need to do unto others, I would submit to you, and I love it when people call on scripture like my brothers and sisters from the other side of the aisle, because it brought to mind to me Romans 13-4 that says, "for it," the government, "is a servant of God for your good. But if you do evil, be afraid. For the government does not bear the sword without purpose. It is the servant of God to inflict wrath on the evildoer." So if we want to invoke "do unto others," let's look at the rest of the verses and get it in context.

Individually, should we go after people who are after our country? Absolutely not. That is inappropriate. But the government, which is us, has not only an obligation, but we have the critical duty to make this happen.

So I would humbly submit that because we have rogue Federal judges out there who will do their will to destroy this administration, or any administration's effort to protect us, we have to do our job.

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We have got to make sure that this government does deal with evil, does deal with those who seek to destroy us, and, yes, put them under surveillance; not Americans but foreigners, because that is our job. That is what we are required to do. That is what I swore to do when I joined the Army, when I swore to defend the Constitution against all enemies, foreign and domestic. That is what we still have got to do.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE, a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in recognition of the Federal judiciary, I know that as they take an oath of office that their commitment is to serve the American people and the United States of America with the dignity and respect of that office. It has not come to my attention there are any number of "rogue judges" that would undermine the Constitution. But I do believe that it is crucial that the facts of this debate be established and why there is such opposition to an initiative that deals with the security of America.

There is no divide, I have said this, I think, on any number of occasions, on the commitment of members of the Democratic Caucus on securing America. In fact, there are any number of experts who have engaged in the issues of security and intelligence for a very long period of time.

But, frankly, we are arguing against the broad brush that this Congress has now given to the Bush administration, and the Bush administration has made no convincing case to Congress justifying the need to change the law and to satisfy Congress, nor has Congress been able to satisfy itself that any recommended changes would be constitutionally permissible.

Chairman HOEKSTRA said that Congress simply should not have to play 20 questions to get the information that it deserves under our Constitution. That is the chairman of the Intelligence Committee.

Frankly, I think it is important to note that the President, this administration, has not identified any technological barriers to the operation of FISA. I believe in modernizing it. However, most of the legislative proposals to amend FISA do not attempt to modernize the law, but rather erode the fourth amendment protection, since available technology allows the interception of more communications.

Let me tell you what happens in this legislation. First of all, there is an opportunity to drag in the innocent. This new bill could drag in journalists and foreign workers of high-tech companies. This bill, for example, radically lifts the universe of warrantless searches. It drastically amends existing definitions in a manner that will permit government to retain indefinitely information collected on Americans.

This is about protecting Americans with this broad brush. This is about not going back to McCarthyism. This is about making sure that we secure us within our borders, northern and southern and otherwise, but it is to say do not turn us into terrorizing ourselves.

The fourth amendment has not been abolished. This could have been amended in collaboration with our colleagues to protect civil liberties, the 4th Amendment, and to secure America. This is a rush to the election. I ask my colleagues to oppose this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Speaker, I thank the chairman.

Mr. Speaker, in the very simplest of terms, the strategic goal of terrorists in this war is to be able to hide from justice long enough to be able to gain access to weapons of mass destruction with which they can radically alter the future of American freedom for generations to come. The strategic challenge that we face is in finding and defeating terrorists before they gain access to such weapons and proceed to achieve their horrifying goal.

It is obvious that the critical factor in all of this effort is intelligence, for if we knew where every terrorist in the world was at this moment, we could destroy nearly all of them in less than 60 days.

But, Mr. Speaker, we have been held back by liberals in this country. Every effort the President has made to gain such intelligence has been resisted.

We should consider the terrorists' own words if we doubt their commitment to strike this country in the most horrendous way possible. Osama bin Laden said many years ago, "It is our religious duty to gain nuclear weapons." Hezbollah's Nasrallah said of America, "Let the entire world hear me. Our hostility to the Great Satan is absolute. Regardless of how the world has changed after September 11, death to America will remain our reverberating and powerful slogan. Death to America."

Terrorists, Mr. Speaker, believe that they have a critical advantage over the free people of the world. They believe their will is far stronger than ours and that they need only to persevere to break our resolve.

Mr. Speaker, the message of liberals in this country has only encouraged terrorists in that belief. If we fail to use our best and critical intelligence mechanisms to fight and defeat terrorists in these critical days, our children and grandchildren will pay an unspeakable price, and history will condemn this generation for such profound irresponsibility in the face of such an obvious threat to human peace.

We need to pass this bill, Mr. Speaker.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2½ minutes to the gentlewoman from California (Ms. WATERS), a member of the Judiciary Committee.

Ms. WATERS. Mr. Speaker, if there is one thing the American people know, they know that America has a Constitution that protects us from being spied on by our government. Everything about this bill makes a mockery of the Constitution of the United States of America. This administration has literally thrown the Constitution out the window.

In committee markup, the majority jammed a substitute amendment down our throats that basically undermines that part of the Foreign Intelligence Surveillance Act that requires that the administration get a warrant before eavesdropping on American citizens. Now the majority is jamming another Republican substitute or comprehensive amendment down the throats of the American people by considering this bill under what is known as a closed rule, which prohibits Democrats from offering any changes or amendments.

As we grapple with the war on terrorism, the constitutional power of the President has been stretched until it cannot be stretched anymore, from the use of force executed against Iraq, to the initiation of a warrantless surveillance program that targets innocent Americans.

In April, the U.S. Attorney General told the Judiciary Committee that even if that authorization to use military force resolution were determined not to provide the legal authority for the program that the President's inherent authority to authorize foreign intelligence surveillance would permit him to authorize the terrorist surveillance program.

The imperial President can do whatever he wants. Mr. President, Mr. Attorney General, Mr. Chairman, why then do we need this legislation?

The President illegally and unconstitutionally authorized the wholesale collection of domestic communications, and now the majority wants to give him legislative permission. This is not fair or honest.

This bill broadens the scope of those the President can monitor, so innocent people can be violated so long as the surveillance is directed at so-called "one permissible target." It also removes one of the central requirements for conducting warrantless surveillance, one that provides the most protection to the American people. And, as FISA has said, there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party.

They shouldn't be spying on us. If what the President is doing right now is so clearly authorized and is in the best interests of our Nation's security, why was this provision so troublesome? Is it clear that the fourth amendment rights of the American people are a burden to this administration? If a case is so extreme that it would take too long to obtain a warrant, these requirements shouldn't be difficult to meet.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise today in strong support of this legislation that is so important to our Nation's security when a new type of warfare threatens our security. I appreciate the good work of my friend from New Mexico, my colleague Heather Wilson, to bring this bill to the floor, she and a number of her colleagues.

The bill will authorize the NSA's terrorist surveillance program, which is truly vital to our Nation's security. Remember back to 9/11? We in this House ran down the street away from this Capitol because we were scared, and all of America was scared. Nobody knew where the next strike was going to hit. Nobody knew how much others had planned.

That was September 11. On October 25, the leadership of the House and Senate, Democrats and Republicans, leadership and heads of the Intelligence Committee, met with the President and the Vice President to look at this program and agreed that it was necessary to our security, that we needed to be able to pick up the phone if there was a call from a terrorist number into America. We needed to know what was being said, and we couldn't wait.

Ever since that October '25 date, the leadership of both parties in the House and Senate have routinely overseen this program. At the end of every meeting they came to the conclusion that what we were learning to keep our Nation safe was worth the targeted program that intercepted calls to known terrorist numbers, to numbers in the United States of America.

Now, some have said here tonight we have the 72-hour application process under FISA to address the need to intercept such calls. FISA is paperwork heavy. The critical factor is not the time available to go to the FISA court after the emergency application, but the detailed requirements for information that must be definitively known before you can even start the emergency surveillance.

There are 11 separate items: the identity of the target, the description of the target, and so it goes, all down through the 11. I don't have time to read all 11.

There is paperwork filled out first by the analysts at NSA, and then looked at by the lawyers at NSA, and then looked at by the lawyers in the Department of Justice. Not only lots of paperwork, but layers of lawyers.

So when my colleague from New Mexico says that we need rules of the road for this program that has been so crucial to our security, frankly, I am proud to support her.

Let me conclude with a quote from CIA Director Michael Hayden: "Had this program (the NSA surveillance) been in effect prior to 9/11, it is my professional judgment that we would have detected some of the al Qaeda operatives in the United States and we would have identified them as such. The NSA program allows faster movement than is possible under FISA."

It is our responsibility as leaders of this Nation to make that faster movement possible to defend our Nation, and to do it in harmony with protection of our civil rights, which rules of the road do.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 2 minutes to the distinguished minority whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, every single Member of this body supports giving our Commander in Chief the tools necessary to track terrorists, to intercept their communications, and to disrupt their plots. Any suggestion otherwise, any suggestion that any Member of this body somehow seeks to coddle terrorists who want to attack our Nation and kill our people demeans our discourse and is beneath the dignity of this institution.

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Make no mistake. Our highest duty is to protect the American people, secure our homeland, strengthen our national security, and defend the Constitution of the United States. This legislation, unfortunately, is deeply flawed and not bipartisan, and would turn the Foreign Intelligence Surveillance Act on its head. It fails to explicitly preserve FISA's exclusivity. Thus, by implication, it allows the President to conduct surveillance of Americans pursuant to any inherent authority argument.

The bill makes sweeping changes to the definition of electronic surveillance, allowing the National Security Agency to listen without warrant to the content of any communication that is from the United States to overseas or vice versa. The bill allows for warrantless surveillance after an armed attack or a terrorist attack or anticipation of an imminent attack; yet these terms are not defined or are loosely defined.

It is truly a shame, Mr. Speaker, but not surprising that the majority refused to allow the Members of this House to consider the reasonable bipartisan substitute offered by Congressmen SCHIFF, FLAKE, and INGLIS, two Republicans, two Democrats, and Congresswoman HARMAN.

The gentlewoman said that we ran out, running down the street. There is a time to stop running down the street and think and give us an opportunity to offer alternatives. What a shame that we have not done that. What a shame we still run. What a shame we still hark to politics rather than the policy.

For example, just listen to what William Sessions and William Webster—among others—stated recently.

Recall, Mr. Sessions is the former Director of the FBI during the administration of George H.W. Bush, and Mr. Webster is the former Director of the FBI during the Carter and Reagan Administrations and former Director of the CIA during the first Bush Administration.

They stated (and I quote): "Legal uncertainty is exactly what will result if Congress heeds the President's call to enact legislation that replaces the obligation to use the procedures of the Foreign Intelligence Surveillance Act with broad language about relying upon the President's constitutional authority."

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds, because it has been stated that we might have been able to prevent the September 11 attack. But a distinguished member of the 9/11 Commission specifically criticized General Hayden for suggesting that the NSA warrantless wiretapping program could have prevented the September 11 attack by stating that it is patently false and an indication that he is willing to politicize intelligence and use false information to help the President.

The Administration's claims that the NSA programs could have prevented the September 11 attacks do not appear to comport with the facts. With respect to Nawaf Alhazmi and Khalid Almihdhar, the September 11th Commission found that the Government had already compiled significant information on these individuals prior to the attacks, writing, "[o]n May 15, [2001], [a CIA official] reexamined many of the old cables from early 2000, including the information that Mihdhar had a U.S. visa, and that Hazmi had come to Los Angeles on January 15, 2000. The CIA official who reviewed the cables took no action regarding them." Under FISA, the Administration could have used the information to seek permission to monitor the suspects' phone calls and e-mails without risking any disclosure of the classified information. It is also not at all clear that warrantless surveillance would have been useful in averting the 9/11 attacks, since the Administration was unable to locate where the two suspects were living in the United States and, according to the FBI "had missed numerous opportunities to track them down in the 20 months before the attacks." Senator Bob Kerrey, who was a member of the 9/11 Commission, specifically criticized General Hayden for suggesting that the NSA warrantless wiretapping program could have prevented the September 11 attack stating: "[t]hat's patently false and an indication that he's willing to politicize intelligence and use false information to help the President."

I turn now to the gentleman from Virginia (Mr. MORAN) who has studied this matter and I yield him 2 minutes.

Mr. MORAN of Virginia. I thank my good friend and soon-to-be Chair of the Judiciary Committee.

The Republican leadership should be ashamed of itself to be so readily willing to undermine every American citizen's constitutional protection of privacy in order to give some political help to an endangered Republican Congresswoman from New Mexico.

This bill gives the executive branch unilateral powers to operate outside of the law. The FISA court has worked well for the past 30 years. Through the issuance of warrants, it provides our intelligence agencies expedited access to listen in on private communications but while safeguarding our civil liberties.

The FISA court has refused only four requests for surveillance out of 10,000. Four requests refused out of 10,000. And the Attorney General already has the ability to collect information without a court order in emergency situations. But this bill will retroactively approve the President's wiretapping program, one that our judicial branch has held is illegal. It even allows the Justice Department to coerce telephone companies to give up their records.

To date, the administration has never articulated to Congress or the relevant committees why such expansive new authority is necessary. Congress and the American people deserve an answer as to why we should give this President unilateral authority to erode our constitutional rights.

Mr. Speaker, we believe that every communication to and from al Qaeda should be monitored. In doing so, however, Congress should not give the executive branch a blank check to expose millions of innocent Americans to warrantless surveillance. Let's cast a vote for our Constitution and for our Bill of Rights and reject this bad bill.

The SPEAKER pro tempore. The Chair would advise, the gentleman from Michigan has 4 minutes remaining; the gentleman from Wisconsin has 9 minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from New York (Mr. HINCHEY) 2 minutes.

Mr. HINCHEY. Mr. Speaker, throughout the course of our history, the most respected and revered Americans have consistently warned us that the greatest threat facing our country was not external but internal. We could not be conquered from abroad, but we do have the capacity to erode what constitutes this country from within. By doing so, we would place ourselves in deep jeopardy; and that is what we see happening here today. We see the erosion of the basic principles of this country, the rule of law based upon our Constitution.

This bill that is before the House now is contrary to the fourth amendment of our Constitution. It provides for illegal surveillance. And when that Constitution was written, it was written based upon the experience of people who saw the effects of these kinds of dictatorial policies in other places around the world. And that is what we are now introducing to our own country.

We have so-called conservative Republicans who are refusing to conserve the basic principles and elements of the Constitution. And the most important part of that document, of course, is the first ten amendments, the Bill of Rights, and what we are seeing here is the erosion of the fourth amendment.

This bill is contrary to every basic principle of our country. If we pass this legislation, we are opening up new opportunities for an increasingly despotic administration to continue to erode the basic freedoms and liberties of the American people. On that basis alone, this bill should be rejected, and it should be rejected enthusiastically by the vast majority of the Members of this House. If we really understand what we are all about, vote this bill down.

Mr. CONYERS. Mr. Speaker, I now yield the balance of our time to the distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, if tonight the National Security Adviser walked in the Oval Office and said, "Mr. President, we believe there is an imminent attack about to occur in the United States, and we want to listen in on a phone call," we think there should be no doubt that the President has the authority to say, "Yes, listen in on that phone call," to protect the United States.

But at some point the emergency power ends, and the normal rules of law must obtain. Certainly that point comes sooner than 90 days after the request is made, which can be renewed and renewed and renewed without a decision of an independent Federal judge.

We have a law in place that says that within 72 hours of that emergency our President must go before independent Federal judges in a private, secret proceeding and justify the decision to listen to the calls of Americans or read their e-mails. 99.9 percent of the time since 1978 that has worked. There is simply no record, there is simply no justification to overturn that decision.

This is the most expansive, frightening, and unreasonable expansion of government power since Japanese Americans were unlawfully interred during the Second World War.

One of our friends from the other side of the aisle said that he was offended that liberals had somehow subjected the country to danger. Well, America's first liberal, Thomas Jefferson, would be offended by this piece of legislation, because it sets the outer balance of Presidential power wherever the President chooses to set those outer bounds. This violates Marbury v. Madison, it violates a fundamental tenant of American law, and, for these reasons, this bill should be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we have got a problem in this country: We are under attack. There are almost 3,000 people that died on 9/11, and we have had to change our entire philosophy on how to deal with this threat.

Before 9/11, we treated terrorist acts as a criminal act. And with a criminal act, a crime occurs and people are killed, and we send out the police to investigate. Hopefully, they get enough evidence to indict someone, and then the U.S. Attorney's offices will try them and hopefully obtain a conviction, and the judge sentences them, hopefully, for a long, long time.

9/11 proved we can't do that any more, because there are thousands of lives that are at risk. In this age of suicide bombings and suicide attacks, the people who would be prosecuted usually die in the commission of that terrorist act and take thousands of souls, innocent souls along with them. That is why we have to bring up to date a law that was written in the mid-1970s, and we have done this in a constitutional manner.

What we have heard from the other side of the aisle is, no, this isn't good enough and that the perfect is that the enemy of the good. Well, Mr. Speaker, if the perfect defeats the good, then bad will prevail. And if there is, God forbid, another terrorist attack, the blood will be on our hands for not doing the right thing. This bill should be passed.

Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. HOEKSTRA) and ask unanimous consent that he be allowed to yield portions of that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, there shouldn't be a controversy about the fact that there are threats to our national security today and that they continue to be more diverse and more complex than ever before.

The Intelligence Committee has worked throughout this Congress to identify and better understand these threats and what steps are necessary to provide the best possible capabilities to our intelligence community, the men and women of our intelligence community, to keep America safe.

The committee recently issued a detailed report on the threats posed by al Qaeda, a hostile regime in Iran. I encourage all members to review them. But you don't need to read the reports to understand the scope, the urgency, and the viciousness of the threats that we face today. The threats are relentless. They are omnipresent.

In the last 2 months alone, a treasonous American appeared in a video prepared by al Qaeda terrorists who have sworn to destroy America and said, "Either repent of your misguided ways and enter into the light of truth, or keep your poison to yourself and suffer the consequences in this world and the next."

Jihadists called for the Pope to be "hunted down and killed," merely for reading from a medieval text.

A 66-year-old Italian nun was ruthlessly shot four times in the back and killed while trying to train nurses in Somalia.

Our British allies discovered a horrific and brutal plot, close to fruition, to blow up multiple passenger airliners flying between the United States and the United Kingdom. That likely would have been a more devastating terrorist attack than 9/11. The British Home Secretary has said that they are following at least 20 additional plots.

Press reports have indicated the possibility that the Stalinist regime in North Korea is accelerating its plans to test nuclear weapons, and the rogue president of Iran has reiterated his rights to nuclear technology.

If anyone in the House believes that these threats are not real or they are not serious, I would welcome any information and discussion to the contrary.

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But even if a small portion of these threats have the possibility of coming to fruition, it should not be a serious matter of debate that our country needs to rapidly and effectively bring every intelligence tool to bear to find our enemies, detect and understand their intentions, and thwart their hostile and terrorist acts against our country and our people.

The opponents of this bill say it is "not necessary." I suppose the bill is "not necessary" if you do not believe that the threats we face are very real, and very serious. But I believe in the face of such intense and relentless threats this House would be derelict in its duty not to pass this bill that gives us the necessary intelligence tools to defend ourselves.

This bill is intended to modernize one of our primary weapons against terrorists and hostile foreign powers, the Foreign Intelligence Surveillance Act. FISA was passed in 1978. There are some who say it has been updated since, the law has become dangerously obsolete and hopeless as a tool against terrorism. We cannot fight a 21st-century intelligence war against sophisticated terrorist and state enemies with laws designed around the 1970s, around the former Soviet Union and around the bureaucracy associated with the former Soviet Union.

This bill will update the law to allow more flexible and agile intelligence collection against modern communication technologies and streamline the process. We must focus our resources on finding and detecting terrorists, not on having to fill out repetitive, inch-think paperwork to justify what should be an obviously appropriate need to listen to two foreign terrorists communicating in a foreign country.

The outdated law doesn't serve our intelligence interests. It doesn't serve our civil liberties interests. It serves only lawyers and bureaucracy.

This bill will focus the resources of the FISA process where they belong: on effective intelligence collection and protecting civil liberties where Americans have a reasonable expectation of privacy.

There is no ambiguity. This law continues to protect the average American going about their daily business, but does provide for needed surveillance against specifically identified terrorist organizations and spies. This bill would also provide clear authority for our Nation to act in times of armed attack, terrorist attack, or imminent threat.

It will also substantially increase congressional oversight not only of FISA but of all intelligence activities to address important concerns about the separation of powers that have been expressed in this Congress.

I appreciate the strong, close support on this matter by Chairman SENSENBRENNER and the Committee on the Judiciary. I would also like to recognize the hard work and the leadership of the distinguished Chair of the Intelligence Subcommittee on Technical and Tactical Intelligence, HEATHER WILSON, who took on the assignment to address the difficult and complicated issues in this bill. This has not been an easy task. She has worked diligently to address a number of complex, substantive issues and a range of interests within the House.

Mr. Speaker, I believe that this bill is not only necessary but vital to protect our Nation and the American people. The Nation demands that the Congress pass laws to protect our national security. This is what this bill does. I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Ms. HARMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, 5 years after 9/11, much remains to do. We still must learn the whereabouts of Osama bin Laden and Zawahiri so we can capture or kill them, achieve intelligence dominance in Iraq so we can protect our forces, penetrate global terror cells to prevent them from attacking us, plug gaps in our homeland security and prevent nuclear material from being acquired by hostile forces bent on using it against America and our allies.

But instead of working on these critical problems, tonight this House is voting to fix something that is not broken, the Foreign Intelligence Surveillance Act. And we are doing this although we know that the other body will not take up this legislation before the recess.

Mr. Speaker, I worked in the White House when FISA was passed. I understand its bipartisan history and the abuses it corrected.

FISA has been modernized 51 times since then. It is now a modern, flexible statute which includes 12 amendments since 9/11 made at the administration's request. It is a vital tool for the FBI, the CIA and the NSA in their investigations of terrorism and espionage.

All of us support strong tools to intercept the communications of terrorists, track their whereabouts and disrupt their plots. All of us. But there is no evidence that FISA must be totally rewritten in favor of a new regime promoting broad, warrantless surveillance of Americans. None. Yet the White House/Wilson bill does just that.

Mr. CONYERS mentioned that a bipartisan group of former government officials issued a statement opposing the Wilson approach. They wrote: "This legislation would return a complex subject to the murky waters from which FISA emerged by making . . . the FISA court, or applying FISA in any way, optional rather than mandatory . . . FISA provides . . . clarity and should not be abandoned or amended in ways that render it irrelevant."

Judge William Sessions, who served as FBI director under Presidents Reagan and Bush, and Judge William Webster, who also served Presidents Reagan and Bush as Director of the FBI and CIA, signed that letter, and they are right.

The White House/Wilson bill muddies the water in two major ways. First, the bill rewrites the definition of electronic surveillance so it applies only when the government intentionally targets a person inside the U.S.

This means that if an American citizen in Los Angeles talks to her sister in Mexico, NSA can listen to their phone calls simply by claiming the target is the sister in Mexico. Nearly all international calls and e-mails of Americans can be intercepted under this bill without a warrant using this new definition of electronic surveillance.

The next loophole is even larger. The White House/Wilson bill authorizes the President to conduct warrantless eavesdropping on the communications of American citizens after an armed attack or a terrorist attack or an anticipation of an imminent threat. This includes domestic-to-domestic phone calls and e-mails. But these terms are not defined. Talk about murky waters.

Imminent threat includes acts that are likely to cause substantial economic damage. Is the threat of a trade war an imminent threat?

To allow 60- to 90-day renewable periods for the President to engage in warrantless surveillance is to gut the careful bipartisanship protections in FISA and grant the President unchecked power.

As the Supreme Court has said: "A state of war is not a blank check for the President." Not for this President, or any future President.

Mr. Speaker, we can do better, and we will have time after this election to do better. The bipartisan substitute which I strongly support is better and would extend from 3 to 7 days the amount of time the NSA has to obtain a warrant in an emergency after surveillance begins, make clear that foreign-to-foreign communications do not require a warrant, even if they are intercepted in the United States, increase the number of FISA judges, and put more resources into expediting the warrant application process, and reaffirm that FISA is the exclusive way to conduct electronic surveillance on Americans.

It includes key provisions of the LISTEN Act, which Mr. CONYERS and I produced in May and which has the support of all nine minority members of the Intelligence Committee.

Mr. Speaker, protecting America from terrorism is our constitutional duty. We all know that it is an election season and a debate on surveillance brings political benefits to some. But that is a terrible reason to legislate. I, for one, do not want to suspend our 217-year-old Constitution tonight for political reasons or no reason at all. Vote "no."

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I would like to at this time yield 4 minutes to the gentlewoman from New Mexico, HEATHER WILSON, the chairman of the subcommittee, the author of this House legislation.

Mrs. WILSON of New Mexico. Mr. Speaker, I would like to start out this evening by correcting a few misstatements.

First, the letter that has been referred to a couple of times here by Mr. SESSIONS and Mr. Webster refers to a bill introduced by Senator SPECTER in the Senate which is quite different than the legislation that we are considering here in the House tonight.

Secondly, my colleagues should know that the White House does not approve of this legislation. In fact, they had not even seen the legislation before I introduced it in the House, and my colleagues on both sides of the aisle had that legislation before the administration ever did. This is a House bill and a House product.

I wanted to thank the chairman of the Intelligence Committee and Chairman SENSENBRENNER of the Judiciary Committee, and my colleagues DAN LUNGREN and NANCY JOHNSON for their work and help in crafting this legislation that we are here to consider tonight. I think it is important for all of my colleagues to understand why it is important to move forward with the legislation.

All of us in America remember where we were on the morning of September 11. Most of us remember it in fine detail. But none of us remember where we were when the Canadian Mounties arrested 17 people who had amassed the material for two Oklahoma City-size bombs across the river from Detroit. And very few of us remember where we were when 16 people were arrested in London who intended within days to walk onto American airlines aircraft leaving Heathrow and blow them up over the Atlantic. We don't remember because it didn't happen. It didn't happen because of exceptional intelligence.

This bill strengthens oversight of all intelligence activities and reestablishes that the Congress is a separate coequal branch of government with responsibilities to oversee our intelligence agencies.

It modernizes and simplifies the Foreign Intelligence Surveillance Act that is well overdue. It takes into account 21st-century communications and 21st-century threats that are using those communications against us.

And it sets clear rules for how we should act in the wake of a terrorist attack. There is no broad surveillance authorized by this program: but if a known terrorist calls America, we are going to say you should listen now. Listen now, not after the FBI develops a portfolio, not after legions of lawyers come up with petitions, not after you wake the AG or deputy AG in the middle of the night. Not after we have gotten all of the paperwork done. Listen now. Protect us now because it is reasonable to protect us now.

Some people have said there is a 72-hour emergency provision in FISA, and there is. There is a 72-hour emergency provision, but it requires the AG to have all of the information that would go into a FISA application, and we don't often have that in this war on terrorism.

If we have a number on a cell phone from an al Qaeda agent picked up in Pakistan, we want to be up on that number if the number is in the United States. We don't want to wait for the paperwork to get to the Justice Department. We want the terrorists hiding in their caves wondering if they can use a cell phone rather than Americans using their cell phones to call home one last time.

That is why I would urge my colleagues to support this legislation in front of us this evening.

Ms. HARMAN. Mr. Speaker, we are all for listening now under the law.

It is now my pleasure to yield 2 minutes to the gentleman from Texas (Mr. REYES), a member of the Subcommittee on Oversight.

Mr. REYES. Mr. Speaker, I rise in opposition to the White House Wilson bill. I want to detect and intercept terrorists before they reach the United States as much as anyone, but I don't want to give the President the ability to trample our Constitution in that process.

I have devoted my entire career to defending our Constitution, first in the military, then in the Border Patrol, and now in Congress. I am not willing to give the President unnecessary unchecked authorities just because it makes good election-year politics.

□ 2100

As a member of both the Intelligence Committee and the Armed Services Committee, I would like to address the failure of this bill to deal with a very specific problem: the President's assertions that the authorization for use of military force gave him the authority to conduct warrantless surveillance of innocent Americans.

I offered an amendment in committee that would have inserted additional language into the White House-Wilson bill to make clear that Congress did not, did not, Mr. Speaker, in passing that authorization, empower the President to engage in warrantless surveillance. Like every amendment offered in the Intelligence Committee, it was voted down in a party line vote. Anything that doesn't square with the President's wish list was unacceptable to the sponsor of this bill. That is disappointing, and that is not bipartisanship.

I take very seriously our obligation to provide the President with the tools that he needs to provide for national security, but I also reject the notion that the authorization for use of military force allows the President to ignore the fourth amendment and conduct warrantless surveillance on American citizens.

To this day, even the Intelligence Committee cannot be sure whether there are other secret programs that the President believes Congress has implicitly authorized. But we can at least make sure that this position, our position, is clear, that he must respect this one.

I still don't think that the authorization for use of military force authorized those things, and I continue to be amazed that the White House, with a straight face, thinks that it did. I am not afraid to stand up for our Constitution. I am not afraid to take a stand and provide the tools to the President either. But this is not the right vehicle. It should be a bipartisan effort.

The White House-Wilson bill is a terrible affront to our constitutional system, and I urge a "no" vote.

Mr. HOEKSTRA. Mr. Speaker, I yield 3 minutes to my colleague, Mr. DENT.

Mr. DENT. Mr. Speaker, I rise tonight to speak in strong support of H.R. 5825, the Electronic Surveillance Modernization Act, for four reasons:

First, the act applies only to foreign agents operating in this country. It cannot be used to spy on ordinary Americans. It cannot be used in run-of-the-mill criminal prosecutions. It allows only short-term, let me repeat, short-term warrantless surveillance.

Second, the act makes it easier to conduct surveillance on those foreign agents. Up to now, their communications within this country could not be monitored without FISA approval if it was likely that U.S. citizens were involved in those communications.

Third, and most importantly, the Act makes it easier for us to respond to attack or to the threat of attack. Under current law, warrantless surveillance of foreign agents is permitted only after the U.S. has declared war. Waiting to monitor the activities of foreign terrorists until a formal declaration of war has been declared may be too late. Under H.R. 5825, we can begin such surveillance after an armed or terrorist attack has occurred or, even more significantly, when there is an imminent threat that is likely to cause death or widespread harm.

Finally, the Act gives intelligence authorities the flexibility needed to respond to emergency situations. Under current law, intelligence authorities may conduct surveillance in an emergency for up to 3 days before that agency must go to a FISA court for a warrant. Under H.R. 5825, that period is extended to 7 days, giving authorities more time to respond to that emergency and to gain valuable information that might save people's lives.

For all these reasons, I urge strong support for the Electronic Surveillance Modernization Act.

And, finally, I would like to say maybe, maybe, had this technology been employed before 9/11, maybe those two terrorists out in San Diego who were on the phones to Yemen into a switchboard, a switchboard apparently that bin Laden himself had called into one time, maybe had we been doing this type of surveillance, maybe we could have prevented at least one of those attacks that occurred at the Pentagon on September 11.

For all these reasons, I strongly support the legislation.

Ms. HARMAN. Mr. Speaker, we all wish we had connected the dots prior to 9/11.

Mr. Speaker, I now yield 2 minutes to Representative ESHOO of California, the ranking member on our Subcommittee on Technical and Tactical Intelligence.

Ms. ESHOO. Mr. Speaker, I thank our distinguished ranking member for yielding.

I wish we were debating final passage on a much better bill. Sadly, this bill gives the administration what it wants: a blank check to conduct domestic surveillance without a warrant.

Mrs. WILSON said earlier that this is not a White House bill. Well, if it is not a White House bill, it is a White House dream, because it is a blank check to the President.

Instead of addressing specific problems in the law with tailored solutions, this bill eviscerates the Foreign Intelligence Surveillance Act. Now, that Act is only almost 30 years old. It is not an antique. It hasn't collected dust. It has been revised. It has been amended. It has been brought up to date. But that is not good enough. This bill eviscerates it.

One of the arguments advanced during the debate was that FISA needs to be technology neutral. I agree. We agreed. We went out to NSA. They told us that. We agreed. We offered a tailored solution. Rejected. The whole bill has to be scrapped in order to make changes.

That is not a prudent course. This bill heads us down a dangerous path. The radical changes this bill makes to FISA definitions and standards represent a wholesale rewrite of the law. They nullify FISA by exempting large categories of U.S. person communications from the warrant requirement, and it rubber-stamps all forms of data mining.

The American people want us to protect them, but they don't want us to throw the Constitution overboard. May I remind everyone, with the obligation that we have to the American people when we come here, the oath we take says that we will uphold the Constitution of the United States. This bill does not live up to our Constitution. It gives away the fourth amendment. Members of the House should reject it.

Mr. HOEKSTRA. Mr. Speaker, I would like to yield 2 minutes to one of the newer members of the committee, Mr. ISSA from California.

Mr. ISSA. Mr. Speaker, as the chairman said, I am one of the newer members to the Select Intelligence Committee. But I am not any longer one of the newer Members to Congress, because I was here on September 11. I saw as we evacuated the Capitol. I saw as the Pentagon burned. I saw as America rallied, asking us to make sure this didn't happen again.

Today, we are considering some commonsense, limited reforms that are necessary. They are necessary because, on both sides of the aisle, we want to make sure that we codify in law what will be done, that we minimize executive order but maximize the ability of the executive branch to meet its obligations to the people.

H.R. 5825, if it weren't the eve of election, would clearly be just another commonsense reform done on a bipartisan basis. But we are in the midst of an election.

I have been on the Judiciary Committee since I came as a freshman 6 years ago. I am very concerned about civil rights, about protecting Americans' civil rights. And if I could just take a minute to get beyond the partisanism for a moment, I am also an Arab American. I am exactly the group that is likely to have to think about is my call to Yemen or to Lebanon or to Jordan or any of the other expanded places that I have family and friends, is that going to be potentially monitored? I have thought about that. I have soul searched it for myself and for many millions of people like myself in the United States who are Americans born and raised but, in fact, have friends and family abroad.

I am comfortable with this bill. I am comfortable with the parts that are unclassified, and I am comfortable with what I have learned on a classified basis. That doesn't come easy, but I have made the effort to do so. I am supporting this bill because it is the right thing to do to make all Americans safe, and it is the right thing to do to make sure that we never again have to apologize to the American people for September 11.

Ms. HARMAN. Mr. Speaker, it is now my pleasure to yield 2 minutes to Representative HOLT of New Jersey, ranking member on our Subcommittee on Oversight.

Mr. HOLT. Mr. Speaker, I thank the gentlewoman from California for yielding.

Mr. Speaker, this is not a debate about whether we should be wiretapping al Qaeda. This is a debate about whether intelligence agencies should be guided so that their efforts are most effective in protecting Americans from terrorism.

The President has been sending intelligence agencies on fishing expeditions. Now, of course, when al Qaeda calls, we should be listening. And under FISA we can and we do. But the President wants to turn a vacuum cleaner on the communications of innocent Americans, with no checks and balances, trampling the rights of many in the search for a few. We need to bring some discipline to our electronic surveillance with checks and balances, checks so that we don't make dreadful mistakes.

Our history is replete with mistakes, when we were sure, absolutely certain, that we knew who the enemies were: Martin Luther King, Jr.; Paul Robeson; Brandon Mayfield, an innocent lawyer in Portland; and on and on. The White House-Wilson bill, in the name of modernization, is extending the President's vacuum cleaner.

The President under FISA has the power he needs within the legislative framework that will focus his power on terrorists, not on innocent Americans. Our government is strongest when all three branches of government work together, and we are weak when the President tries to act alone and in secret. This President has been acting alone and in secret, and that is why the fight against terrorists has been going so badly.

This President, any President, needs the supervision of Congress and the courts.

Mr. HOEKSTRA. Mr. Speaker, I yield 3 minutes to a gentleman from the committee, Mr. TIAHRT.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, Americans live under the U.S. Constitution. As Members of Congress, we swear an oath to uphold the United States Constitution. It means something to be an American because we believe in our country, we believe in our people, and we believe in our constitution.

In the New Testament, Paul, the Apostle, once was taken captive and held for the crime of spreading the Gospel of Jesus Christ. He responded by saying, "I am a citizen of Rome." And, as a citizen of Rome, he was granted certain privileges because it meant something to be a Roman citizen.

Well, today, we are in the struggle brought on to us by the terrorists of Islam. It is a war that we did not choose. It was a war that was declared against us as Americans, against our people, against our Constitution.

Today, we are now deciding how do we treat those who are choosing to carry out a war against us, non-U.S. citizens who are choosing to take us to task for what we believe and who we are. In this conflict, we have to decide how we are going to try to find these terrorists.

If in a conflict a certain laptop is captured in the fleeing from a conflict, when a member of the al Qaeda leaves and on that laptop we happen to find some information, including phone numbers, should we check those phone numbers to see if they are calling from Pakistan or Afghanistan or Iraq or elsewhere on the globe into the United States? Should we check to see if there is a terrorist plot being formulated against the citizens of the United States? Should we give them the same rights as we have as American citizens?

Well, we have gone over and above the way we treat our prisoners. How do the members of al Qaeda treat us as prisoners? How do they treat our soldiers? They have no prisoners because, when they capture one of our troops, they are executed. They are either beheaded or they get shot in the back of the head.

In our attempts to keep this country safe, we need to remember who it is that we are dealing with. And when they do call in, what type of process should we go through to keep this country safe? It is my belief that this legislation has the checks and balances that protects the Constitution. It has the same safeguards that we all hold dear for the citizens of this country, and yet it gives us the tools necessary to keep this country safe, the same tools we use to capture people who push drugs on our kids, the same tools we use to keep child pornographers from taking advantage of our children.

□ 2115

The same tools we need to use to keep this country safe by bringing terrorists to justice, because I guarantee you, if they have the opportunity and the means, they will take American lives.

So we must use this tool, as laid out in this legislation, to make sure that we can keep this country safe, to make sure that we can, yes, uphold the Constitution, but use all tools necessary to make sure that we bring these criminals, these terrorists, these people who want to harm us to justice.

Ms. HARMAN. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from California has 3¾ minutes, and the gentleman from Michigan has 4½ minutes.

Ms. HARMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from California, and I associate myself with the remarks that she made at the beginning of this proceeding here this evening.

Mr. Speaker, the President's warrantless wiretapping program should have been conducted under the Foreign Intelligence Surveillance Act provisions. The threat of terrorism demands careful response.

The government has to have strong powers, including the authority to carry out various forms of electronic surveillance. FISA, as was amended over 20 times, updated, provides those powers. People want to be protected, but they do not want their legislators in an election year to just start handing away their constitutional rights and privileges.

I agree with the assessment of one of the witnesses before our committee: such a complex and proven statute as FISA should be amended only with great caution and only on the basis of a public showing of need.

This administration's concerns about FISA were narrow and they were few and could have been resolved with clarifications. But we proposed bipartisan legislation that would take care of it. This majority chose not to take that legislation up.

Instead, they have proposed this broad and sweeping and over-reaching bill that, regardless of what my colleagues may say on the other side, is a dream of the White House, and Mr. CHENEY and Mr. Bush.

To protect the constitutional rights and to ensure the effective application of government powers, government surveillance should be focused. That focus can best be achieved through a system of checks and balances that are implemented through executive but also legislative and judicial review.

The bill before us effectively eliminates review. The bill before us simply gives the executive carte blanche to intercept communications of United States citizens without making adequate attention to preserving the liberties and civil rights that are embedded in our Constitution.

It is unnecessarily broad and it is harmful for the interests of Americans. In making sure that the government has all of the powers that it needs, we have to have a law that ensures citizens their rights will be adequately protected even as their safety is secure.

Therefore, this bill fails because it does not allow for essential protections. Except in emergencies, there must be prior judicial approval. Congress should be fully informed of all surveillance activity and carefully oversee it.

Any repeal of FISA's exclusivity provision is wrong, Mr. Speaker. It would turn back the clock 30 years. There is a reason FISA was passed into law, and those reasons exist today.

It is clear, after having listened at classified and open hearings, that the President's program of warrantless wire tapping should have proceeded to intercept communications only under the Foreign Intelligence Surveillance Act's, FISA's, provisions. The Threat of Terrorism demands a careful response.

The Government must have strong powers, including the authority to carry out various forms of electronic surveillance. Still, to protect Constitutional rights and to ensure effective application of those powers, government surveillance must be focused. That focus can best be achieved through a system of checks and balances implemented through executive, legislative and judicial review.

I agree with the assessment of one of our witnesses with a Policy and Technology background: Such a complex and proven statute as FISA should be amended only with great caution and only on the basis of a public showing of need.

After all this time since the 12/05 disclosure of the program the Administration has made public only limited, quite narrow arguments that FISA is in need of further amendment:

(1) The Attorney General's explanation of problems involving the timely invocation of FISA emergency exception. In other words, in some cases the process was making it difficult to get a warrant application processed within the 72 hours allowed by the statute after interception commenced . . .

Those problems, evidence shows, are due in part to the paperwork burdens created by the Executive Branch and perpetuated by this Administration.

That problem it is largely self-inflicted and is not due to any delay by the Foreign Intelligence Surveillance Court.

The remedy—direct the President to report to Congress on the need for more resources, Asst. AG's, etc., and make any legislative and procedural changes that are necessary (i.e. if more than 72 hours post-emergency intercept needed for warrant).

The Harman-Conyers bill addresses these matters, though it is not even actually necessary to pass an amendment or a law to meet these goals.

(2) A concern was put forth that a court order is necessary for the interception of foreign-to-foreign communications of non-U.S. persons that happen to pass through the U.S., where they can be more readily accessed by U.S. government agencies.

In other words, some in the agency were interpreting the law to require a warrant even if U.S. persons weren't involved but the communication passed through the U.S. Many experts believe that to be the wrong interpretation. Still, the remedy—presumably a narrow clarification could be crafted. Clearly, any updating of FISA can be done in a way that is Constitutional and responsive to the Executive branch's needs.

Measures before this body purporting to simply give the Executive carte blanche to intercept communications of U.S. citizens without making adequate attention to preserving the liberties and civil rights imbedded in our Constitution are unnecessarily broad and harmful to the interests of Americans.

In ensuring that the government has all the powers it needs, we must have a law that assures citizens their rights will be adequately protected even as their safety is secured.

Therefore, any amendment or bill must provide that: Except in emergencies—there must be prior judicial approval;

Congress must be fully informed of all surveillance activity and carefully oversee it; Interceptions of contents of communications of U.S. persons must be focused on particular individuals suspected of being terrorists or particular physical or virtual addresses used by terrorists; The threshold should require that there is probable cause to believe the target is a terrorist and that the intercept will yield intelligence; and

FISA must be the exclusive means to carry out intelligence surveillance within the U.S. Any repeal of FISA's exclusivity provision is wrong. It would turn the clock back 30 years and do away with legislative oversight and judicial review. There were valid reasons that FISA was passed. Those reasons still exist.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I appreciate the gentleman yielding to me. It is quite stunning that my colleagues on the other side of the aisle describe this as a broad, sweeping authority, and that under the NSA program, somehow the President can go on fishing expeditions.

The NSA program applies only to international calls and only when those calls involve the telephone number of a known al Qaeda operative. So if it is someone from Hezbollah or some other group, you cannot do it. It has to be al Qaeda.

Well, I will tell you, if a call is going from a known terrorist al Qaeda operative in Iraq or Afghanistan or Pakistan to America, I want to know. I want to know what they are saying. If there is anything London taught us, it is that we need to know. And we need to know to be able to stop actions from happening that threaten and endanger our people.

The second thing is, the persistent, repeated claim on the other side of the aisle that somehow a FISA court application is a snap of the fingers. Brian Cunningham, former CIA official and Clinton-appointed Federal prosecutor: NSA cannot lawfully under FISA listen to a single syllable until it can prove to the Attorney General, usually in writing, that it can jump through each and every one of FISA's procedural and substantive hoops.

And those procedural and substantive hoops mean that the operative at the National Security Agency has to decide there is an issue, has to put it in writing. The lawyers of NSA have to agree. They have to provide paperwork that goes to the lawyers of the Department of Justice.

I mean, there are lots of steps to this process. And to imagine that this can be done rapidly, it often takes weeks from what I have heard in briefings. It can take longer than that. To believe that this can be done in 72 hours and protect our people is to close your eyes to the reality of the terrible danger that terrorism possess to people in America and throughout the world.

Ms. HARMAN. Mr. Speaker, I yield myself 30 seconds to respond to the prior speaker, and then I will yield the remainder of our time to the minority leader.

Mr. Speaker, I am glad that Mrs. JOHNSON brought up this question of procedural and substantive hoops. This is a claim that she has made before. And I just want to point out to my friend that those procedural and substantive hoops, relating to emergency FISAs, are imposed by the Justice Department and the NSA, not by the law.

No one here wants there to be procedural and substantive hoops involved in getting emergency warrants. All of us want to listen if there is an emergency and get the warrant later.

Mr. Speaker, I yield the balance of our time to the gentlewoman from California (Ms. PELOSI), my predecessor as ranking member on the Intelligence Committee and the leader of the minority.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding. I thank her for her leadership and her clarity on this very important issue. And clarity indeed is needed here.

Mr. Speaker, each of us wants the President to have all of the intelligence necessary to protect our country and to protect the American people. We spend billions of dollars every year to make sure that the most reliable intelligence possible is available in a timely fashion to the President and our military commanders.

We know that intelligence collection can involve highly intrusive methods. That is the reality of intelligence gathering. But when those methods are employed against people within the United States, it is imperative that they comply with the Constitution and they be subjected to regular and thorough congressional and judicial oversight.

For 28 years, the statutory basis for electronic surveillance for intelligence purposes has been FISA, the Foreign Intelligence Surveillance Act. The reason FISA exists was because in 1975 the Church Committee found numerous instances of warrantless electronic surveillance and physical searches of United States citizens who were not spies, but who advocated unpopular political views.

FISA was a compromise designed to prevent overreaches unrelated to our national security while clarifying when warrantless surveillance could be used for domestic security purposes. The FISA process has worked well for nearly three decades, and that success is due in part to the fact that we have been able to modify it as the needs and technologies change. In fact, FISA has been modified 51 times since 1978.

FISA can be changed. It can be updated. It can be broadened or amended, but it should not be circumvented. And that is what this bill does tonight. It tries to circumvent FISA law and our Constitution.

Last December, President Bush confirmed press reports that he had permitted warrantless surveillance to occur outside the FISA process, and that he had both inherent and statutory authority to do so. FISA is and must remain the exclusive means for authorizing warrantless surveillance of people in the United States for intelligence purposes.

This exclusivity provision is what allows for judicial and congressional oversight and protects all of us from abuse. Unfortunately, the bill now under consideration eliminates that protection. Instead, it accepts the President's argument that there are circumstances in which he needs to be able to order surveillance without using the FISA process and then provides him with the authority to do so.

If this bill passes, rather than being the exclusive means for authorizing surveillance, FISA would be just one option. The result would be less oversight and fewer checks and balances and more abuses of executive power.

I heard our colleagues on the other side say things as ridiculous as this, and they know better. In fact they know what they are saying could not possibly be true. They are saying that if we pick up the phone and we hear a terrorist on the line, Democrats want us to hang up.

You have to really be very kind not to attribute some very sinister motivation to anyone who would say such a thing. Of course, that is not the case. And that is what is so important about the FISA, because it does allow our collectors to listen in on those conversations while they get a FISA, while they can be brought under the law through FISA.

That is the beauty of the motion to recommit that Mr. SCHIFF, Mr. FLAKE, Ms. HARMAN, and others will be putting forth later this evening. It simply says that the vote to go into Afghanistan did not give the President the authority to avoid the law, and undermines the Constitution.

It says that FISA can be updated. It provides funds, more funding for the implementation of FISA. It extends the number of days under which collection may be done without a FISA warrant. It, in fact, modernizes FISA in a way that is appropriate, but maintains the exclusivity which is central, central to the President operating under the law.

The combination of the military commission bill passed yesterday and this bill would be an unprecedented expansion of executive authority into some of the most fundamental liberties enshrined in our Constitution: the right to privacy and the right to due process of law.

These are not merely academic, legal, or technical matters. These are rights. These rights are at the heart of what makes us unique as a Nation, and I believe they will be diminished by the passage of these bills.

The President claims that inherent in his office is all of the authority needed to conduct warrantless electronic surveillance. Rather than enshrine in law powers the President claims he already holds, we should await the conclusion of judicial review of the President's domestic surveillance program.

At that point, we can determine if additional adjustments to FISA are necessary. We do not need to pass this diminishment of privacy in our country tonight.

Of course, that would require something that the administration has thus far been unwilling to allow, congressional hearings on the domestic surveillance program.

Congress needs answers to questions that remain unresolved to the unsatisfactory and sterile briefings provided thus far by the administration. Until that happens, we should be reaffirming the exclusivity of FISA and our commitment to providing whatever additional resources and procedural enhancements might be necessary to facilitate its operation.

That is exactly what the bipartisan Schiff, Flake, Harman, Inglis amendment would do. The Republican leadership should have ensured that the House had a chance to consider the amendment today. That would have been the fair thing to do. Instead, we have had to force the issue through a motion to recommit. That motion is the only, only initiative that stands between us and a vote on a bad bill.

I urge the adoption of that motion in the spirit of protecting the American people, of expanding the time allowed to collect without a FISA warrant, and to do so with exclusivity and under the law to honor our oath of office that we take to uphold the Constitution.

□ 2130

Anyone who says that we want to hang up on Osama bin Laden demeans the debate, cannot possibly be serious and owes the American people better.

Mr. HOEKSTRA. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, we are a Nation at war. All we need to do is take a look at what the leaders of radical Islam are saying. Bin Laden has said that if by the grace of God he would be able to have access to nuclear weapons, he would use them.

All you need to do is take a look at what radical Islam is doing. Just five short weeks ago, they once again had a plan to attack America in a horrific way, multiple planes crashing into the Atlantic Ocean at the same time.

This is a global war. The attack that had its home in the U.K. is directed out of Pakistan. It is targeted at America. There are operatives throughout the Middle East, north Africa, Europe, the Netherlands, Canada, Australia. It is a global and dangerous enemy. It is a decentralized, entrepreneurial organization that is very, very dangerous.

We are on the offense. We are taking the fight to the radical Islamists wherever they may be.

This bill is about making sure that the men and women in our intelligence community have the tools to fight this kind of an enemy. It is time to update FISA. It is time to give the men and women in the intelligence community the tools for them to fulfill the job that we have asked them to do, which is to protect America, to keep us safe.

Vote for this bill. Vote for a modernization.

Mr. MACK. Mr. Speaker, I rise today to express my thoughts and concerns regarding the Electronic Surveillance Modernization Act (H.R. 5825). As a strong conservative, I believe in national security, independent courts that follow the law, strong legislative oversight, and individual responsibility.

While this legislation is an important and effective tool for combating and winning the war on terrorism, I believe it is the duty of this body to err on the side of freedom and the constitutional protections the American people cherish and deserve.

The history of a government with unchecked power is a history of tyrannical governments. Unchecked power caused civilized people to write the Magna Carta, the Declaration of Independence, the United States Constitution, and the Bill of Rights. At its crux, the Constitution ensures the separation of powers and confirms the Founding Fathers' belief that power corrupts, and absolute power corrupts absolutely.

Five years ago, this Nation suffered the deadliest terrorist attack in our Nation's history. This attack was an act of war and Congress came together to provide law enforcement and intelligence officials with sweeping powers to increase intelligence-gathering abilities and information sharing in the name of fighting terrorism. This was a wise and prudent choice. However, due to the legitimate concerns raised about the powers we put into the hands of government and the need to be mindful of the liberty we are sworn to uphold, Congress remained vigilant in maintaining appropriate checks and balances.

Under this Electronic Surveillance Modernization Act, the Terrorist Surveillance Program (TSP) will continue to exist alongside the wiretapping regime established by this Act.

You will have two programs—one on the books and the other not. While I strongly support the War on Terror and our president, this legislation would allow any American president to turn to the TSP if this Act unduly constrains their efforts. This is not checks and balances, but rather, an end-run around the basic principles of the rule of law.

This legislation allows any president virtually unlimited power to intercept the communications of every American on his word alone. For example, the bill eliminates FISA's warrant requirement for electronic surveillance whenever the president certifies that the United States has been the subject of a terrorist attack and identifies the terrorist organizations or their affiliates believed to be responsible. But, as we all know, for the indefinite future, the United States will be targeted by terrorists and the enemies of freedom. Further, the bill allows for the surveillance and physical searches of any American homes or businesses for 90 days if there is an "armed attack", a term undefined in the bill, against the United States territory.

Some have characterized the TSP as an irresponsible reaction. While I support intercepting terrorists' communications, Congress must ensure that checks and balances are included and proper oversight is maintained. But this legislation will prevent Congress from exercising that critical oversight.

History tells us that in times of war or conflict, government is all too willing to ask its citizens to sacrifice liberty in the name of security. America witnessed it during World War II with the immoral internment of Japanese Americans. But our children and grandchildren deserve a future that cherishes both their security and their liberty, not one at the expense of the other. It is our duty to protect that balance and I can only hope that when this legislation emerges from conference and is enacted into law that we will have fulfilled that responsibility.

President Reagan once said, "Freedom is a fragile thing and is never more than one generation away from extinction. It is not ours by inheritance; it must be fought for and defended constantly by each generation. . . ."

Mr. Speaker, the War on Terror must be fought and it will be won. But, as we prosecute this war, we must understand that it is our generation's time and responsibility to defend freedom. While our brave young men and women in the military are fighting for liberty around the globe, this Congress must honor their sacrifice and the cornerstone of the United States by defending freedom here at home.

Mr. BLUMENAUER. Mr. Speaker, the Electronic Surveillance Modernization Act, H.R. 5825, seeks to expand the administration's power by giving the President greater flexibility over a program that he has already abused. If our experience with this administration proves anything, it is that reducing congressional oversight would be a mistake.

Less than a year ago the American public learned how the president had blatantly disregarded the Foreign Intelligence Surveillance Act (FISA) by authorizing a warrantless eavesdropping program on American citizens. After this program was uncovered, we discovered that the administration had authorized the National Security Agency to build a massive phone records database. Now the President asks that we pass legislation to legitimatize illegal activities that have already occurred and the current Republican leadership is all too willing to comply.

This legislation does not solve any problems or make our country more secure, it simply grants the administration the authority to implement more programs that violate the civil rights and liberties of American citizens.

We must hold this administration accountable for its actions and not retroactively approve an illegal program. Surveillance activities must be done consistent with our Constitution and our laws, and should protect both the American people and our freedoms.

Mr. ETHERIDGE. Mr. Speaker, as a member of the Committee on Homeland Security, I rise in opposition to H.R. 5825, the Electronic Surveillance Modernization Act. I strongly support aggressive action to protect America from the threat of terrorism. We must do whatever it takes to defeat our terrorist enemies and defend our core principles. But this bill is unnecessary and goes too far and empowers unaccountable bureaucrats to violate the rights of law-abiding Americans.

Since the terrorist attacks on our nation on September 11, 2001, I have consistently supported the modernization of the Foreign Intelligence Surveillance Act (FISA) through my votes in favor of the USA PATRIOT Act and its reauthorization (P.L. 107–56, P.L. 109–177), the Intelligence Authorization Act for Fiscal Year 2002 (P.L. 107–108), the 21st Century Department of Justice Appropriations Authorization Act (P.L. 107–273), and the Department of Homeland Security Act (P.S. 107–296).

FISA is a modern, flexible statute that is a vital tool for the FBI, CIA and the NSA in their investigations of terrorism and espionage. This law provides intelligence and law enforcement officials the authority to monitor the communications of those who would do us harm while protecting the privacy and civil liberties of U.S. persons as guaranteed by the Constitution.

H.R. 5825 is an ill-conceived, election-year ploy that would expand executive wiretap authority to unprecedented levels and expose the daily, innocent communications of American citizens to review by faceless bureaucrats.

Mr. Speaker, we must provide our law enforcement officials with the tools and resources they need to plug gaps in our homeland security and to penetrate global terror cells, but the House Republican leadership attempts to weaken the U.S. Constitution by lowering the standard of the Fourth Amendment to score political points. I support the bipartisan Harman-Flake alternative that represents a balanced approach to defeat the terrorists while safeguarding our rights.

Mr. SMITH of Texas. Mr. Speaker, I support this legislation.

Those who oppose the Terrorist Surveillance Program say that it violates civil rights, that it sends the wrong message to U.S. citizens and foreign nations, and that it should be stopped.

To the contrary, the Terrorist Surveillance Program protects Americans' lives and sends terrorists the message that we will use every legal means possible to defend ourselves. It should be continued, not eliminated.

Before 9/11, information sharing between law enforcement and intelligence officials was almost non-existent.

The hands of our criminal investigators and intelligence investigators were tied and they were unable to alert each other to terrorist threats.

After 9/11, that was changed.

Now some want to halt government programs that help intelligence officials figure out who wants to harm us.

We cannot afford to return to a pre-9/11 status. We cannot dismiss the possibility of a terrorist attack. We cannot throw away the tools we need to protect us.

And the Terrorist Surveillance Program is one of those tools.

The "Electronic Surveillance Modernization Act" allows the President to continue the Terrorist Surveillance Program.

Let's keep our guard up and our defenses strong, and support this legislation.

Mr. CANNON. Mr. Speaker, the debate before us centers on what the legitimate roles of Congress and the Executive Branch are in terms of foreign policy and intelligence gathering matters.

It is an issue that strikes at the heart of the Constitution.

The Constitution leaves little doubt that the President is expected to have the primary role of conducting foreign policy, but Congress has a role and the debate today indulges us in defining that role.

The language that I offered at the Judiciary Committee and is included in the Substitute Amendment does not delve into the Constitutional relationship between the Congress and the Executive.

The language deals with an issue of fairness.

It deals with the issue of whether individuals or companies that comply with government orders are liable to third parties for following these orders.

The purpose of this language is to eliminate the 60 plus lawsuits that have been filed because companies complied with government orders.

Absent an effective immunity provision that allows a company to avoid these legal quagmires, an individual or company will be reluctant to cooperate with any authorized government surveillance program and that will severely undercut this country's terror-fighting capabilities and the safety of our constituents.

Should these claims proceed to judgment, the financial liabilities could add up to hundreds of billions of dollars—enough to destroy any industry.

Although I do not believe the suits will succeed the defense costs alone will be considerable.

But what is worse is the chilling effect on compliance for future requests.

We can argue what the law *is* but we all agree that we should encourage compliance with our laws.

The language in the Substitute amendment will separate questionable litigation from a national security imperative and focus our attention where it should be, which is what is Constitutionally allowed.

If the overall program is illegal or unconstitutional that is for us and the Courts to decide.

Judges, who are sought out in a forum shopping frenzy, should not issue decision's that could undermine our protection from a future terrorist attack and reveal classified sources or methods.

If you oppose the program administered by this Administration; if you don't believe in the Constitutional theories regarding the Executive's authority—that is an issue for discussion; that is our right as Members of Congress to debate.

But it is irrelevant to Section 10 which will merely provide liability protections for compliance with a certification from the Attorney General.

I urge support of this legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in opposition to H.R. 5825, the Electronic Surveillance Modernization Act.

The bill before us today allows this Administration to continue its program of unwarranted surveillance of Americans, in direct violation of the rights guaranteed to us by the Constitution and by statute. Mr. Speaker, proponents of this legislation claim that there is no violation or question about the program's legality. If that is, in fact, the case, then why are we considering legislation with the sole purpose of legalizing the President's, and the NSA's, actions?

Last December, we learned that President Bush authorized the National Security Agency to spy domestically, without obtaining any warrants. Since that time, we have learned very little about the program, largely due to the Administration's unwillingness to properly inform Congress about the programs components, scope, or its budget. The little we do know, however, is that through this program, hundreds, and possibly thousands, of Americans have had their telephone conversations and emails monitored without any judicial supervision. The Majority has failed in its oversight responsibilities. Nevertheless, we are preparing to pass legislation that legitimizes this little understood, but still extremely troubling program.

H.R. 5825 allows the President to authorize warrantless surveillance of communications of ordinary Americans without first obtaining approval from the FISA court. They say they need this because our laws are out of date. This is false and untrue.

Current law (FISA) allows the President to act in emergencies and when there is a declaration of war by Congress. The proponents have not come forward with evidence that the current law is not working or failing to protect us.

Congress must use the checks and balances placed in our Constitution to curb the Administration's actions. Congress needs to assert its oversight responsibility and fully evaluate this NSA program. And the Administration needs to stop its attempts to extend its power and authority, at every available opportunity, by circumventing our nation's laws. Despite what this Administration would have us believe, securing our nation from all enemies both foreign and domestic can be achieved without violations of our civil liberties and right to privacy. I urge my colleagues to vote no on this misguided and ill-advised legislation.

Mr. STARK. Mr. Speaker, I rise against the Electronic Surveillance Modernization Act (H.R. 5825) because I swore to uphold the Constitution and I will not vote to provide exceptions to it. The Fourth Amendment to the Constitution reads: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." In other words, you have to get a warrant any time you spy on an American. That is the entire text of the Amendment. It doesn't say "unless President Bush thinks the person is a terrorist," "except in cases where it's inconvenient to file the paperwork," or even "with limitations as defined by Congress."

Realizing the urgent nature of some national security investigations, federal law permits wiretaps without warrants in emergencies as long as court approval is obtained within three days. If the surveillance involves only communications of agents of foreign powers, the government can conduct warrantless surveillance for up to a year. These warrants are not difficult to obtain. Since 1978, when the law was enacted, the Foreign Intelligence Surveillance Act Court has approved more than 18,000 national security warrants. Only five have been turned down. But current law isn't good enough for the President. He wants to do what he wants, when he wants, without telling anyone.

This President violated the Constitution. Rather than hold him accountable, we are going to approve of his despotic behavior. Under this legislation, the President can conduct warrantless surveillance of Americans any time he declares there is an "imminent threat" likely to cause death or widespread harm. Good luck finding a time when this President, or any President for that matter, doesn't claim there's an imminent threat.

Mr. Speaker, in this Congress alone, you have attempted to close the halls of justice to detainees, gun victims, religious minorities, fast food consumers, asylum-seekers, injured patients, and now, anyone spied on by their own government. We've gone from a nation of laws to a nation of exceptions. Unless my colleagues want a nation of, by, and for the Protestant, thin, suspicionless white male, I urge them to join me in voting no.

Mr. PAUL. Mr. Speaker, Congress is once again rushing to abandon its constitutional duty to protect the constitution balance between the executive, legislative, and judicial branches of government by expanding the executive's authority to conduct warrantless wiretaps without approval from either a regular federal court or the Foreign Intelligence Surveillance Act (FISA) court. Congress's refusal to provide any effective checks on the warrantless wiretapping program is a blatant violation of the Fourth Amendment and is not necessary to protect the safety of the American people. In fact, this broad grant of power to conduct unchecked surveillance may undermine the government's ability to identify threats to American security.

Instead of creating standards for warrantless wiretapping, H.R. 5825 leaves it to the President to determine when "imminent" threat requiring warrantless wiretapping exists. The legislation does not even define what constitutes an imminent threat; it requires the executive branch to determine when a threat is "imminent." By passing this bill, Congress is thus abdicating its constitutional role while making it impossible for the judiciary to perform its constitutional function.

According to former Congressman Bob Barr, thanks to Congress' failure to establish clear standards for wiretapping, under H.R. 5825 ". . . simply making an international call or sending an e-mail to another country, even to a relative (or a constituent) who is an American citizen, will be fair game for the government to listen in on or read. Moreover, this legislation allows the government to conduct secret, warrantless searches of American citizens' homes in a broad range of circumstances that are essentially undefined in the legislation."

Mr. Speaker, I do not deny that there may be certain circumstances justifying warrantless wiretapping. However, my colleagues should consider that current law allows for warrantless wiretapping in emergency situations as long as a "retroactive" warrant is sought within 72 hours of commencing the surveillance or the warrantless surveillance commences within 15 days after Congress declares war. If there are legitimate reasons why the current authorization for warrantless wiretapping is inadequate, then perhaps Congress should extend the time allowed to wiretap before applying to the FISA court for a "retroactive" warrant. This step could enhance security without posing the dangers to liberty and republican government contained in H.R. 5825.

The requirement that, except in extraordinary circumstances, a warrant be obtained from the FISA court does not obstruct legitimate surveillance efforts. It is my understanding that FISA judges act very quickly to consider applications for search warrants, even if the applications are faxed to their houses at three in the morning. Applications for FISA warrants are rarely rejected. In 2005, the administration applied for 2,074 warrants from the FISA court. Of those 2 where voluntarily withdrawn and 63 where approved with modifications; the rest were approved. The FISA court only rejected four applications for warrants in the past four years; and one of those rejected warrants was subsequently partially approved.

Warrantless wiretapping may hinder the ability to identify true threats to safety. This is because experience has shown that, when Congress makes it easier for the federal government to monitor the activities of Americans, there is a tendency to collect so much information that it becomes impossible to weed out the true threats. My colleagues should consider how the over-filing of "suspicious transaction reports" regarding financial transactions hampers effective anti-terrorism efforts. According to investigative journalist James Bovard, writing in the Baltimore Sun on June 28, "[a] U.N. report on terrorist financing released in May 2002 noted that a 'suspicious transaction report' had been filed with the U.S. government over a $69,985 wire transfer that Mohamed Atta, leader of the hijackers, received from the United Arab Emirates. The report noted that 'this particular transaction was not noticed quickly enough because the report was just one of a very large number and was not distinguishable from those related to other financial crimes.'" Congress should be skeptical, to say the least, regarding the assertion that allowing federal bureaucrats to accumulate even more data without having to demonstrate a link between the data sought and national security will make the American people safer.

In conclusion Mr. Speaker, because H.R. 5825 sacrifices liberty for the illusion of security, I must oppose this bill. I urge my colleagues to do the same.

Ms. WOOLSEY. Mr. Speaker, I rise tonight in great sadness. It's the run-up to the fall elections, and what has the Republican Majority pushed through the Congress?

Torture, a subversion of the Geneva Conventions, and domestic spying. The Administration claims to be spreading democracy throughout the world. How about some democracy and freedom here at home?

Shame on this Congress for trampling civil rights at home and abroad. We are supposed to stand up for freedom and liberty and the rights of the most vulnerable. Instead we are spying on Americans?

Mr. Speaker, this is not the country our Founding Fathers dreamt of. And it certainly is not the country I want to hand down to my grandchildren.

This bill is not making us safer—it is making us less free.

I urge my colleagues to stand up for freedom. I urge my colleagues to vote no!

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 5825, the "Electronic Surveillance Modernization Act."

Yet again, the Republican Majority has brought legislation to the Floor that disregards the rights of American citizens. H.R. 5825 would give the executive branch broad discretion to eavesdrop on Americans without judicial review or sufficient oversight from Congress.

Since the terrorist attacks of 9/11, we have learned more and more about the secret programs run by this Administration that violated long-standing U.S. laws and policies. I know that we all agree that obtaining intelligence to prevent terrorist attacks is a high priority. However, innocent Americans should not have to worry that their phones have been tapped or their emails are being read.

It is a shame that the bill before us today leaves out the sensible provisions of the bipartisan Schiff-Flake-Harman-Inglis . substitute which would require congressional oversight of surveillance programs, extends from 72 hours to seven days the amount of time allowed to initiate surveillance in an urgent situation before going to the FISA court for a warrant, and increase the speed of the FISA process.

We should be standing up for the Constitution today and not passing legislation that tramples all over it.

I urge my colleagues to vote no.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong opposition to H.R. 5825, the Electronic Surveillance Modernization Act.

I believe that President Bush's secret warrantless wiretapping program was a violation of the Foreign Intelligence Surveillance Act (FISA) and violated the civil rights that make this country so strong and respected. Once this program was unveiled, the Administration's response was not to change the program to comply with American law but to change American law to comply with this program. As a result, we have the bill before us—legislation that would make truly far-reaching changes to FISA and will have alarming consequences for democracy and civil liberties.

H.R. 5825 expands the definition of "electronic surveillance" to include Americans' international emails and phone calls. It authorizes the warrantless electronic surveillance and physical searches of Americans' emails and phone calls for 60-days after an "armed attack" or 60 days before and after an "imminent attack" against the United States. Those 60-day periods can be indefinitely renewed. Moreover, "imminent attack" is defined as an "attack likely to cause death, serious injury, or substantial economic damage." What is "substantial economic damage?" This definition is so sweeping that hacking into a computer could fit. This bill also strips all courts of jurisdiction over surveillance cases, preventing anyone from seeking redress for illegal or unconstitutional electronic surveillance.

All of us want to be protected from terrorists, but we can protect our Nation without expanding the FISA law so broadly that innocent people can be spied on by their own government without reasonable justification, trampling on our civil liberties. The FISA law already has measures that take into account the need for emergency surveillance, and the need for urgency cannot be used as a rationale for going around America's law. FISA allows wiretapping without a court order in an emergency; the court must simply be notified within 72 hours. The government is aware of this emergency power and has used it repeatedly.

Mr. Speaker, the United States is a Nation built upon its adherence to the laws. And no one—not even a U.S. president—is above the law. Our system of checks and balances must be maintained if American democracy is to be preserved. I urge all of my colleagues to vote "no" to H.R. 5825.

Mr. LANGEVIN. Mr. Speaker, I rise in strong opposition to H.R. 5825, the Electronic Surveillance Modernization Act. Since the President's illegal domestic wiretapping program became public, I have called for greater oversight and Congressional involvement to ensure that we can provide our intelligence agencies with the tools needed to fight terrorism while protecting essential civil liberties of Americans. The bill before us today does not meet those standards.

As a member of the House Armed Services and Homeland Security Committees, I am fully aware of the dangers posed by those who wish to harm Americans, and I have strongly supported efforts to make our nation safer. However, the Bush Administration has not explained to my satisfaction why powers available under existing law cannot meet the needs of the war on terrorism. For example, the Foreign Intelligence Surveillance Act (FISA) already permits the warrantless surveillance of communications under certain limited circumstances. Nevertheless, the Bush Administration did not use those emergency powers and instead chose to expand the authority of the National Security Agency (NSA). The President's decision to expand domestic surveillance, while notifying only a handful of legislators, does not constitute Congressional consent and is a danger to our established Constitutional system of checks and balances.

I would have been receptive to modifications to FISA that preserved the vital oversight through the creation of the FISA court system. I am a cosponsor of H.R. 5381, the Lawful Intelligence and Surveillance of Terrorists in an Emergency by NSA (LISTEN) Act, introduced by the ranking Democrat on the Intelligence Committee, the gentlewoman from California, Mrs. Harman. This legislation would mandate that all monitoring of calls, email records and phone records be carried out in accordance with FISA and further asserts that the 2002 authorization for the NSA domestic surveillance program outside of FISA was not within the Bush Administration's authority.

Instead, this legislation gives the President broad authority to continue his domestic surveillance program without approval from the FISA court. It uses judicial and Congressional notification as a substitute for legitimate oversight, and it establishes such broad justifications for surveillance that the Administration will have almost unlimited ability to continue its past practices with little to no changes. Disturbingly, it also removes an important protection of current law that requires the government to certify that its warrantless surveillance of foreign agents would not intercept the communications of U.S. citizens.

Once again, the President has sought to expand his own authority at the expense of Americans' civil liberties, and Congress has willingly abdicated its oversight authority. I urge my colleagues to vote against this measure so that we can find a better way to crack down on terrorist who would do us harm while safeguarding the rights of Americans.

Mr. UDALL of Colorado. Mr. Speaker, I support changing current law on electronic surveillance to remove obstacles to vigorously fighting terrorism, and I believe we can do so in a way that protects the constitutional rights of our citizens. This bill attempts to strike the right balance, but it has serious flaws that could and should have been corrected—and because of those flaws, I cannot support it as it stands.

I believe the American people should know that on this very important subject, for the most part, we are being asked to legislate in the dark. It is only because of leaks to the news media that we became aware that after the terrorist attacks of 2001 the administration decided not to follow the procedures of the Foreign Intelligence Surveillance Act, FISA, with regard to a new, wide-ranging surveillance program.

Since it became public, that decision has been controversial and has been challenged in the courts, but the administration has consistently maintained that this surveillance program is lawful—although it has been less consistent in its reasons for reaching that conclusion.

Like many of our colleagues, I have found some of their arguments strained and far from fully convincing.

Nonetheless, I do think it makes sense to further revise FISA to reflect both the latest technology and the realities of the current threats to our country. And events since the revelation of the administration's decision not to comply with FISA have made it clear that there is a definite need for better oversight by Congress, which can occur only if we require more reporting by the executive branch.

So, I react favorably to some points made by this bill's author and supporters in support of the way it addresses both of these concerns. They point to provisions described as designed to update FISA's definition of electronic surveillance to make it technology neutral as well as those they say are intended to enhance congressional oversight not only of electronic surveillance, but also of U.S. intelligence and intelligence-related activities generally.

While these positive aspects of the bill are encouraging, they are unfortunately overwhelmed by the bill's more serious defects.

Overall, this legislation goes very far toward making warrantless surveillance of communications here in the United States the rule rather than the exception and toward allowing the executive branch to conduct electronic surveillance of telephone calls and e-mail in the United States without adequate, meaningful oversight.

The bill makes sweeping alterations to the current definition of "electronic surveillance" and how to define an "agent of a foreign power." The bill redefines the term "surveillance device" in a way that would allow the government to conduct unregulated data retention and data-mining operations on all the information collected through the warrantless surveillance that this bill authorizes.

My concerns about these provisions are shared by others, including former Representative (and former House Republican leader) Dick Armey, as expressed in a September 26th letter in which he says:

> The explosion of computers, cameras, location-sensors, wireless communication, biometrics, and other technologies is making it much easier to track, store, and analyze information about individuals' activities. Unfortunately, the legislation may promote additional government intrusions into individual lives by exempting such data mining from requiring court orders. . . . It is not evident that such legislation will necessarily prevent the next terrorist attack. But . . . failure is unlikely to lead to a halt in federal data mining. Instead, it will probably just spur the government into an ever-more furious effort to collect ever-greater amounts of personal information on ever-more people in a vain effort to make the concept work. We would then have the worst of both worlds: poor security and a vast increase in the information about individuals collected by the government that would destroy Americans' privacy and threaten our freedom.
>
> I also am concerned that while the bill would explicitly allow essentially unlimited surveillance in the event of an "armed attack" a "terrorist attack," or an "imminent threat of attack," those terms are not adequately defined. I think this means that there is an unacceptably large chance that these sweeping exceptions would give the Executive Branch unlimited authority to conduct surveillance whenever and however it prefers.

These concerns are heightened by the fact that the bill does not include an explicit reaffirmation of the principle that FISA, including the revisions that would be made by the bill, is the exclusive means for conducting electronic surveillance in the United States. Such a provision would help make sure that every president—now and in the future—complies with the law.

This is not a theoretical matter, because the Bush administration has never indicated that it will comply with FISA—even as it would be revised by this bill, which was proposed by a member of his party and has the support of that party's leadership here in the House of Representatives. Indeed, the Bush administration has indicated it will appeal the recent decision of a federal judge that its ongoing surveillance program—which the administration candidly says does not comply with the current version of FISA—is illegal.

That was one of the reasons I voted for the motion to recommit, which would have added language to reiterate that FISA is the exclusive means by which domestic electronic surveillance for foreign intelligence purposes may be conducted, unless Congress amends the law or passes additional laws regarding electronic surveillance. It also would have made clear that the Authorization for the Use of Military Force, AUMF, passed after the 9/11 attacks and that was the basis for our military actions in Afghanistan—a measure I supported—does not constitute an exception to that rule.

If the motion to recommit had been adopted, the result would have been to approve an alternative version of the legislation so it would update FISA to provide intelligence agencies more flexibility in emergency situations and less bureaucratic red tape when applying for warrants, while still requiring court orders for domestic surveillance of Americans.

That better alternative would have extended from 72 hours to 7 days the amount of time allowed to initiate surveillance in an urgent situation before going to the FISA court for a warrant. This authority can be used to thwart imminent attacks.

The alternative also would have made clear that foreign-to-foreign communications are outside of FISA and don't require a court order, and would have provided that a FISA order for electronic surveillance shall continue to be in effect for the authorized period even if the person leaves the United States. It also would have removed redundant requirements in the application process and made other changes to streamline the FISA process, including adding judges to the FISA court while authorizing that court, the Department of Justice, the FBI, and the NSA to hire more staff for the preparation and consideration of FISA applications and orders. And it would have made clear that in addition to a "declaration of war by the Congress," an "authorization for the use of military force, AUMF," can also trigger the FISA "wartime exception" for purposes of allowing 15 days of warrantless surveillance.

I think that alternative had the best features of this bill without its defects. Unfortunately, it was not adopted and those changes were not made.

As a result, I do not think this bill as it stands should be approved. But while I cannot support it tonight, I recognize that it is not being sent to the president for signing into law. Instead, if it passed tonight it will go to the Senate, where it will be subject to further debate and revision.

My hope is that if it does pass tonight, and the legislative process continues, the result of that process will be a revised version that will deserve enactment.

Mr. HOEKSTRA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1052, the bill is considered read and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SCHIFF. Yes, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Schiff of California moves to recommit the bill H.R. 5825 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "NSA Oversight Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) On September 11, 2001, acts of treacherous violence were committed against the United States and its citizens.

(2) Such acts render it both necessary and appropriate that the United States exercise its right to self-defense by protecting United States citizens both at home and abroad.

(3) The Federal Government has a duty to pursue al Qaeda and other enemies of the United States with all available tools, including the use of electronic surveillance, to thwart future attacks on the United States and to destroy the enemy.

(4) The President of the United States possesses the inherent authority to engage in electronic surveillance of the enemy outside of the United States consistent with his authority as Commander-in-Chief under Article II of the Constitution.

(5) Congress possesses the authority to regulate electronic surveillance within the United States.

(6) The Fourth Amendment to the Constitution guarantees to the American people the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" and provides that courts shall issue "warrants" to authorize searches and seizures, based upon probable cause.

(7) The Supreme Court has consistently held for nearly 40 years that the monitoring and recording of private conversations constitutes a "search and seizure" within the meaning of the Fourth Amendment.

(8) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) was enacted to provide the legal authority for the Federal Government to engage in searches of Americans in connection with intelligence gathering and counterintelligence.

(9) The Foreign Intelligence Surveillance Act of 1978 was enacted with the express purpose of being the exclusive means by which

the Federal Government conducts electronic surveillance for the purpose of gathering foreign intelligence information.

(10) Warrantless electronic surveillance of Americans inside the United States conducted without congressional authorization may have a serious impact on the civil liberties of citizens of the United States.

(11) United States citizens, such as journalists, academics, and researchers studying global terrorism, who have made international phone calls subsequent to the terrorist attacks of September 11, 2001, and are law-abiding citizens, may have the reasonable fear of being the subject of such surveillance.

(12) Since the nature and criteria of the National Security Agency (NSA) program is highly classified and unknown to the public, many other Americans who make frequent international calls, such as Americans engaged in international business, Americans with family overseas, and others, have a legitimate concern they may be the inadvertent targets of eavesdropping.

(13) The President has sought and signed legislation including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56), and the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458), that have expanded authorities under the Foreign Intelligence Surveillance Act of 1978.

(14) It may be necessary and desirable to amend the Foreign Intelligence Surveillance Act of 1978 to address new challenges in the Global War on Terrorism. The President should submit a request for legislation to Congress to amend the Foreign Intelligence Surveillance Act of 1978 if the President desires that the electronic surveillance authority provided by such Act be further modified.

(15) The Authorization for Use of Military Force (Public Law 107–40), passed by Congress on September 14, 2001, authorized military action against those responsible for the attacks on September 11, 2001, but did not contain legal authorization nor approve of domestic electronic surveillance for the purpose of gathering foreign intelligence information except as provided by the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 3. REITERATION THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 AS THE EXCLUSIVE MEANS BY WHICH DOMESTIC ELECTRONIC SURVEILLANCE MAY BE CONDUCTED TO GATHER FOREIGN INTELLIGENCE INFORMATION.

(a) EXCLUSIVE MEANS.—Notwithstanding any other provision of law, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which electronic surveillance for the purpose of gathering foreign intelligence information may be conducted.

(b) FUTURE CONGRESSIONAL ACTION.—Subsection (a) shall apply until specific statutory authorization for electronic surveillance for the purpose of gathering foreign intelligence information, other than as an amendment the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), is enacted. Such specific statutory authorization shall be the only exception to subsection (a).

SEC. 4. DISCLOSURE REQUIREMENTS.

(a) REPORT.—As soon as practicable after the date of the enactment of this Act, but not later than 14 days after such date, the President shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report—

(1) on the Terrorist Surveillance Program of the National Security Agency;

(2) on any program which involves the electronic surveillance of United States persons in the United States for foreign intelligence purposes, and which is conducted by any department, agency, or other element of the Federal Government, or by any entity at the direction of a department, agency, or other element of the Federal Government, without fully complying with the procedures set forth in the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.); and

(3) including a description of each United States person who has been the subject of such electronic surveillance not authorized to be conducted under the Foreign Intelligence Surveillance Act of 1978 and the basis for the selection of each person for such electronic surveillance.

(b) FORM.—The report submitted under subsection (a) may be submitted in classified form.

(c) ACCESS.—The Chair of the Permanent Select Committee on Intelligence of the House of Representatives and the Chair of the Select Committee on Intelligence of the Senate shall provide each member of the Committees on the Judiciary of the House of Representatives and the Senate, respectively, access to the report submitted under subsection (a). Such access shall be provided in accordance with security procedures required for the review of classified information.

SEC. 5. FOREIGN INTELLIGENCE SURVEILLANCE COURT MATTERS.

(a) AUTHORITY FOR ADDITIONAL JUDGES.—The first sentence of section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended by striking "judicial circuits" and inserting "judicial circuits, and any additional district court judges that the Chief Justice considers necessary for the prompt and timely consideration of applications under section 104,";

(b) CONSIDERATION OF EMERGENCY APPLICATIONS.—Section 105(f) of such Act (50 U.S.C. 1805(f)) is amended by adding at the end the following new sentence: "The judge receiving an application under this subsection shall review such application within 24 hours of the application being submitted."

SEC. 6. STREAMLINING FISA APPLICATION PROCESS.

(b) IN GENERAL.—Section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "detailed description" and inserting "summary description";

(B) in paragraph (7)—

(i) in subparagraph (C), by striking "techniques;" and inserting "techniques; and";

(ii) by striking subparagraph (D); and

(iii) by redesignating subparagraph (E) as subparagraph (D); and

(C) in paragraph (8), by striking "a statement of the means" and inserting "a summary statement of the means"; and

(2) in subsection (e)(1)(A), by striking "or the Director of National Intelligence" and inserting "the Director of National Intelligence, or the Director of the Central Intelligence Agency".

(a) CONFORMING AMENDMENT.—Section 105(a)(5) of such Act (50 U.S.C. 1805(a)(5)) is amended by striking "104(a)(7)(E)" and inserting "104(a)(7)(D)".

SEC. 7. INTERNATIONAL MOVEMENT OF TARGETS.

Section 105(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(d)), as redesignated by section 7(4), is amended by adding at the end the following new paragraph:

"(4) An order issued under this section shall remain in force during the authorized period of surveillance notwithstanding the absence of the target from the United States, unless the Government files a motion to extinguish the order and the court grants the motion.".

SEC. 8. EXTENSION OF PERIOD FOR APPLICATIONS FOR ORDERS FOR EMERGENCY ELECTRONIC SURVEILLANCE.

Section 105(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)) is further amended by striking "72 hours" each place it appears and inserting "168 hours".

SEC. 9. ENHANCEMENT OF ELECTRONIC SURVEILLANCE AUTHORITY IN WARTIME.

Section 111 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1811) is amended by striking "the Congress" and inserting "the Congress or an authorization for the use of military force described in section 2(c)(2) of the War Powers Resolution (50 U.S.C. 1541(c)(2)) if such authorization contains a specific authorization for electronic surveillance under this section.".

SEC. 10. ACQUISITION OF COMMUNICATIONS BETWEEN PARTIES NOT IN THE UNITED STATES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(1) by adding at the end of title I the following new section:

"ACQUISITION OF COMMUNICATIONS BETWEEN PARTIES NOT IN THE UNITED STATES

"SEC. 112. (a) IN GENERAL.—Notwithstanding any other provision of this Act, a court order is not required for the acquisition of the contents of any communication between persons that are not located within the United States for the purpose of collecting foreign intelligence information, without respect to whether the communication passes through the United States or the surveillance device is located within the United States.

"(b) TREATMENT OF INTERCEPTED COMMUNICATIONS INVOLVING A DOMESTIC PARTY.—If an acquisition described in subsection (a) inadvertently collects a communication in which at least one party to the communication is within the United States—

"(1) in the case of a communication acquired inside the United States, the contents of such communication shall be handled in accordance with minimization procedures adopted by the Attorney General that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than 168 hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person; and

"(2) in the case of a communication acquired outside the United States, the contents of such communication shall be handled in accordance with minimization procedures adopted by the Attorney General."; and

(2) in the table of contents in the first section, by inserting after the item relating to section 111 the following:

"112. Acquisition of communications between parties not in the United States.".

SEC. 11. ADDITIONAL PERSONNEL FOR PREPARATION AND CONSIDERATION OF APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE.

(a) OFFICE OF INTELLIGENCE POLICY AND REVIEW.—

(1) IN GENERAL.—The Attorney General may hire and assign personnel to the Office of Intelligence Policy and Review as may be necessary to carry out the prompt and timely preparation, modification, and review of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) for orders approving electronic surveillance for foreign intelligence purposes under section 105 of such Act (50 U.S.C. 1805).

(2) ASSIGNMENT.—The Attorney General shall assign personnel hired and assigned pursuant to paragraph (1) to and among appropriate offices of the National Security Agency in order that such personnel may directly assist personnel of the National Security Agency in preparing applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804).

(b) NATIONAL SECURITY BRANCH OF THE FBI.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may hire and assign personnel to the National Security Branch as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) for orders approving electronic surveillance for foreign intelligence purposes under section 105 of such Act (50 U.S.C. 1805).

(2) ASSIGNMENT.—The Director of the Federal Bureau of Investigation shall assign personnel hired and assigned pursuant to paragraph (1) to and among the field offices of the Federal Bureau of Investigation in order that such personnel may directly assist personnel of the Federal Bureau of Investigation in such field offices in preparing applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804).

(c) NATIONAL SECURITY AGENCY.—The Director of the National Security Agency may hire and assign personnel as may be necessary to carry out the prompt and timely preparation of applications under section 104 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) for orders approving electronic surveillance for foreign intelligence purposes under section 105 of such Act (50 U.S.C. 1805).

(d) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The presiding judge designated under section 103(b) of such Act may hire and assign personnel as may be necessary to carry out the prompt and timely consideration of applications under section 104 of such Act (50 U.S.C. 1804) for orders approving electronic surveillance for foreign intelligence purposes under section 105 of that Act (50 U.S.C. 1805).

SEC. 12. DEFINITIONS.

In this Act:

(1) The term "electronic surveillance" has the meaning given the term in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)).

(2) The term "foreign intelligence information" has the meaning given the term in section 101(e) of such Act (50 U.S.C. 1801(e)).

Mr. SCHIFF (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes in support of his motion to recommit.

Mr. SCHIFF. Mr. Speaker, it is a regrettable fact that at the beginning of the 21st century there are a great many people in the world whose primary motive in life is to seek to harm or kill Americans. Our country faces a real threat, and it must be addressed.

As we fight this threat, Americans need to know two things. First, that we will use every tool we have necessary to stop the people that would hurt this country, that we will do everything possible to find them, to capture them, to kill them, if necessary. We will surveil them, we will listen to their calls and their e-mails, and we will do everything in our power to protect this country.

Second, Americans need to know that if you are a law-abiding citizen and you are not a terrorist or supporting terrorists that we will respect your privacy. We will not listen to your calls when we do not have a business to, and we will not read your e-mails when we have no business to.

Under the Schiff-Flake motion to recommit, we modernize FISA. We give the government the time, the flexibility it needs. We fix the problem of foreigners talking to foreigners in calls that go through the United States. In short, we do everything that the NSA and the Justice Department has asked us to do.

The base bill, by contrast, excludes whole categories of surveillance, including the surveillance of Americans on American soil from court review. The base bill can be summarized as follows: Trust us. We are from the government. We may listen to you, but trust us. We know what we are doing.

But our Constitution was drafted on a very different premise, a premise that said we operate from a system of checks and balances, that no one branch of government should be trusted implicitly, without review and oversight by another.

Today, we have a choice between two alternatives, both of which modernize FISA, one which gives a blank check sought by the administration, the other that protects Americans on American soil.

One of the leaders in this debate that I have been privileged to work with is my colleague from the great State of Arizona, and I yield to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am not comfortable in this position, standing up to argue in favor of a Democrat motion to recommit. Just a year ago, I stood at that very podium and argued on behalf of the majority in favor of reauthorization of the PATRIOT Act and against the Democrat motion to recommit that was favored by many of my colleagues.

But during that process, we had more than a dozen hearings, a long markup, a spirited debate on the floor under a rule that allowed for a series of amendments, including four of my own. We did not have that process this time.

This was a closed rule that did not allow for a vote, a clean vote, on a bipartisan substitute except as a Democrat motion to recommit. I wish that this were not the case because, as I said, I try not to make a habit of voting for Democrat motions to recommit.

But for those of us who believe we should exercise our congressional prerogative to regulate the President's authority to conduct surveillance, this is our only option. For those of us who believe that FISA should be the exclusive vehicle for conducting surveillance related to foreign intelligence, this is our only option. And for those of us who believe that we should give the administration all the tools they need to conduct surveillance but retain the ability to regulate and provide oversight for such surveillance, this is our only option.

If the underlying bill is enacted into law, we will have two surveillance programs, one under FISA and on the books, and one outside of FISA and off the books. If we do this, we will not give due deference to our congressional responsibility.

Make no mistake, if we vote for the underlying bill and against the motion to recommit, we will walk out of these doors a lot less relevant than when we walked in this morning.

With that, Mr. Speaker, I urge a vote for the Democrat motion to recommit and against the underlying bill.

Mr. SCHIFF. Mr. Speaker, I yield to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding.

You know, we want to listen to the terrorists. We want to know who they are talking to. If they are talking foreign to foreign, we clearly have the right to listen in. If they are talking foreign to domestic, we want to listen, but we want a judge to review that.

The idea is to have in this separation of powers between the judicial and the executive branch the oversight that the Framers had in mind for our constitutional system.

At the end of this war on terror, it is really about whether we have preserved the constitutional system that is going to win the hearts and minds of the world to our point of view. It is crucial that we do that here tonight by voting to see that we have judicial oversight.

I thank the gentleman for yielding.

Mr. HOEKSTRA. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, I yield to the gentlewoman from New Mexico

(Mrs. WILSON), the chairwoman of the Tactical and Technical Subcommittee.

Mrs. WILSON of New Mexico. Mr. Speaker, there are two technical reasons to oppose this motion to recommit, and I do not think that the authors of the motion to recommit were entirely aware of what they would do, but I think the House needs to understand it.

First, in the motion to recommit, there is no change to the definition of electronic surveillance. That means it is not technology neutral, and we would continue to have the odd situation when al Qaeda calls in to the United States over a radio we could intercept that communication completely outside of FISA, but if they call in on a wire, we still could not listen. This is why we need to update the Electronic Surveillance Act, as the base bill does.

And, secondly, the exclusivity provision written into the motion to recommit says that the only way to collect foreign intelligence in the United States is through FISA. That is not current law. Under current law, under title XVIII, foreign intelligence information collected through criminal proceedings can be shared with the intelligence community.

What this motion to recommit effectively does is rebuild the walls we have torn down between law enforcement and foreign intelligence.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentlewoman for her comments.

The arguments this evening on the other side have been along the lines of FISA does work. The President acted alone and in secret. FISA is the only tool that is necessary.

But we know that that is not true. It does not work. The President did not act in secret, and FISA's insufficient.

It is September 11, 2001, shortly after the attacks. The President calls in his National Security Advisor, calls in folks from the intelligence community, and says, how do we get a better handle on who is attacking us? What other tools do we need to put in place to make sure that we can fight and win this war on terrorism?

They developed their ideas. They identified the strategies and the new tactics that they need to fight this war against terrorism effectively.

October 25, 2001, the President convenes and meets with congressional leaders and outlines this program to them and with them, or the executive branch does, and the group in there recognizes that against this enemy FISA does not work and that collaboratively, working with the executive branch and Congress, we need to implement new tools to keep America safe.

The terrorist surveillance program that has been used for the last 4 years is not only the President's terrorist surveillance program, it is the terrorist surveillance program of the President, Minority Leader PELOSI, Ranking Member HARMAN, former Majority Leader Daschle, all who had the opportunity regularly to review this program, to see how it worked, why it needed to be done in the way that it was being done, and the benefits that America was receiving from the program and the impact it was having in keeping America safe and enabling us to move forward.

It is because these individuals, working with the President, recognize that FISA was insufficient that they agreed to move forward with the terrorist surveillance program for almost 4 years, until this very valuable tool was leaked by the New York Times. We are a country that is less safe because of that. It is why we are now having this debate, because now al Qaeda and radical Islamists know more about our tools and fighting them than what they did before.

It is time to update this law, to pass this bill to make sure that we can continue providing our intelligence community with tools they need.

Build on the work of the President, of Minority Leader PELOSI, Ranking Member HARMAN, Majority Leader Daschle, all who agreed that FISA did not work and that the President and the executive branch needed the authorities and the capabilities that are now outlined in its many ways and are brought under more congressional oversight under the Wilson bill, and allow for more congressional oversight in a defined way through the Wilson bill.

This is the way we need to go, the direction we need to take because we are a Nation at war, under threat, and this is the appropriate updating of an old law that the White House but also congressional leaders in a bipartisan way agreed did not work.

Vote against the motion to recommit. Vote for final passage.

☐ 2145

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SCHIFF. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 5825, if ordered; and the motion to suspend the rules on H.R. 6143.

The vote was taken by electronic device, and there were—yeas 202, nays 221, not voting 9, as follows:

[Roll No. 501]

YEAS—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Duncan
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Poe
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—221

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson

Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Castle
Chabot
Evans
Inslee
Lewis (GA)
Meehan
Ney
Strickland
Stupak

☐ 2210

Mrs. KELLY and Ms. HART and Messrs. SHUSTER, BILBRAY, BURGESS, GOODE, LEACH and SHAYS changed their vote from "yea" to "nay."

Mr. DOGGETT changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOEKSTRA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 232, nays 191, not voting 9, as follows:

[Roll No. 502]

YEAS—232

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Frank (MA)
Garrett (NJ)
Gonzalez
Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Stark
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—9

Castle
Chabot
Evans
Gutierrez
Lewis (GA)
Meehan
Ney
Strickland
Stupak

☐ 2219

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that staff be permitted to make technical and conforming changes to the bill just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6143, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the bill, H.R. 6143, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 325, nays 98, not voting 9, as follows:

[Roll No. 503]

YEAS—325

Aderholt
Akin
Alexander
Allen
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capuano
Cardin
Carnahan
Carson
Carter
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Etheridge
Everett
Feeney
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Schakowsky
Schmidt
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Wamp
Watt
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—98

Abercrombie
Ackerman
Andrews
Baca
Becerra
Berman
Bishop (NY)
Boyd
Brady (PA)
Brown, Corrine
Capps
Cardoza
Case
Conyers
Costa
Crowley
Davis (CA)
Davis (FL)
Duncan
Engel
Eshoo
Farr
Fattah
Ferguson
Filner
Fossella
Frelinghuysen
Garrett (NJ)
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hostettler
Israel
Johnson, E. B.
Kelly
King (NY)
Kuhl (NY)
Lantos
Lee
LoBiondo
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McDermott
McGovern
McHugh
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Nadler
Napolitano
Olver
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pelosi
Poe
Rangel
Reynolds
Rothman
Roybal-Allard
Sánchez, Linda T.
Saxton
Schiff
Schwartz (PA)
Serrano
Sherman
Slaughter
Smith (NJ)
Solis
Stark
Stearns
Sweeney
Tauscher
Terry
Thompson (CA)
Towns
Velázquez
Walsh
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—9

Castle
Chabot
Evans
Istook
Lewis (GA)
Meehan
Ney
Strickland
Stupak

☐ 2228

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), the order of the House of December 18, 2005, and upon the recommendation of the minority leader, the Chair announces the Speaker's reappointment of the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term effective October 1, 2006:

Mr. Robert Shireman, Oakland, California.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

☐ 2230

PERSONAL EXPLANATION

Mr. INSLEE. Mr. Speaker, I would like the RECORD to reflect on rollcall 501 on the motion to recommit on H.R. 5825, I was unavoidably detained and had I been present I would have voted "aye" on that motion.

COAST GUARD AUTHORIZATION ACT OF 2006

Mr. LOBIONDO. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 5681) to authorize appropriations for the Coast Guard for fiscal year 2007, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 2006".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—AUTHORIZATION
Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
TITLE II—COAST GUARD
Sec. 201. Appointment of civilian Coast Guard judges.
Sec. 202. Industrial activities.
Sec. 203. Reimbursement for medical-related travel expenses.
Sec. 204. Commissioned officers.

Sec. 205. Coast Guard participation in the Armed Forces Retirement Home (AFRH) system.
Sec. 206. Grants to international maritime organizations.
Sec. 207. Emergency leave retention authority.
Sec. 208. Enforcement authority.
Sec. 209. Notification.
Sec. 210. Repeal.
Sec. 211. Maritime safety for nuclear power facilities located adjacent to navigable waters.

TITLE III—SHIPPING AND NAVIGATION

Sec. 301. Vessel size limits.
Sec. 302. Goods and services.
Sec. 303. Maritime activities.
Sec. 304. Seaward extension of anchorage grounds jurisdiction.
Sec. 305. Maritime Drug Law Enforcement Act amendment-simple possession.
Sec. 306. Technical amendments to tonnage measurement law.
Sec. 307. Seamen's shoreside access.
Sec. 308. Limitation on maritime liens on fishing permits.
Sec. 309. Extension of exemption.
Sec. 310. Documentation of certain fishing vessels.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Secure communications program.
Sec. 402. Certificate of documentation for GALLANT LADY.
Sec. 403. Waiver.
Sec. 404. Data.
Sec. 405. Great Lakes Maritime Research Institute.
Sec. 406. Inspection and certification of permanently moored vessels.
Sec. 407. Competitive contracting for patrol boat replacement.
Sec. 408. Patrol boat report.
Sec. 409. Actions to address sexual harassment and violence at Coast Guard Academy.
Sec. 410. Cruise ship demonstration project.
Sec. 411. Crew wages on passenger vessels.
Sec. 412. Technical corrections.

TITLE V—MARPOL ANNEX VI IMPLEMENTATION

Sec. 501. Short title.
Sec. 502. References.
Sec. 503. Definitions.
Sec. 504. Applicability.
Sec. 505. Administration and enforcement.
Sec. 506. Certificates.
Sec. 507. Reception facilities.
Sec. 508. Inspections.
Sec. 509. Amendments to the protocol.
Sec. 510. Effect on other laws.
Sec. 511. MARPOL technical corrections.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2007 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $5,680,000,000, of which—

(A) $24,255,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5));

(B) $629,000,000 shall be available only for paying for search and rescue programs; and

(C) $502,000,000 shall be available only for paying for marine safety programs.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $2,095,861,000, of which—

(A) $19,800,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended;

(B) $1,419,223,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System; and

(C) $316,638,000 is authorized for conversion and sustainment of legacy vessels and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $24,000,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,063,323,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $17,000,000.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $12,000,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, $124,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 for the fiscal year ending on September 30, 2007.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2007, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

TITLE II—COAST GUARD

SEC. 201. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 153. Appointment of judges

"The Secretary may appoint civilian employees of the Department in which the Coast Guard is operating as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"153. Appointment of judges.".

SEC. 202. INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code is amended—

(1) by inserting "(a) IN GENERAL.—" before "All orders"; and

(2) by adding at the end the following:

"(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense.".

SEC. 203. REIMBURSEMENT FOR MEDICAL-RELATED TRAVEL EXPENSES.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"§ 518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States

"In any case in which a covered beneficiary (as defined in section 1072(5) of title 10) resides on an island that is located in the 48 contiguous States and the District of Columbia and that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider (as defined in section 1074i(b) of title 10) on the mainland who provides services less than 100 miles from the location where the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States.".

SEC. 204. COMMISSIONED OFFICERS.

(a) ACTIVE DUTY PROMOTION LIST.—Section 42 of title 14, United States Code, is amended to read as follows:

"§ 42. Number and distribution of commissioned officers on active duty promotion list

"(a) MAXIMUM TOTAL NUMBER.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 6,700; except that the Commandant may temporarily increase such number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

"(b) DISTRIBUTION PERCENTAGES BY GRADE.—

"(1) REQUIRED.—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

"(2) DISCRETIONARY.—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

"(3) AUTHORITY OF SECRETARY TO REDUCE PERCENTAGE.—The Secretary—

"(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

"(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

"(c) COMPUTATIONS.—

"(1) IN GENERAL.—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

"(2) ROUNDING FRACTIONS.—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

"(3) TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.—The number of commissioned officers on the active duty promotion list serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

"(d) USE OF NUMBERS; TEMPORARY INCREASES.—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

"(e) OFFICERS SERVING COAST GUARD ACADEMY AND RESERVE.—The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

"42. Number and distribution of commissioned officers on active duty promotion list.".

SEC. 205. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME (AFRH) SYSTEM.

(a) IN GENERAL.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking paragraph (4);

(2) in paragraph (5)—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by inserting at the end the following:

"(E) the Assistant Commandant of the Coast Guard for Human Resources."; and

(3) by adding at the end of paragraph (6) the following:

"(E) The Master Chief Petty Officer of the Coast Guard.".

(b) CONFORMING AMENDMENTS.—(1) Section 2772 of title 10, United States Code, is amended—

(A) in subsection (a) by inserting "or, in the case of the Coast Guard, the Commandant" after "concerned" ; and

(B) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) in paragraph (3) by inserting "or, in the case of the Coast Guard, the Commandant" after "Secretary of Defense";

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

SEC. 206. GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The President" ; and

(2) by adding at the end the following:

"(b) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—After consultation with the Secretary of State, the Commandant may make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety, classification, and port state or flag state law enforcement or oversight.".

SEC. 207. EMERGENCY LEAVE RETENTION AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 425 the following:

"§ 426. Emergency leave retention authority

"With regard to a member of the Coast Guard who serves on active duty, a duty assignment in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) shall be treated, for the purpose of section 701(f)(2) of title 10, a duty assignment in support of a contingency operation.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 425 the following new item:

"426. Emergency leave retention authority.".

SEC. 208. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 99. Enforcement authority

"Subject to guidelines approved by the Secretary, members of the Coast Guard, in the performance of official duties, may—

"(1) carry a firearm; and

"(2) while at a facility (as defined in section 70101 of title 46)—

"(A) make an arrest without warrant for any offense against the United States; and

"(B) seize property as otherwise provided by law.".

(b) CONFORMING REPEAL.—The first section added to title 46, United States Code, by the amendment made by subsection (a) of section 801 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1078), and the item relating to such first section enacted by the amendment made by subsection (b) of such section 801, are repealed.

(c) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"99. Enforcement authority.".

SEC. 209. NOTIFICATION.

The Secretary of the department in which the Coast Guard is operating may not transfer the permanent headquarters of the United States Coast Guard Band until at least 180 days after the date on which a plan for such transfer is submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. REPEAL.

Section 216 of title 14, United States Code, and the item relating to such section in the analysis for chapter 11 of such title, are repealed.

SEC. 211. MARITIME SAFETY FOR NUCLEAR POWER FACILITIES LOCATED ADJACENT TO NAVIGABLE WATERS.

(a) RESPONSIBILITY.—Section 2 of title 14, United States Code, is amended by inserting before "and shall maintain a state of readiness" the following: "shall administer laws and promulgate and enforce regulations to assure the maritime safety of nuclear power facilities located adjacent to navigable waters of the United States not specifically delegated by law to some other executive department;".

(b) COOPERATION WITH NRC.—Chapter 7 of such title is amended by inserting after section 147a the following:

"§ 147b. Nuclear regulatory commission

"(a) IN GENERAL.—The Commandant may enter into an agreement with the Chairman of the Nuclear Regulatory Commission to enhance the maritime safety of the navigable waters of the United States that are located adjacent to a nuclear power plant. Such agreement shall provide for—

"(1) the exchange of certain information with the Chairman relating to the maritime safety of a nuclear power plant located adjacent to the navigable waters of the United States;

"(2) the assignment of officers of the Coast Guard to serve as liaisons to the Nuclear Regulatory Commission; and

"(3) the provisions of equipment and support to, or accept the same from, the Nuclear Regulatory Commission.

"(b) PAYMENT OR REIMBURSEMENT.—With regard to any agreement entered into under subsection (a), the Commandant may prescribe conditions, including advance payment or reimbursement, under which such resources may be provided.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 7 of such title is amended by adding at the end the following:

"147b. Nuclear Regulatory Commission.":

TITLE III—SHIPPING AND NAVIGATION

SEC. 301. VESSEL SIZE LIMITS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12102 (c)(5) of title 46, United States Code, is amended—

(1) by inserting "and" after the semicolon at the end of subparagraph (A)(i);

(2) by striking "and" at the end of subparagraph (A)(ii);

(3) by striking subparagraph (A)(iii);

(4) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(5) by inserting at the end the following:

"(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–627) and is eligible for a fishery endorsement under section 12108 of this title.".

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681-627) is amended to read as follows:

"(g) VESSEL REBUILDING AND REPLACEMENT.—

"(1) IN GENERAL.—

"(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2006 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12108 of title 46, United States Code.

"(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

"(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced. under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

"(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

"(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

"(A) IN GENERAL.—Notwithstanding the requirements of paragraphs (1), (2), and (3) of section 12102(c) of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12108 of title 46, United States Code.

"(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

"(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

"(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

"(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

"(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

"(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

"(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12108 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

"(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2006.

"(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.".

(2) EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is amended—

(A) by inserting "and" after "(United States official number 651041)";

(B) by striking ", NORTHERN TRAVELER (United States official number 635986); and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)"; and

(C) by striking ", in the case of the NORTHERN" and all that follows through "PHOENIX,".

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended—

(A) by moving the matter beginning with "the Secretary shall" in paragraph (1) 2 ems to the right;

(B) by adding at the end the following:

"(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

"(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

"(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act 2006; and

"(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

"(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

"(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

"(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.".

(c) VESSEL SAFETY STANDARDS.—

(1) LOADLINES.—Section 5102(b)(3) of title 46, United States Code, is amended by striking "a fishing vessel." and inserting "a fishing vessel unless the vessel is—

"(A) a rebuilt vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681-627); or

"(B) a replacement vessel under such section and the replacement vessel did not harvest fish under section 208(a), 208(b), 208(c), or 208(e) of that Act before June 1, 2006.".

(2) CLASSING.—Section 4503 of title 46, United States Code, is amended—

(A) in subsection (a) by inserting after "A" the following: "fishing or";

(B) by adding at the end the following:

"(c) APPLICABILITY TO FISHING VESSELS.—This section applies to a fishing vessel to which this chapter applies that is—

"(1) a rebuilt vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681-627); or

"(2) a replacement vessel under such section and the replacement vessel did not harvest fish under section 208(a), 208(b), 208(c), or 208(e) of that Act before June 1, 2006."; and

(C) in the heading for such section by striking "**Fish**" and inserting "**Fishing and fish**".

(d) CONVERSION TO CATCHER PROCESSOR SHARES.—

(1) IN GENERAL.—

(A) AMENDMENT OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall amend the fishery management plan for Bering Sea/Aleutian Islands King and Tanner Crabs (in this section referred to as the "Plan") for the Northern Region (as that term is used in the Plan) to authorize entities affiliated through common ownership to elect on an annual basis to work together to combine any of their catcher vessel owner quota shares for the Northern Region with any of their processor quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region.

(B) EXCHANGE RATE.—The entities referred to in subparagraph (A) shall receive under the amendment one unit of newly created catcher/processor owner quota shares in exchange for one unit of catcher vessel owner quota shares and 0.9 units of processor quota shares.

(C) AREA OF VALIDITY.—Each unit of newly created catcher/processor owner quota shares under this paragraph shall only be valid for the Northern Region.

(2) FEES.—

(A) LOCAL FEES.—The holder of the newly created catcher/processor owner quota shares under paragraph (1) shall pay a fee of 5.0 percent of the ex-vessel value of the crab harvested pursuant to those shares to any local governmental entities in the Northern Region, that would otherwise have received tax revenues from local raw fish taxes had the exchange authorized by paragraph (1) not occurred.

(B) STATE FEE.—The State of Alaska may collect from the holder of the newly created catcher/processor owner quota shares under paragraph (1) a fee of 1.0 percent of the ex-vessel value of the crab harvested pursuant to those shares.

(3) LANDING REQUIREMENT.—Crab harvested pursuant to catcher/processor owner quota shares created under this subsection shall be landed in those communities receiving the local governmental entities fee revenue set forth in paragraph (2)(A).

(4) PERIODIC COUNCIL REVIEW.—As part of its periodic review of the Plan referred to in paragraph (1), the North Pacific Fishery Management Council may review the effect, if any, of this subsection upon communities in the Northern Region. If the Council determines that this section adversely affects the communities, the Council may recommend to the Secretary of Commerce, and the Secretary may approve, such changes to the Plan as are necessary to mitigate those adverse effects.

(5) LIMITATION ON APPLICATIONS.—Paragraph (1) shall apply only with respect to entities that—

(A) were initially awarded catcher/processor owner quota shares under the Plan; and

(B) either were initially awarded processor quota shares under the Plan or received such shares under section 417(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 546).

SEC. 302. GOODS AND SERVICES.

Section 4(b) of the Act of July 5, 1884, commonly known as the Rivers and Harbors Appropriation Act of 1884 (33 U.S.C. 5(b)), is amended—

(1) by striking "or" at the end of paragraph (2)(C);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following:

"(4) sales taxes on goods and services provided to or by vessels or watercraft (other than vessels or watercraft primarily engaged in foreign commerce).".

SEC. 303. MARITIME ACTIVITIES.

Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall prepare and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the use of funds provided to the Alaska Sealife Center from the Oil Spill Liability Trust Fund.

SEC. 304. SEAWARD EXTENSION OF ANCHORAGE GROUNDS JURISDICTION.

Section 7 of the Rivers and Harbors Appropriations Act of 1915 (33 U.S.C. 471) is amended—

(1) by inserting before "The" the following: "(a) IN GENERAL.—".

(2) in subsection (a) (as designated by paragraph (1)) by striking "$100; and the" and inserting "up to $10,000. Each day during which a violation continues shall constitute a separate violation. The";

(3) by adding at the end the following:

"(b) DEFINITION.—As used in this section 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.".

SEC. 305. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENT-SIMPLE POSSESSION.

The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901–1904) is amended by adding at the end the following:

"SEC. 1905. SIMPLE POSSESSION.

"(a) IN GENERAL.—Any individual at a facility (as defined under section 70101 of title 46, United States Code) or on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance within the meaning of the Controlled Substances Act (21 U.S.C. 812) shall be liable to the United States for a civil penalty of not to exceed $10,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

"(b) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(c) TREATMENT OF CIVIL PENALTY ASSESSMENT.—Assessment of a civil penalty under this section shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.".

SEC. 306. TECHNICAL AMENDMENTS TO TONNAGE MEASUREMENT LAW.

(a) APPLICATION.—Section 14301(b)(3) of title 46, United States Code; is amended by inserting "of United States or Canadian registry" after "vessel".

(b) MEASUREMENT.—Section 14302(b) of such title is amended to read as follows:

"(b) MEASUREMENT.—A vessel measured under this chapter may not be required to be measured under any other law.".

(c) RECIPROCITY FOR FOREIGN VESSELS.—Subchapter II of chapter 145 of such title is amended by adding at the end the following:

"§ 14514. Reciprocity for foreign vessels

"For a foreign vessel not measured under chapter 143, if the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are substantially similar to those of this chapter and the regulations prescribed under this chapter, the Secretary may accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.".

(d) DUAL TONNAGE MEASUREMENT.—Section 14513(c) of such title is amended—

(1) in paragraph (1)—

(A) by striking "vessel's tonnage mark is below the uppermost part of the load line marks," and inserting "vessel is assigned 2 sets of gross and net tonnages under this section,"; and

(B) by striking "the mark" and inserting "the vessel's tonnage mark"; and

(2) in paragraph (2) by striking the period at the end and inserting "as assigned under this section.".

(e) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 145 of such title is amended by adding at the end the following:

"14514. Reciprocity for foreign vessels.".

SEC. 307. SEAMEN'S SHORESIDE ACCESS.

Each facility security plan approved under section 70103(c) of title 46, United States Code, shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen's welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.

SEC. 308. LIMITATION ON MARITIME LIENS ON FISHING PERMITS.

(a) IN GENERAL.—Subchapter I of chapter 313 of title 46, United States Code, is amended by adding at the end the following:

"§ 31310. Limitation on maritime liens on fishing permits

"(a) IN GENERAL.—A maritime lien shall not attach to a permit that—

"(1) authorizes use of a vessel to engage in fishing; and

"(2) is issued under State or Federal law.

"(b) LIMITATION ON ENFORCEMENT.—No civil action may be brought to enforce a maritime lien on a permit described in subsection (a).

"(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsections (a) and (b) shall be construed as imposing any limitation upon the authority of the Secretary of Commerce to modify, suspend, revoke, or sanction any Federal fishery permit issued by the Secretary of Commerce or to bring a civil action to enforce such modification, suspension, revocation, or sanction.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31309 the following:

"31310. Limitation on maritime liens on fishing permits.".

SEC. 309. EXTENSION OF EXEMPTION.

Section 3503(a) of title 46, United States Code, is amended by striking "2008" and inserting "2018".

SEC. 310. DOCUMENTATION OF CERTAIN FISHING VESSELS.

Section 12102(c)(5) of title 46, United States Code, as amended by section 301(a) of this Act, is amended by adding at the end the following:

"(D) the vessel has been issued a permit pursuant to part 648.6(a)(2) of title 50, Code of Federal Regulations, and the owner of the vessel—

"(i) demonstrates to the Secretary the recommendation and approval referred to in subparagraph (B);

"(ii) is required under the endorsement to land all harvested fish and processed fish products at a United States port; and

"(iii) demonstrates to the Secretary that the vessel is in compliance with—

"(I) requirements that otherwise apply under section 403 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881b) that the vessel carry one or more Federal observers; and

"(II) recordkeeping and reporting requirements that otherwise apply under part 648.7 of title 50, Code of Federal Regulations.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. SECURE COMMUNICATIONS PROGRAM.

There is authorized to be appropriated to the Commandant of the Coast Guard $3,000,000 to improve boarding team communications through the use of a cryptographic mesh overlay protocol.

SEC. 402. CERTIFICATE OF DOCUMENTATION FOR GALLANT LADY.

Section 1120(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3977) is amended—

(1) in paragraph (1)—

(A) by striking "of Transportation" and inserting "of the department in which the Coast Guard is operating"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) the vessel GALLANT LADY (Feadship hull number 672, approximately 168 feet in length).";

(2) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated) by striking all after "shall expire" and inserting "on the date of the sale of the vessel by the owner.".

SEC. 403. WAIVER.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289; 24 Stat. 81), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for the OCEAN VERITAS (IMO Number 7366805).

SEC. 404. DATA.

In each of fiscal years 2007 and 2008, there is authorized to be appropriated to the Administrator of the National Oceanic and Atmospheric Administration $7,000,000 to acquire through the use of unmanned aerial vehicles data to improve the management of natural disasters, and the safety of marine and aviation transportation.

SEC. 405. GREAT LAKES MARITIME RESEARCH INSTITUTE.

Section 605 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1052) is amended—

(1) in subsection (b)(1)—

(A) by striking "The Secretary of Transportation shall conduct a study that" and inserting "The Institute shall conduct maritime transportation studies of the Great Lakes region, including studies that";

(B) in subparagraphs (A), (B), (C), (E), (F), (H), (I), and (J) by striking "evaluates" and inserting "evaluate";

(C) in subparagraphs (D) and (G) by striking "analyzes" and inserting "analyze";

(D) by striking "and" at the end of subparagraph (I);

(E) by striking the period at the end of subparagraph (J) and inserting a semicolon;

(F) by adding at the end the following:

"(K) identify ways to improve the integration of the Great Lakes marine transportation system into the national transportation system;

"(L) examine the potential of expanded operations on the Great Lakes marine transportation system;

"(M) identify ways to include intelligent transportation applications into the Great Lakes marine transportation system;

"(N) analyze the effects and impacts of aging infrastructure and port corrosion on the Great Lakes marine transportation system;

"(O) establish and maintain a model Great Lakes marine transportation system database; and

"(P) identify market opportunities for, and impediments to, the use of United States-flag vessels in trade with Canada on the Great Lakes."; and

(2) by striking subsection (b)(4) and inserting the following:

"(4) Authorization of appropriations.—There are authorized to be appropriated to carry out paragraph (1)—

"(A) $2,100,000 for fiscal year 2007;

"(B) $2,200,000 for fiscal year 2008;

"(C) $2,300,000 for fiscal year 2009;

"(D) $2,400,000 for fiscal year 2010; and

"(E) $2,500,000 for fiscal year 2011.".

SEC. 406. INSPECTION AND CERTIFICATION OF PERMANENTLY MOORED VESSELS.

Any vessel which has a valid certificate of inspection in effect on the date of enactment of this Act and which is subsequently classified by the Coast Guard as a permanently moored vessel shall remain eligible for a certificate of inspection for an additional 5 years from the expiration date of the certificate of inspection in effect on the date of the reclassification.

SEC. 407. COMPETITIVE CONTRACTING FOR PATROL BOAT REPLACEMENT.

The Coast Guard may only buy or operate a patrol boat replacement (fast response cutter) if the contract to build the cutter is awarded using a competitive contracting procedure among shipyards in the United States and the management of the competitive contracting procedure is done by the Coast Guard or the primary contractor for the Deepwater Program of the Coast Guard.

SEC. 408. PATROL BOAT REPORT.

Not later than 90 days after the date of enactment of this Act the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report how the Coast Guard plans to manage the annual readiness gap of lost time for 110-foot patrol boats from fiscal year 2007 through fiscal year 2013. The report shall include—

(1) an identification of assets that may be used to alleviate the annual readiness gap of lost time for such patrol boats;

(2) a projection of the remaining operational lifespan of the 110-foot patrol boat fleet;

(3) a description of how extending through fiscal year 2013, the transfer agreement between the Coast Guard and the United States Navy for 5 Cyclone class 179-foot patrol coastal ships would effect the annual readiness gap of lost time for 110-foot patrol boats; and

(4) an estimate of the cost to extend the operational lifespan of the 110-foot patrol boat fleet for each of fiscal years 2007 through 2013.

SEC. 409. ACTIONS TO ADDRESS SEXUAL HARASSMENT AND VIOLENCE AT COAST GUARD ACADEMY.

(a) Policy on Sexual Harassment.—

(1) In general.—Under guidance prescribed by the Secretary of the department in which the Coast Guard is operating, the Commandant of the Coast Guard shall direct the Superintendent of the Coast Guard Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the Coast Guard Academy.

(2) Specified programs and procedures.—The policy on sexual harassment and violence prescribed for the Academy under paragraph (1) shall specify the following:

(A) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve academy personnel.

(B) Procedures that a cadet should follow in the case of an occurrence of sexual harassment or violence, including—

(i) a specification of the person or persons to whom the alleged offense should be reported;

(ii) a specification of any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(C) Procedures for disciplinary action in cases of alleged criminal sexual assault involving academy personnel.

(D) Any other sanction authorized to be imposed in a substantiated case of harassment or violence involving academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(E) Required training on the policy for all academy personnel, including the specific training required for personnel who process allegations of sexual harassment or violence involving academy personnel.

(3) Factors to consider.—In prescribing the policy on sexual harassment and violence for the Academy under paragraph (1), the Superintendent shall take into consideration—

(A) the findings, conclusions, and recommendations of the panel established pursuant to title V of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 609) to review sexual misconduct allegations at the United States Air Force Academy; and

(B) the findings, conclusions, and recommendations of other previous reviews and investigations of sexual harassment and violence conducted with respect to the Coast Guard Academy and one or more of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy.

(4) Deadline.—The policy required by paragraph (1) shall be prescribed not later than June 1, 2007.

(b) Annual Assessment.—

(1) In general.—The Secretary shall direct the Superintendent to conduct at the Coast Guard Academy an assessment during the Academy's program year to determine the effectiveness of the Academy's policies, training, and procedures on sexual harassment and violence to prevent criminal sexual harassment and violence involving academy personnel.

(2) Survey of personnel.—For the assessment for each academy program year, the Superintendent shall conduct a survey of all academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and violence events, on or off the academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, in that program year, of sexual harassment and violence events, on or off the academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of academy personnel on—

(i) the policies, training, and procedures on sexual harassment and violence involving academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and violence involving academy personnel in such program year; and

(iv) any other issues relating to sexual harassment and violence involving academy personnel.

(c) Annual Report.—

(1) In general.—The Commandant shall direct the Superintendent to submit to the Secretary a report on sexual harassment and violence involving academy personnel for each academy program year.

(2) Specified matters to be covered.—The annual report for the Academy under paragraph (1) shall contain, for the academy program year covered by the report, the following matters:

(A) The number of sexual assaults, rapes, and other sexual offenses involving academy personnel that have been reported to academy officials during the program year and the number of the reported cases that have been substantiated.

(B) The policies, procedures, and processes implemented by the Commandant and the leadership of the Academy in response to sexual harassment and violence involving academy personnel during the program year.

(C) In the report for the 2008 academy program year, a discussion of the survey conducted under subsection (b), together with an analysis of the results of the survey and a discussion of any initiatives undertaken on the basis of such results and analysis.

(D) In the report for each of the subsequent academy program years, the results of the annual survey conducted in such program year under subsection (b).

(E) A plan for the actions that are to be taken in the following academy program year regarding prevention of and response to sexual harassment and violence involving academy personnel.

(3) TRANSMITTAL TO SECRETARY.—The Commandant shall transmit the annual report on an academy under this subsection, together with the Commandant's comments on the report, to the Secretary and the Board of Visitors of the Academy.

(4) TRANSMITTAL TO CONGRESS.—The Secretary shall transmit the annual report on the Academy under this subsection, together with the Secretary's comments on the report to, the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(5) DEADLINE FOR 2008 REPORT.—The report for the 2008 academy program year shall be submitted to the Commandant not later than June 1, 2009.

(6) DEFINITION.—In this subsection, the term "academy program year" with respect to a year, means the academy program year that ends in that year.

SEC. 410. CRUISE SHIP DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Commandant of the Coast Guard, in cooperation the regional trade association representing the major cruise lines that operate in the Alaska cruise trade, shall conduct a demonstration project on the methods and best practices of the use of smokestack scrubbers on cruise ships that operate in that region.

(b) AGREEMENT.—The Commandant of the Coast Guard may enter into an agreement with the regional trade association referred to in subsection (a), or one or more of its members, to assist in conducting the demonstration project under subsection (a).

(c) REPORT.—Upon completion of the project described in subsection (a), the Commandant of the Coast Guard shall submit a report on the results of the project to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 411. CREW WAGES ON PASSENGER VESSELS.

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

(A) by striking "When" and inserting "(1) Subject to paragraph (2), when"; and

(B) by adding at the end the following:

"(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

"(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

"(A) the date of the end of the last voyage for which the wages are claimed; or

"(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.".

(2) DEPOSITS.—Section 10315 of such title is amended by adding at the end the following:

"(f) DEPOSITS IN SEAMAN ACCOUNT.—A seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, by written request signed by the seaman, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

"(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

"(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

"(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

"(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.".

(b) COASTWISE VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10504(c) of such title is amended—

(A) by striking "When" and inserting "(1) Subject to subsection (d), and except as provided in paragraph (2), when"; and

(B) by inserting at the end the following:

"(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

"(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

"(A) the date of the end of the last voyage for which the wages are claimed; or

"(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.".

(2) DEPOSITS.—Section 10504 of such title is amended by adding at the end the following:

"(f) DEPOSITS IN SEAMAN ACCOUNT.—A seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, by written request signed by the seaman, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

"(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

"(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

"(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

"(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.".

SEC. 412. TECHNICAL CORRECTIONS.

(a) COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006.—Effective with enactment of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241), such Act is amended—

(1) in section 311(b) (120 Stat. 530) by inserting "paragraphs (1) and (2) of" before "section 8104(o)";

(2) in section 603(a)(2) (120 Stat. 554) by striking "33 U.S.C. 2794(a)(2)" and inserting "33 U.S.C. 2704(a)(2)";

(3) in section 901(r)(2) (120 Stat. 566) by striking "the" the second place it appears;

(4) in section 902(c) (120 Stat. 566) by inserting "of the United States" after "Revised Statutes";

(5) in section 902(e) (120 Stat. 567) is amended—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking "and" at the end of paragraph (2)(A); and

(C) by redesignating paragraphs (3) and (4) as subparagraphs (C) and (D) of paragraph (2), respectively, and aligning the left margin of such subparagraphs with the left margin of subparagraph (A) of paragraph (2);

(6) in section 902(e)(2)(C) (as so redesignated) by striking "this section" and inserting "this paragraph";

(7) in section 902(e)(2)(D) (as so redesignated) by striking "this section" and inserting "this paragraph";

(8) in section 902(h)(1) (120 Stat. 567)—

(A) by striking "Bisti/De-Na-Zin" and all that follows through "Protection" and inserting "Omnibus Parks and Public Lands Management"; and

(B) by inserting a period after "Commandant of the Coast Guard";

(9) in section 902(k) (120 Stat. 568) is amended—

(A) by inserting "the Act of March 23, 1906, commonly known as" before "the General Bridge";

(B) by striking "491)" and inserting "494),"; and

(C) by inserting "each place it appears" before "and inserting"; and

(10) in section 902(o) (120 Stat. 569) by striking the period after "Homeland Security".

(b) TITLE 14.—(1) The analysis for chapter 7 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 149.

(2) The analysis for chapter 17 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 677.

(3) The analysis for chapter 9 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 198.

(c) TITLE 46.—(1) The analysis for chapter 81 of title 46, United States Code, is amended by adding a period at the end of the item relating to section 8106.

(2) Section 70105(c)(3)(C) of such title is amended by striking "National Intelligence Director" and inserting "Director of National Intelligence".

(d) DEEPWATER PORT ACT OF 1974.—Section 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)) is amended by aligning the left margin of subparagraph (K) with the left margin of subparagraph (L).

(e) OIL POLLUTION ACT OF 1990.—(1) Section 1104(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2794(a)(2)) is amended by striking the first comma following "$800,000".

(2) The table of sections in section 2 of such Act is amended by inserting a period at the end of the item relating to section 7002.

(f) COAST GUARD AUTHORIZATION ACT OF 1996.—The table of sections in section 2 of the Coast Guard Authorization Act of 1996 is amended in the item relating to section 103 by striking "reports" and inserting "report".

TITLE V—MARPOL ANNEX VI IMPLEMENTATION

SEC. 501. SHORT TITLE.

This title may be cited as the "MARPOL Annex VI Implementation Act of 2006".

SEC. 502. REFERENCES.

Wherever in this title an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

SEC. 503. DEFINITIONS.

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency.";

(3) in paragraph (5) (as so redesignated) by striking "and V" and inserting "V, and VI"; and

(4) in paragraph (6) (as so redesignated) by striking "'discharge' and 'garbage' and 'harmful substance' and 'incident'" and inserting "'discharge', 'emission', 'garbage', 'harmful substance', and 'incident'".

SEC. 504. APPLICABILITY.

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following:

"(5) with respect to Annex VI to the Convention, and to the extent consistent with international law, to a ship (other than a ship referred to in paragraph (1)), that—

"(A) is in a port, shipyard, offshore terminal, or the internal waters of the United States;

"(B) is in the territorial sea of the United States as defined in Presidential Proclamation 5928 of December 27, 1988;

"(C) is in an emission control area designated pursuant to section 4; or

"(D)(i) is bound for or departing a port, shipyard, offshore terminal, or the internal waters of the United States; and

"(ii) is in any other area that the Administrator, in consultation with the Secretary, has designated by regulation and based on the best available scientific data as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.";

(2) in subsection (b)(1) by inserting "or (3)" after "paragraph (2)";

(3) in subsection (b) by adding at the end the following:

"(3) With respect to Annex VI to the Convention, the head of a Federal department or agency may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels operated under the authority of such department or agency."; and

(4) in subsection (d)—

(A) by inserting ", or the Administrator as authorized by section 4," after "Secretary";

(B) by inserting "(or an applicable Annex)" after "MARPOL Protocol" the first place it appears; and

(C) by inserting "and Annex VI" after "Annex V".

SEC. 505. ADMINISTRATION AND ENFORCEMENT.

Section 4(b) (33 U.S.C. 1903(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by inserting after paragraph (1) the following:

"(2) In prescribing regulations under this section to carry out the provisions of Annex VI to the Convention, the Secretary shall consult with the Administrator with respect to Regulations 12 and 16 of such Annex and with the Administrator and the Secretary of the Interior with respect to Regulation 19 of such Annex.

"(3) In addition to the authority the Secretary has to prescribe regulations under this section to carry out Annex VI to the Convention, the Administrator, in consultation with the Secretary, shall prescribe any necessary or desired regulations to carry out Regulations 13, 14, 15, and 18.of such Annex."; and

(3) by adding at the end the following:

"(5) No standard issued by any person or Federal agency regarding emissions from tank vessels that are subject to Regulation 15 of Annex VI to the Convention shall be effective until six months after the date on which the Secretary submits a notification to the International Maritime Organization that such standard has been established.".

SEC. 506. CERTIFICATES.

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a)—

(A) by striking "The" and inserting "(1) Except as provided in paragraph (2), the"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator shall, and no other person may, issue an Engine International Air Pollution Prevention Certificate in accordance with Annex VI to the Convention and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States. The issuance of such certificates shall be consistent with any applicable requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) and regulations promulgated thereunder.";

(2) by striking subsection (b) and inserting the following:

"(b) A certificate issued by a country that is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under this Act or by the Administrator under subsection (a)(2)."; and

(3) in subsection (e) by inserting "or the public health or welfare" after "marine environment".

SEC. 507. RECEPTION FACILITIES.

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following:

"(3) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations to require that ports and terminals provide reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues or ensure that such facilities are available. The regulations shall establish criteria for determining the adequacy of reception facilities for receiving such substances, equipment, or residues at a port or terminal and such additional measures and requirements as are appropriate to ensure such adequacy.

"(4) The Secretary may establish regulations to certify, and may issue certificates to the effect, that a port's or terminal's facilities for receiving such substances, equipment, and residues from ships are adequate.";

(2) in subsection (c)(2)(A) by inserting "or (a)(3)" after "subsection (a)(2)";

(3) by striking subsection (e)(2) and inserting the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage, ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues if the port of terminal is not in compliance with such regulations."; and

(4) in subsection (f)(1) by striking "MARPOL Protocol or the Antarctic Protocol" and inserting "MARPOL Protocol, the Antarctic Protocol, or this Act".

SEC. 508. INSPECTIONS.

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

"(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

"(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary may undertake enforcement action under this section.".

SEC. 509. AMENDMENTS TO THE PROTOCOL.

Section 10(b) (33 U.S.C. 1909(b)) is amended by striking "Annex I, II, or V" and by inserting "Annex I, II, V, or VI".

SEC. 510. EFFECT ON OTHER LAWS.

Section 15 (33 U.S.C. 1911) is amended to read as follows:

"SEC. 15. EFFECT ON OTHER LAWS.

"Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.".

SEC. 511. MARPOL TECHNICAL CORRECTIONS.

Subsections (a), (b), and (d) of section 9 (33 U.S.C. 1908(a), (b), and (d)) are amended by striking the second comma after "MARPOL Protocol" each place it appears.

The SPEAKER pro tempore (Ms. FOXX). Pursuant to the rule, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. LOBIONDO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5681, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LoBIONDO. Madam Speaker, I yield such time as he may consume to the Chair of the full committee, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Madam Speaker, I urge my colleagues to support this legislation.

The Coast Guard has a great deal of authority, but they need the money and they need further authorization to do the missions we have charged them as the United States Congress. I hope and ask all of my colleagues to see the movie "The Guardian." It explains a great deal what the Coast Guard does and why this bill should be supported.

I compliment Mr. LoBIONDO, the chairman of the subcommittee, and those who work on the minority side to make sure that this legislation is good. This legislation is well-thought out, and as it is presented tonight, I urge my colleagues to pass this legislation.

Mr. LoBIONDO. Madam Speaker, I yield myself such time as I may consume.

The Coast Guard Authorization Act of 2006 authorizes nearly $9 billion in funding for the Coast Guard for fiscal year 2007. This authorization includes funding to support each of the Coast Guard's vitally important missions.

The men and women of the Coast Guard work hard to carry out the service's missions. Each day, they protect the public and help to ensure the safety and security of our great Nation. They are our Nation's maritime first responders.

Consequently, this body must provide these men and women with the assets and resources that they so desperately need. H.R. 5681 will authorize the funding levels required to do just that. For example, the bill authorizes over $1.7 billion for the Coast Guard's integrated Deepwater System, the amount necessary to accelerate the replacement of the Coast Guard's legacy assets from a 25- to 15-year schedule. As the Coast Guard's legacy assets continue to rapidly deteriorate, servicemembers work with the risk that the aircraft or boat they use may fail to operate. This is totally unacceptable. Further, it puts the safety and security of our citizens at risk. We must accelerate the Deepwater Program and make replacement assets available as soon as possible. I strongly urge my colleagues to support the funding levels in this bill.

In addition, H.R. 5681 specifically provides that at least $629 million must be used for search and rescue and at least $502 million must be used for marine safety. While homeland security missions require more resources and personnel than ever, the Coast Guard's other traditional missions are no less important than they have been in the past. Therefore, the bill sets a floor for spending in these critical areas.

The bill also requires the Coast Guard to report to Congress on how they intend to deal with the nearly 20,000-hour annual readiness gap that has developed in the 110-foot patrol boats. This is something that is very disturbing and troubling and must be addressed.

Additionally, the bill includes a provision establishing a civil penalty for individuals who possess personal use quantities of narcotics at maritime facilities or on a vessel. Drug use on vessels can have deadly consequences, and this provision will give the Coast Guard another tool to help keep our waterways safe.

I thank Chairman YOUNG and the ranking members, Mr. OBERSTAR and Mr. FILNER, for working with us so closely to develop this bill. I think it takes a balanced approach to meet the Coast Guard's requirements.

Madam Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in very strong support of the Coast Guard Authorization Act of 2006. The bill provides authorization of $8 billion for Coast Guard programs for the coming fiscal year, 2007, including $5.6 billion for Coast Guard operations; $2 billion for Coast Guard acquisition and construction, of which amount $1.4 billion is for the Integrated Deepwater System; $24 billion for research and development; $1 billion for retired pay; $17 million for the Truman Hobbs Bridge Alteration Program; and $12 million for environmental compliance at Coast Guard facilities.

For the past 3 years, Chairman YOUNG and the very dedicated subcommittee chairman, the gentleman from New Jersey (Mr. LoBIONDO), and I and the gentleman from California (Mr. FILNER) have been concerned about the diversion of Coast Guard resources from their historic missions, search and rescue, marine safety, being diverted to homeland security missions.

Those are important, but no more important than those historic missions of the Coast Guard about which we were concerned when the Department of Homeland Security was created and the Coast Guard was moved into it.

The maritime safety laws of this country were written in understanding and appreciation of the peril which mariners face when they get on a ship, go out to sea, whether on the saltwater or the fourth coastline of this country, the Great Lakes.

Americans put their trust every day in the Coast Guard to regulate safety on ferry boats and other types of vessels conveying passengers, or on liquefied natural gas tankers that come into our ports. We have to ensure that the Coast Guard will get their full funding needed to carry out those responsibilities. So in this legislation for the first time we set a floor on the amount of funding available for Coast Guard search and rescue and maritime safety programs.

We restore the funding for those programs that was cut in the President's proposed budget. We also restore funding for the Truman Hobbs Bridge Alteration Program to remove bridges that are obstructions to navigation.

We ensure funding for the Coast Guard's research and development program will go directly to the Coast Guard and will not be filtered through the Department of Homeland Security. As I warned when we brought that homeland security bill to the House floor that you put the Coast Guard in there, those dollars will be siphoned off to other functions within homeland security. Now we found a way to protect that that will not happen; the money will go directly to the Coast Guard.

In addition, we make a number of changes that will help the men and women of the Coast Guard of whom Chairman LoBIONDO and Chairman YOUNG and I and others have so frequently spoken with great admiration for their service.

First, we help pay for Coast Guard travel expenses for medical costs, if they are assigned to an isolated place that has no public access roads to the mainland, for example, allowing Coast Guard enlisted personnel to participate in the Armed Forces Retirement Home System; requiring that newly built fishing vessels built as replacement vessels under the American Fisheries Act be classed by the American Bureau of Shipping and have loadlines assigned if they are over 79 feet in length; and increasing the civil penalties for vessels that violate the anchorage regulations.

We also require that each facility security plan provide a method for seamen and representatives of seamen's welfare and labor organizations be able to board and depart the vessel through the facility in a timely fashion at no cost to the individual.

Those are just some of the highlights of this very, very important, comprehensive bill. It achieves that extraordinary goal that we on this committee in a bipartisan manner have had of setting a floor on the Coast Guard funding for search and rescue and for maritime safety programs.

This is a great accomplishment. We ought to pass this bill.

Mr. FLAKE. Madam Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. FLAKE. We passed recently the earmark reform rule that applies simply to House rules. I had a concern that it might not apply to suspension bills, bills which are brought under suspension of the rules which would include suspending the earmark rule that we adopted.

I find in the report specific language referring to the Great Lakes Maritime Research Institute and specific moneys that are allocated in 2007, 2008, 2009 and 2010. That would seem to fit the definition of an earmark for the purposes of the rule that we passed, and the rule that we passed requires that a Member who requested that earmark identify their names with that earmark.

I would ask the gentleman if that is the earmark you requested?

Mr. OBERSTAR. I appreciate the gentleman's concern. He has been a vigorous advocate for openness about designation and earmarking in appropriation bills and has been vigorous in his pursuit in that objective.

I would point out, this is not an earmark for a project. For example, when the Food and Drug Administration was established, it was established to be located at the place of the designation of the Secretary of Health and Human Services. Similarly with the National Institutes of Health. The legislation didn't say that they should be in Maryland; they just happened to be located in Maryland.

This is not a project that fits a particular Member's district. This is an institute that was authorized in the Coast Guard bill of 2004 that became Public Law in August of that year with this language: "The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes region."

It didn't say where. It didn't direct the Secretary to put it in any Members' district, just the Great Lakes.

I know the gentleman represents a water-challenged State. We have one-fifth of all of the fresh water on the face of the Earth in the five Great Lakes that cover eight States and two provinces of Canada.

The purpose of this institute is to develop marketing opportunities, shipping opportunities, and to look at the corrosive effects of water that are happening in the Great Lakes on our port facilities. Steel suddenly in the last 5 years has begun to corrode. Something is happening in those waters. It was our purpose, the Great Lakes States members, to create an institute that would bring together a wide range of academic and Federal Government agencies. I will just list for the gentleman, the Coast Guard, the Lake Carriers Association, Association of Great Lakes Port Authorities, U.S. Maritime Administration, Army Corps of Engineers, Great Lakes Commission, St. Lawrence Seaway Development Corporation, Society of Naval Architects and Marine Engineers, and various universities are all participants in this Great Lakes Maritime Institute.

What we do in this bill is continue the authorization for this program with specific dollar amounts, but we do not designate where it shall be located.

Mr. FLAKE. If the gentleman would continue to yield, I am reading now from I believe it is a press release of December 2005.

□ 2245

"Congressman DAVID OBEY, D-Wisconsin, announced December 12 that the Great Lakes Maritime Institute, the joint effort of the University of Wisconsin-Superior and the University of Minnesota-Duluth, will receive $2 million in Federal funding." I believe that that is now the identified home of the Institute and, therefore, receiving money year after year would, I believe, be defined as an earmark for that purpose.

Mr. OBERSTAR. Madam Speaker, the gentleman refers to a press release. We don't legislate by press releases here.

Secondly, that statement was issued after the Secretary made a designation. After the Secretary made a designation. And participating in the Institute are the University of Toledo; the University of Wisconsin at Madison; the Great Lakes Maritime Academy, which is in Michigan; the University of Michigan; Michigan Tech University; and University of Minnesota-Duluth. This is a consortium of universities. But the legislation didn't designate where it should be located. That designation was left to the Secretary.

Mr. FLAKE. I thank the gentleman. We do not legislate by press release. Unfortunately, for those of us who are trying to bring some accountability or transparency, sometimes the only way we can find out who requested an earmark or specific funding is to go to press releases because the agency won't tell us and the committees won't tell us.

Mr. OBERSTAR. Reclaiming my time, I just want to say that the law directed the Secretary of Transportation to designate. The press release didn't. The legislation didn't. Appropriations didn't. If you are looking for transparency, it is very transparent what we have here in this bill. Additional years of authorization, the specific dollar amounts in an authorization, not an appropriation bill and not directed to a specific place.

Mr. FLAKE. I thank the gentleman. My concern is that when we did the earmark reform rule we didn't specifically cover suspension bills, and we want to make sure that all avenues are covered, whether it is authorizing on suspension bills or whatever else we do. So I appreciate the gentleman's explaining this particular source of funding and how it is arrived at.

The chairman of the Rules Committee said during the debate on that earmark rule, he said, "By adopting this new rule, we as a body are not only making the commitment to live under its provision, but every Member must make a commitment to adhere to the spirit of this new rule. It is more than just adding a new rule. It is making a commitment to change the culture of the institution."

And what I want to make sure is that under rules of suspension that we don't bring to the floor any earmarks that have not been identified according to the rule.

Mr. OBERSTAR. Madam Speaker, I thank the gentleman's integrity and his pursuit of a personal and institutional objective. However, this is not an earmark for a project. It is not a designation of a specific venue for an activity. It is an authorization for the Department to make a decision which was done pursuant to the 2004 law, and in this legislation we simply extend what is already in existence as designated by the Secretary.

Now, we are very careful in this committee. I will not stand for, in any aviation authorization bill, any specific designations or earmarks. People always want to have an air traffic control tower or center or something else designated in that bill. We keep it out. And we do not have any of those designations in this bill for specific districts for specific Members.

Mr. FLAKE. Madam Speaker, I thank the gentleman. I also thank the leadership for their continued commitment to work and to ensure that suspension bills are covered under the new earmark rule.

Mr. OBERSTAR. Madam Speaker, that is an issue the gentleman I suggest should take up with his leadership. I do not have much of a say in that matter

Madam Speaker, I reserve the balance of my time.

Mr. LoBIONDO. Madam Speaker, I yield 2 minutes to Congresswoman KELLY from New York.

Mrs. KELLY. Madam Speaker, I rise today in support of the Coast Guard reauthorization. I am pleased to see that the section that Mr. BARROW of Georgia and I authored in a bipartisan fashion is included in the measure before us.

Our provision would clarify the role of the Coast Guard in protecting our Nation's nuclear power plants along navigable waterways. This language will allow the Coast Guard to work with the Nuclear Regulatory Commission to better safeguard nuclear facilities like the Indian Point facility along the Hudson River in my district and provide vessels and weaponry capable of thwarting waterborne attacks.

I want to thank Chairman YOUNG and Coast Guard Subcommittee Chairman LoBIONDO for their great work in support of the U.S. Coast Guard and for working so cooperatively with Congressman BARROW and me to have this provision included. This provision will go a long way towards protecting a segment of our Nation's energy infrastructure that still remains vulnerable of attack.

Mr. OBERSTAR. Madam Speaker, I think we have essentially resolved the issue of the gentleman from Arizona.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LoBIONDO. Madam Speaker, I yield myself such time as I may consume.

I would like to thank all my colleagues again, thank Mr. YOUNG, Mr. OBERSTAR, and Mr. FILNER on the subcommittee for working so closely for such an excellent product.

I would like to remind all of the Members of the sacrifices that the men and women of the Coast Guard make every day on our behalf. Unsung heroes, underrecognized, underappreciated men and women who are putting their lives on the line for our country with extraordinary dedication. This bill will help give them the tools and the equipment necessary for them to carry out their jobs.

It is, I guess, somewhat fitting that within a very short period of time all of America will have an opportunity to have a much better understanding of what the Coast Guard does because of a film that is being released, I believe, tomorrow, that will paint an extraordinary picture, realistic picture, of Coast Guard rescue swimmers and the danger that the men and women put themselves in every day on our behalf.

So I once again would urge all of my colleagues to please vote "yes.'

Mr. YOUNG of Alaska. Madam Speaker, I insert an exchange of letters between DON YOUNG and RICHARD POMBO for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 28, 2006.
Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 5681, the Coast Guard Authorization Act of 2006, and believe that the Committee on Resources has a jurisdictional interest in provisions in this important legislation dealing with fisheries. Specifically, we have identified a provision dealing with the Bering Sea and Aleutian Islands crab fishery in the Northern Region of the management plan.

Recognizing that the House of Representatives has a dwindling number of legislative days left before the 109th Congress adjourns, I will forego seeking a sequential referral of H.R. 5681. Waiving the Committee on Resources' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 5861 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on Resources represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this letter in the Congressional Record during debate on H.R. 5861 when it is considered by the House of Representatives.

I appreciate your leadership on this bill and I look forward to working with you on H.R. 586.

Sincerely,
RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, September 27, 2006.
Hon. RICHARD W. POMBO,
Chairman, Committee on Resources, Washington, DC.

DEAR CHAIRMAN POMBO: Thank you for your letter expressing the jurisdictional interest of the Committee on Resources in H.R. 5681, the Coast Guard Authorization Act of 2006. The Committee on Resources has a recognized claim to jurisdiction over the conversion to catcher processor provision that is included in this bill as proposed to be considered under suspension. I appreciate your agreement to allow this measure to proceed under suspension and to waive further consideration.

I understand that your agreement to allow this bill to proceed under suspension is conditioned upon our mutual understanding that nothing in this legislation, or your decision to waive further consideration, reduces or otherwise affects the jurisdiction of the Committee on Resources over provisions of the bill that are in your jurisdiction. I also understand that this waiver does not affect the right of the Committee on Resources to have its members named as conferees in the event of a conference with the Senate on this bill.

I greatly appreciate your cooperation in allowing the conversion to catcher processor shares provision to move on H.R. 5681. This issue impacts only fisheries in Alaska.

Sincerely,
DON YOUNG,
Chairman.

Mr. LoBIONDO. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. LOBIONDO) that the House suspend the rules and pass the bill, H.R. 5681, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109–700) on the resolution (H. Res. 1053) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 5441, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007; PROVIDING FOR CONSIDERATION OF S. 3930, MILITARY COMMISSIONS ACT OF 2006; PROVIDING FOR CONSIDERATION OF H.R. 4772, PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 2006

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109–701) on the resolution (H. Res. 1054) waiving points of order against the conference report to accompany the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes and providing for consideration of the bill (S. 3930) to authorize trial by military commission for violations of the law of war, and for other purposes and consideration of the bill (H.R. 4772) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ROBERT J. THOMPSON POST OFFICE BUILDING

Mr. MARCHANT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6075) to designate the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the "Robert J. Thompson Post Office Building".

The Clerk read as follows:

H.R. 6075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT J. THOMPSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, shall be known and designated as the "Robert J. Thompson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert J. Thompson Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6075, offered by the gentleman from Pennsylvania (Mr. PITTS), would designate the facility of the Post Office in West Chester, Pennsylvania, as the "Robert J. Thompson Post Office Building."

Born on November 30, 1937, Senator Thompson graduated from Penn State University in 1959 and was known to be a loyal and devoted fan of the Nittany Lions.

He was a native of West Chester, Pennsylvania, and began his career in public service in 1970 as a member of the West Goshen Township Board of Supervisors. He began serving as a member of the Pennsylvania State Senate in 1995, representing the 19th District, which includes parts of Chester and Montgomery Counties. During his distinguished career as Senator, Thompson also served as chairman of the Appropriations Committee and vice chairman of the State Government Committee.

But his contributions were not limited to just the public arena. He and his wife, Nancy, were very dedicated to the community in which they lived. Senator Thompson's list of involvements was impressive. He was the founding Executive Director of the Chester County Chamber of Commerce, a member of the Chester County Hospital Board, a member of the Immaculata College President's Council, and was an elder at the First Presbyterian Church of West Chester.

He passed away in January of 2006 and will be greatly missed by friends, family, and the community.

I urge all Members to come together and vote in favor of H.R. 6075.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6075, legislation sponsored by Representative JOSEPH PITTS, was unanimously passed by the Government Reform Committee on September 21, 2006. The bill designates the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the "Robert J. Thompson Post Office Building."

Robert Thompson, a member of the Pennsylvania State Senate since 1995 and Chair of the Senate Appropriations Committee, passed away in January of 2006.

Madam Speaker, Robert Thompson was a distinguished citizen who gave much of himself and much of his life to public service, and one way of recognizing and remembering the contribution that he made is to name this postal facility in his honor.

Mr. PITTS. Madam Speaker, today, I ask my colleagues to join me in honor of Robert J. Thompson and I rise in support of H.R. 6075, the Senator Bob Thompson Post Office Designation Act.

I've introduced this bill with my fellow colleagues from Pennsylvania and I thank them for their support.

It's a great privilege to be able to commemorate the life and public service of the late Senator Robert Thompson—Bob, as he was known to his friends.

Senator Thompson was a distinguished legislator and respected public servant. He served the people of southern Pennsylvania for more than 30 years as an elected official.

Bob got his start in public life in 1970 as a member of the West Goshen Township Board of Supervisors.

In 1995, Bob was elected to the State Senate where he represented the good people of Chester and Montgomery counties and served as Majority Chairman of the Senate Appropriations Committee.

I had the great privilege of serving with him in the Pennsylvania State legislature before coming to Congress—an honor I will always cherish.

Throughout his tenure in Harrisburg, Bob earned a solid reputation as an honest and sincere representative who always made his constituents his first priority.

Despite his health challenges that required him to be in the hospital frequently, his friends and colleagues fondly recall the encouraging and humorous e-mails he would send on his Blackberry from his hospital room.

Those who knew Bob loved his gentle demeanor, cheerful spirit, and great sense of humor.

His kindness and generosity were evidenced by his dedication to community service and civic participation.

He served on the board of numerous civic associations and community groups, including the Chester County Historical Society, the Westtown-Goshen Rotary Club, Chester County Library, and the West Chester Area Day Care Association.

Despite his many accomplishments as a respected public servant, I believe Bob would most like to be remembered as a devoted husband to Nancy and a loving father and grandfather.

Although Pennsylvania lost a great public leader, his kind and gentle countenance will not be forgotten by the many men and women who have served alongside him.

The Bob Thompson Post Office will be a fitting tribute to his life and work for many years to come.

Mr. GERLACH. Madam Speaker, I rise today to honor a great public servant and friend, the late Pennsylvania State Senator Robert J. Thompson. Today, the House of Representatives has the unique opportunity to designate the United States Postal Service facility located at 101 East Gay Street in West Chester, Pennsylvania, the "Robert J. Thompson Post Office Building".

Bob, a native of Chester County, Pennsylvania, gave his life to public service as a township supervisor, county commissioner, member of the Southeastern Pennsylvania Transportation Authority, and finally as State Senator representing the 19th District of Pennsylvania. In all of these endeavors, he represented his constituents with honor, dignity, and professionalism. He was also known throughout the community as a loving father and grandfather with a tremendous sense of humor and love of life. So, it is an honor for me to take this time to remember a man I worked closely with and who I greatly respected as a mentor and a friend.

Bob and his wife Nancy made community service, civic participation, and faith-based activities paramount in their lives. When not serving on countless commissions, committees, and caucuses, Bob made sure he was there for his family as well. In short, Bob was a "legislator's legislator," a highly honored servant and a loving family man.

Madam Speaker, it is a privilege to stand before this House today to help remember State Senator Robert Thompson. He is sorely missed by his family, his constituents, and myself, and I know that by naming the post office in West Chester after him, his legacy of public service will live on.

Mr. DAVIS of Illinois. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARCHANT. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 6075.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHUCK FORTENBERRY POST OFFICE BUILDING

Mr. MARCHANT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6078) to designate the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the "Chuck Fortenberry Post Office Building".

The Clerk read as follows:

H.R. 6078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHUCK FORTENBERRY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, shall be known and designated as the "Chuck Fortenberry Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Chuck Fortenberry Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

□ 2300

GENERAL LEAVE

Mr. MARCHANT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6078 as introduced by the gentleman from Texas (Mr. BRADY) would designate the post office in Woodville, Texas, as the "Chuck Fortenberry Post Office.'

Chief Warrant Officer Fortenberry was a 19½-year Army veteran who was serving with the 1st Battalion, 227th Aviation Regiment, 1st Cavalry Division, out of Fort Hood, Texas. During the course of his distinguished career, he also served in the 82nd Airborne Division, became an Army Ranger, and worked in Alaska before joining the warrant officer program to fly helicopters.

Officer Fortenberry was killed on Easter Sunday, April 11, 2004, when his AH–64 Apache helicopter was shot down over Baghdad. On that Sunday, a convoy traveling through Baghdad en route to Fallujah came under enemy fire. Someone on the ground called for air support, and Fortenberry and his partner, Chief Warrant Officer Lawrence "Shane" Colton, responded within moments. The convoy was saved, but their helicopter was shot down. Officer Fortenberry and his crewman paid the ultimate price for their country and their comrades, and I hope all members will join me in supporting this bill to honor such bravery and sacrifice.

Madam Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Madam Speaker, I appreciate Congressman MARCHANT for his leadership on this issue.

On Easter Sunday, 2004, Apache helicopter pilot, Army Chief Warrant Officer Wesley Lee Charles Fortenberry and his gunner answered a desperate call for help from a convoy of 29 Reservists trapped in an ambush with an estimated 300 Muslim extremists, pinned down in a mile-long kill zone in Baghdad, literally down to their last rounds of ammunition.

Pilot Chuck Fortenberry and his gunner fought to save the lives of 29 soldiers, repeatedly silencing enemy guns and drawing fire to themselves. As one Reservist said, everywhere the Apache flew, the fire stopped. And when I heard the Apaches all I could think of was thank God, I am going to live.

Well, an enemy rocket eventually silenced the 30 millimeter cannons and the life of Chuck Fortenberry. On that Easter Sunday, Chuck Fortenberry willingly gave his life to save the lives of many of his countrymen knowing he may never hold his loving wife again or see his three sons grow into men.

He represents a new generation of hero, fighting for our security, and he is the latest in a long line of Tyler County veterans who answered the call to our Nation's defense. I want to make sure that future generations understand the freedoms they enjoy are paid for by the blood, sweat and tears of the families in Tyler County who raise their sons and their daughters to love and serve their country at any price.

I am proud to author this legislation. I urge its support.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6078, legislation introduced by Representative KEVIN BRADY of Texas was unanimously reported by the Government Reform Committee on September 21, 2006.

The bill designates the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the "Chuck Fortenberry Post Office Building."

Chief Warrant Officer Chuck Fortenberry and his gunner, Chief Warrant Officer Shane Colton were killed in action in Iraq on April 11, 2004, when they responded to an urgent call for help from an Army field convoy pinned down by enemy fire near Fallujah.

Madam Speaker, two individuals who have given their life in such a manner as to demonstrate not only courage but also commitment, I can think no better way of honoring Mr. FORTENBERRY than to name this postal service in his honor in his hometown

Mr. MORAN of Kansas. Madam Speaker, on Easter Sunday, 2004, Apache helicopter pilot Army Chief Warrant Officer 3 Wesley Charles Fortenberry and his gunner answered a desperate call for help from a convoy of 29 reservists trapped in an ambush with an estimated 300 Muslim extremists—pinned down in a mile-long kill zone in Bagdad, down to their last rounds of ammunition.

Pilot Chuck Fortenberry and his gunner fought to save the lives of 29 soldiers, repeatedly silencing enemy guns and drawing fire to themselves. As one reservist said "everywhere the Apache flew, the fire stopped. When I heard the Apaches, all I could think of was 'Thank God', I am going to live."

To make sure that future generations understand the sacrifices that ensure their freedoms I am proud to announce I have introduced legislation to name the Woodville Post Office in honor of Chuck Fortenberry.

This is a lasting tribute to an American hero. It is also a tribute to the people of Tyler County, whose sons and daughters have defended America's

Mr. DAVIS of Illinois. Madam Speaker, I yield back the balance of my time.

Mr. MARCHANT. Madam Speaker, I urge all Members to support the passage of H.R. 6078, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 6078.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BEVERLY J. WILSON POST OFFICE BUILDING

Mr. MARCHANT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4720) to designate the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the "Beverly J. Wilson Post Office Building".

The Clerk read as follows

H.R. 4720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BEVERLY J. WILSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, shall be known and designated as the "Beverly J. Wilson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Beverly J. Wilson Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in the town of Lincoln, California, Beverly Wilson was known not just a postal carrier but also as a dear friend and a community fixture. She lived in Lincoln for 50 years and worked for the postal service for nearly 30 of those years.

She went out of her way to get to know her customers personally, and she always took new employees under her wing. She was known throughout

Lincoln for her famous pomegranate jelly and baked pies, but above all else her community remembers her kind spirit, generosity and warmth.

Beverly Wilson will be deeply missed by all of the people whose lives she touched.

I urge all Members to join me in naming this post office in her honor.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, H.R. 4720, legislation introduced by Representative JOHN DOOLITTLE designates the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the Beverly J. Wilson Post Office Building.

Beverly Wilson, 65, and a resident of Lincoln, California, was a rural letter carrier for the United States Postal Service. Mrs. Wilson was delivering mail in her postal Jeep when she was rear-ended and killed, ending a 26-year career with the United States Postal Service.

Ms. Wilson was 4 weeks away from retirement. Madam Speaker, I can imagine that oftentimes individuals who do the work that Ms. Wilson did do not have monuments erected or buildings named for them. But delivering the mail is a very important function. People wait to receive it. They need it. They want it. And one of the ways that we honor her, as well as the other thousands of letter carriers throughout the country is by naming this facility after Ms. Beverly J. Wilson.

I urge its passage.

Ms. MATSUI. Mr. Speaker, Beverly Wilson, "Bev" as she was known, was many things: a mother of five, a grandmother of 15, and a dedicated Postal Carrier for nearly thirty years. The naming of the Lincoln Post Office at which she worked is fitting for such a tremendous woman.

On January 6, 2005, just one month before retiring from the U.S. Postal Service, longtime Lincoln, California resident Beverly Joyce Wilson, 65, was involved in a fatal car accident while on the job.

The public sentiment after her death left one of her son's to remark, "How can one little old woman touch the lives of so many people?" It is quite clear from the heartfelt comments from her relatives, friends, coworkers and residents of Lincoln that she truly has made a lasting impression on Lincoln.

But the circle of admiration didn't stop in Lincoln. According to Ralph Petty at the Sacramento Metropolitan Area U.S. Postal Service, "She was a model employee, very dedicated to her work. Her rural carrier job was her life. She loved the people that she serviced every day."

It is undeniable from all of the accounts, that she loved her life and valued and respected others, and in turn they have asked for the new Post Office to be dedicated in her memory. This Post Office naming bill represents all postal employees, and everything that the USPS stands for. Her legacy will forever be remembered.

Mr. DAVIS of Illinois. Madam Speaker, I yield back the balance of my time.

Mr. MARCHANT. Madam Speaker, I urge all Members to support the passage of H.R. 4720, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 4720.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HAMILTON H. JUDSON POST OFFICE

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6151) to designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the "Hamilton H. Judson Post Office".

The Clerk read as follows:

H.R. 6151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HAMILTON H. JUDSON POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, shall be known and designated as the "Hamilton H. Judson Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Hamilton H. Judson Post Office".

The SPEAKER pro tempore (Mr. GOHMERT). Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Hamilton H. Judson was appointed postmaster of Farmington, MN in 1884. He worked diligently to give the town free rural delivery, making it the second town in the U.S. to receive this service. Just a few months after Judson established the system, local newspapers deemed it a success.

Judson was also known for working tireless hours. He was at work by 7 every morning, and waited on the mail train to arrive at 9 every night. And during the harvest season, he kept the Post Office open late so the farmers could collect their mail.

After almost 30 years of service, he retired, leaving behind a rural mail system as well as city post roads upon which the community of Farmington depended. I urge all members to join me in supporting H.R. 6151, honoring Hamilton Judson's ingenuity and his dedication to serving his town.

I yield to the gentleman from Minnesota.

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to say the people from the community of Farmington, Minnesota, have spoken and they have been heard. Earlier this year, as part of the Farmington post office's 150th anniversary, the community of Farmington conducted an election to name their post office.

The overwhelming majority of citizens voted to name their post office after Hamilton Harris Judson, a well-liked mercantile businessman who the Dakota County Tribune once described as: "The greatest of all citizens."

Hamilton H. Judson proved to the Federal Government that the possibility of a rural free delivery system of conveying mail to farmers who lived far from the post office outside of a town or village boundary could be a realty.

Hamilton Judson was appointed postmaster in 1884 and served his community, and the Federal Government for the next 29 years. Mr. Judson worked seven days a week from seven in the morning until 10 o'clock at night to ensure that the citizens received their mail in a timely fashion.

Before rural free delivery, Mr. Judson kept the post office open late into the evening to accommodate the areas farmers during the harvest season. In 1896, Minnesota Congressman Joel Heatwole convinced Congress to have Farmington attempt the rural free delivery experiment.

A year later, Farmington became the second city in the United States to offer rural free service. Hamilton H. Judson's system became a model for post offices around the Nation.

I urge all Members to support H.R. 6151.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6151, designates the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the Hamilton H. Judson Post Office.

Hamilton H. Judson was appointed postmaster of the Farmington post office on August 11, 1884, by Postmaster General Walter Q. Gresham. He retired in 1914.

I understand, Mr. Speaker, that this was a unique undertaking in terms of how this became the Hamilton H.

Judson Post Office. It is my understanding that a contest sort of took place in town, and that the citizens voted. And after the voting was done, and all of the votes had been counted, Hamilton H. Judson was the name.

That is a unique way of people participating in a public decision. I commend the gentleman from Minnesota for using this approach and urge passage of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 6151, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 6151.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VINCENT J. WHIBBS, SR. POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5736) to designate the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the "Vincent J. Whibbs, Sr. Post Office Building".

The Clerk read as follows:

H.R. 5736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VINCENT J. WHIBBS, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, shall be known and designated as the "Vincent J. Whibbs, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Vincent J. Whibbs, Sr. Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5736, offered by the gentleman from Florida (Mr. MILLER), would designate the facility of the United States Post Office in Pensacola, Florida, as the Vincent Whibbs, Sr. Post Office Building.

Mayor Emeritus Vince J. Whibbs passed away on May 30, 2006, having left a long legacy of public service in his country, and to the hometown of Pensacola, Florida.

During World War II, Mr. Whibbs left his job at the Pontiac Motor Division of General Motors to join the Army's Air Corps, serving as a fighter pilot and then a fighter flight trainer. After the war, he returned to his job at Pontiac and rose quickly through the ranks until he decided to take over a Pontiac dealership in Pensacola. It was there that he came to love the city that would become his permanent home.

Mr. Whibbs was very giving of his time to the community. He was elected to the city council, and served in many organizations such as the Navy League, the United Way, and the Rotary Club.

In 1978 he was appointed to a 2-year term as mayor of Pensacola. He did such a good job, that he was asked to serve through June of 1991, making him the longest serving mayor in Pensacola history.

In honor of his distinguished service, the city bestowed the title of Mayor Emeritus upon Mr. Whibbs.

I support H.R. 5736 in recognition of the many contributions he made to the community. And I hope all Members will join me.

Mr. Speaker, I reserve the balance of my time.

□ 2315

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 5736, legislation introduced by Representative JEFF MILLER, designates the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the "Vincent J. Whibbs, Sr. Post Office Building."

Vincent Whibbs was a member of the Pensacola City Council and former mayor of the city from 1977 to 1991. He passed away this year after having a distinguished career as a public servant. He did indeed serve for a long time as mayor of the city, and I can think of no better way for the city to honor his work and his memory than to name this postal facility in his honor.

I urge its passage.

Mr. MILLER of Florida. Mr. Speaker, I rise today in support of renaming the Palafox Street Post Office in Pensacola, Florida, the Vincent J. Whibbs Post Office. This post office will honor a great man who gave his all to the betterment of Pensacola.

In 1978, Vince Whibbs was appointed to a 2-year term as mayor of Pensacola but did such a great job that he ended up serving through June of 1991. Mayor Whibbs was Pensacola's longest-serving mayor and even after he left the position in 1991 he maintained the title of mayor emeritus.

Friendly, outgoing, and charming, Vince had a love for Pensacola that was overshadowed only by his love of God, country, and family. He was constantly giving back to the community though his involvement in local organizations including the Chamber of Commerce, the Pensacola chapter of the Navy League, the Fiesta of Five Flags, the United Way, Rotary Club International, Junior Achievement and Project Alert.

Mayor Whibbs loved to personally welcome dignitaries to Pensacola and greeted all who came with a rapid-fire delivery: "On behalf of our elected City Council, those 10 masterful men who manage our magnificent municipality; and on behalf of the chairman of our county commission and his four commissioners who constantly deal with the changing, challenging conditions of our county; and on behalf of our wonderful people who populate the Northwest Florida area, it is my privilege and pleasure as mayor to welcome you to Pensacola, the western gate to the Sunshine State, where thousands live the way millions wish they could, where the warmth of our community comes not only from God's good sunshine, but from the hearts of the people who live here. Welcome to Pensacola, America's first place city and the place where America began."

Mr. Speaker, Mr. Whibbs was a friend of Pensacola, a friend of the military and a personal friend of mine. His enthusiasm was contagious, his integrity inspiring.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 5736.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

KATHERINE DUNHAM POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5929) to designate the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the "Katherine Dunham Post Office Building".

The Clerk read as follows:

H.R. 5929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. KATHERINE DUNHAM POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, shall be known and designated as the "Katherine Dunham Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Katherine Dunham Post Office Building”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Katherine Dunham was born in Glen Ellyn, Illinois, in 1909, and from a very early age, she was passionate about the arts. She attended Chicago University and went on to earn a master's and doctoral degree in anthropology. In 1931, she opened her first dance school, and in 1948, she participated in a tour that was the first to bring African American dance to the European public.

Upon returning from Europe, Dunham directed a production on Broadway, and in 1963, she became the first African American to choreograph for the Metropolitan Opera. Perhaps one of the most defining moments of her career, however, was receiving the Albert Schweitzer Music Award for a life's work dedicated to music and devoted to humanity at New York's Carnegie Hall.

In recognition of her countless achievements and contributions to the arts, I urge all Members to join me in voting for H.R. 5929.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Illinois (Mr. COSTELLO), the sponsor of this resolution.

Mr. COSTELLO. Mr. Speaker, I thank my friend from Illinois for yielding the time and thank him for his cosponsorship of this legislation.

Mr. Speaker, I rise tonight in support of H.R. 5929, the Katherine Dunham Post Office Designation Act. Katherine Dunham was a legendary dancer, choreographer, and social activist. Katherine Dunham always said she wanted a useful legacy, a legacy that was more than being a dancer. She truly achieved that goal.

Katherine Dunham was born on June 22, 1909, in the Chicago suburb of Glen Ellyn. She was one of the first African Americans to attend the University of Chicago, where she eventually earned her bachelor's, master's and doctoral degrees in anthropology. She achieved broad critical acclaim both in the United States and abroad for her performances, borrowing movements and rhythms from the Caribbean and South America, while also adhering to classical ballet. Her technique is still taught and bears her name.

Ms. Dunham used her fame to focus the public's attention on social injustices around the world, including enduring a 47-day hunger strike at the age of 82 to help shift public awareness to the international relationship between America and Haiti. Further, she received many awards and recognition for her work such as the Presidential Medal of Arts, Southern Cross of Haiti, the Kennedy Center Honors, the French Legion Honor and the NCAAP Lifetime Achievement Award.

In 1967, Ms. Dunham moved to East St. Louis, Illinois, where she helped open a performing arts training center and established a dance anthropology program at Southern Illinois University in Edwardsville. The center in East St. Louis was eventually named the Katherine Dunham Center for the Arts and Humanities.

Honoring Katherine Dunham with this post office designation is fitting and appropriate, not only to Katherine and her family, but the residents of the city of East St. Louis and the congressional district that I am privileged to represent. East St. Louis is a community that has suffered hard times, but through it all, Katherine Dunham and her center served as a focal point for revitalization and hope for the city and its people.

Mr. Speaker, Katherine Dunham touched the world, not only through her artistic gifts, but with her conscience as well. Through her, we grew as a Nation. Just as she challenged the norms of dance, she challenged all of us to confront the important issues of our time. Renaming this post office for Katherine Dunham is a small gesture, but it is one way to say thank you for her continuing contributions to the people of East St. Louis, which she was proud to call home.

Mr. Speaker, I ask my colleagues to join me in supporting H.R. 5929, and I thank my friend from Illinois.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

If I just might close, I am pleased to join with my colleague from Illinois in this legislation. Katherine Dunham was an academician, a scholar, an activist, an anthropologist, a great dancer, a choreographer, a culturess, I do not know of many things that she was not, a businesswoman, a person who brought life and spirit wherever she was, and she was fortunate to live to a ripe old age.

All of us who have studied her, had the opportunity to see her, to know about her, our lives have indeed been enriched, and I am pleased to join in the sponsorship and urge passage of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 5929, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 5929.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TITO PUENTE POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1472) to designate the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the “Tito Puente Post Office Building”.

The Clerk read as follows

H.R. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITO PUENTE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 167 East 124th Street in New York, New York, shall be known and designated as the “Tito Puente Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Tito Puente Post Office Building”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a 5-time Grammy winner, Tito Puente was one of the most influential Latin jazz musicians of his time. He began playing the drums professionally as early as the age of 13 and went on to study composing, orchestration, and piano at Julliard and the New York School of Music.

Puente released 120 albums over the course of his 60-year career. His fans loved him for both his music and his showmanship. He will always be remembered for keeping his music fresh and current through the decades.

I support H.R. 1472 in recognition of the remarkable gift for music that Mr. Puente joyously shared with the world and hope all the Members will join with me.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

H.R. 1472, legislation introduced by Representative CHARLES RANGEL, was unanimously passed by the Government Reform Committee on September 21, 2006. H.R. 1472 designates the facility of the United States Postal Service located at 167 East 124th Street in New York as the Tito Puente Post Office Building.

Tito Puente, the great musician known as the "King of Latin Music," was born in 1923. He recorded over 100 albums and was a 4-time Grammy award winner, featured motion picture performer and internationally acclaimed musician. He died in May of 2000, and all of us who have heard the Latin sounds and relaxed as we listened are proud to know that a postal service is being named in honor of this great musician.

I urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 1472, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 1472.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING FINANCIAL PLANNING WEEK

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 973) recognizing Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring families and the financial planning profession for their adherence and dedication to the financial planning process, as amended.

The Clerk read as follows

H. RES. 973

Whereas the financial planning process can play a vital role in helping workers achieve financial independence by empowering them to identify and manage realistic financial objectives and meet the financial challenges that arise at every stage of life;

Whereas all individuals in the United States can improve their quality of life by securing competent, objective, and comprehensive financial advice to assist them in attaining their financial goals;

Whereas 2 surveys released in 2006 by the Consumer Federation of America and the Financial Planning Association revealed that 77 percent of financial planners think it is very important for Americans to understand what net personal wealth is, but only 49 percent of Americans know what constitutes this wealth—financial assets plus home equity and other tangible assets minus consumer debts;

Whereas, in the past year, proclamations have been issued in numerous States and the District of Columbia recognizing the importance of the financial planning process in meeting the goal of financial independence and other long-term financial objectives; and

Whereas the Financial Planning Association has designated the week beginning October 2, 2006, as "Financial Planning Week": Now, therefore, be it

Resolved, That the House of Representatives—

(1) encourages Americans to observe "Financial Planning Week" with appropriate programs and activities;

(2) supports the goals and ideals of "Financial Planning Week";

(3) recognizes the significant impact that sound financial planning can have on securing financial independence and achieving life's goals and dreams; and

(4) acknowledges and commends the millions of families across the United States, as well as the financial planning profession, for their adherence and dedication to the financial planning process.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no question that a sound financial foundation can provide people with more opportunities and a better quality of life. H. Res. 973, as amended, recognizes the importance of thorough planning to the achievement of financial aspirations, and it commends the millions of Americans who are already working and planning to achieve their personal goals.

In the past year, proclamations have been made in several States, as well as the District of Columbia, recognizing this fact, and I am pleased to support H. Res. 973 designating the week of October 2, 2006, as National Financial Planning Week.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, my father used to tell us that he or she who fails to plan, plans to fail. Of course, the same is true when it comes to money management and handling one's finances. This resolution makes all of us aware and reminds us that financial planning is essential to financial security.

I am pleased to join in support of this resolution setting aside and recognizing Financial Planning Week. I urge its passage.

Mrs. BIGGERT. Mr. Speaker, I rise today to urge my colleagues to support House Resolution 973, which supports the goals and ideals of designating the week of October 2–8, 2006 Financial Planning Week.

I want to thank my friend and colleague, the gentleman from Texas, Mr. HINOJOSA, for introducing this resolution. I want to commend him for his leadership on the important issue of financial education.

In addition to serving together on the Financial Services Committee, Congressman HINOJOSA and I co-chair the Financial and Economic Literacy Caucus, which now has 79 members. His commitment to improving financial literacy levels among all Americans is unwavering. I am honored to co-chair the caucus with him and to be the lead co-sponsor of this resolution.

I also want to thank the gentleman from Virginia, Chairman TOM DAVIS, for expeditiously moving this resolution through the Committee on Government Reform.

Mr. Speaker, House Resolution 973 calls on the Nation to observe the week of October 2–8, 2006, as "Financial Planning Week." The Financial Planning Association, along with many states and municipalities across the country, have designated October 2–8, 2006, as "Financial Planning Week." Our collective goal for the week is to make Americans aware of their financial planning needs, and encourage them to take the actions necessary to achieve financial security for their families.

Mr. Speaker, proper financial planning is an essential part of achieving one's life goals. Whether saving for a child's education, planning for retirement, or purchasing a first home, virtually every major decision that we make requires comprehensive financial planning.

Financial Planning Week will provide a good opportunity to talk to your kids about their personal finances, to remind your friends and loved ones of the need to plan for retirement, or to seek help with your own financial situation, if need be.

In the last quarter of 2005, the personal savings rate dropped to negative-point-two-percent—one of the lowest since the Great Depression. Studies show that as many as 10 million households in the United States are 'un-banked.' They don't even have a bank or credit union account. In addition, 37 percent of workers are not currently saving for retirement. This has to change, and the best way for it to change is for us as Americans to get educated about properly managing our finances.

This October, during "Financial Planning Week," I will join my colleagues, and financial literacy advocates nationwide, to encourage Americans to seek out information about the benefits of properly managing their personal finances.

I ask my colleagues to join me and support the goals and ideals of designating October 2–8, 2006, as Financial Planning Week.

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H. Res. 973, recognizing "Financial Planning Week," October 2nd through the 8th of this year. I was very pleased that my colleague and good friend from Illinois, Congresswoman JUDY BIGGERT, joined me in introducing this important and timely resolution.

I want to take this opportunity to thank Congresswoman BIGGERT, Congressman KANJORSKI and his staff, Congresswoman MALONEY and her staff, Tania Shand with Government Reform, and Jerry Hartz and Catlin O'Neill with the Minority Leader's office for the assistance they provided me in bringing this resolution to the floor today.

As Co-Founder and Co-Chair of the Financial and Economic Literacy Caucus, I decided to introduce this resolution to place the spotlight on yet another important piece of the financial and economic literacy puzzle that we must all put together during our lives: financial planning. Financial planning plays a key role in meeting the goal of the Caucus to improve financial literacy rates for individuals during all stages of their lives.

Mr. Speaker, at this point, I ask unanimous consent to insert into the record the following letters in support of H. Res. 973: letters from the Financial Planning Association, the Financial Services Roundtable, the U.S. Hispanic Chamber of Commerce, Cross Financial Services Corporation, MasterCard and Citigroup.

Despite daily challenges of balancing work, family, and personal matters, it's important—now more than ever—that all Americans take time to increase their financial knowledge and plan for a secure future. Like most people, we all have hopes and dreams and life goals for ourselves and our families. These might include buying a home or business . . . saving for college education for our children . . . taking a dream vacation . . . reducing taxes . . . or retiring comfortably.

Managing your personal finances is ultimately your responsibility. However, you don't have to do it alone.

There are community centers, non-profits, community-based organizations, financial counseling organizations as well as private sector financial groups and associations that can help you make decisions that make the most of your financial resources. Certified Financial Planners are among those groups. This advice is available in many languages.

All these entities can help you set realistic financial and personal goals. They can assess your current financial health by examining your assets, liabilities, income, insurance, taxes, investments and estate plan. These same groups can help you develop a realistic, comprehensive plan to meet your financial goals by addressing financial weaknesses and building on financial strengths. They can help you put your plan into action and monitor its progress.

Furthermore, they can help you stay on track to meet changing goals. . . changing personal circumstances. . . changing stages of your life. . . changing products, markets and tax laws.

Research has shown that people with a financial plan tend to save more money, feel better about their progress, and make more appropriate decisions—no matter what their income.

Moreover, a written financial plan is far more effective than a mental one. Seeing your plan in writing helps to remind you about what actions are necessary to reach your goals, and it helps you to check your progress more easily than relying on memory alone.

Following the financial plan is the biggest challenge for most people. The pay-off for meeting this challenge will be increased family financial security and satisfaction.

Many people are amazed to see how much of their money is spent on take-out lunches, morning coffees, and other expenses that can add up over time. It is up to all of us to decide whether these "extras" are really worth the trade- off. Are these everyday "extras" worth giving up money for current expenses and future goals?

The reality is that your everyday spending decisions have a greater impact on your long-term financial well-being than all of your investment decisions combined.

Next week, I hope that all of you will focus on mapping out your financial future.

I would like to commend the financial planners who will be volunteering their services on October 4th, financial planning day in room 430 of Senate Dirksen Office Building from noon to 3pm. Over a dozen financial planners will be available to answer any financial questions from you or your staff. More than likely, just your staff will be able to attend the event, but I encourage them to do so.

Mr. Speaker, if there is one thing I would like my colleagues and the public to understand today is that it is never too late to take control of your finances.

Whether you are a youth learning the fundamentals of savings and checking or an older person concerned that you haven't planned for your golden years, it is never too late to start. So, why not start today!

Again, I rise in strong support of this resolution and urge my colleagues to vote in favor of it.

THE FINANCIAL PLANNING ASSOCIATION,
Washington, DC, September 8, 2006.
Hon. RUBÉN HINOJOSA,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN HINOJOSA: As the leading membership organization for the financial planning community, the Financial Planning Association (FPA) would like to thank you for introducing H.R. 973, in recognition of Financial Planning Week. This resolution will help expand our goal of increasing financial literacy and as a result, help the national savings rate.

In a few weeks, our efforts to promote the benefits of wise personal financial planning will be extended to Capitol Hill. We would like to personally invite you to attend our sixth annual Financial Planning Day on Capitol Hill on October 4, in the Senate Dirksen Building, room 430, from 12 p.m. to 3 p.m. Over a dozen financial planners will be available to answer any financial questions from you or your staff. I would also like to use that opportunity to personally express my gratitude for your efforts in support of sound financial planning for all Americans.

FPA connects those who need, support and deliver financial planning. Our 28,000 members work with a variety of clients, including individuals and small businesses, to support and deliver objective financial planning advice from a competent, ethical financial planner. Our members demonstrate and support a professional commitment to education and a client-centered financial planning process.

Sincerely,

DANIEL B. MOISAND,
President, FPA.

THE FINANCIAL SERVICES
ROUNDTABLE,
Washington, DC, September 25, 2006.
Hon. RUBÉN HINOJOSA,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN HINOJOSA: We write to applaud your leadership in introducing House Resolution 973, recognizing Financial Planning Week. The Roundtable believes the financial planning process allows Americans to achieve their dreams by empowering them to identify and manage realistic financial goals.

This resolution highlights the impact of sound financial planning on achieving life's goals, and honoring families and the financial planning profession for the adherence and dedication to the financial planning process. Everyone can benefit from knowing the value of financial planning and knowing where to turn for objective financial advice.

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO.

Roundtable member companies provide fuel for America's economic engine, accounting directly for $50.5 trillion in managed assets, $1.1 trillion in revenue, and 2.4 million jobs.

We thank you for your leadership in recognizing Financial Planning Week through H. Res. 973. The Roundtable is proud to support this important resolution.

Best regards,

STEVE BARTLETT,
President and CEO.

UNITED STATES HISPANIC
CHAMBER OF COMMERCE,
Washington, DC, September 7, 2006.

DEAR REPRESENTATIVE: On behalf of the U.S. Hispanic Chamber of Commerce, the largest and most influential advocate for the nation's 2 million Hispanic-owned businesses, I would like to express our support for H. Res. 973, a legislative efforts to recognize October 2 8, 2006 as Financial Planning Week.

Indeed, all families, especially in the Latino community, must further their reliance on competent and ethical financial planners to help make smart financial decisions, open businesses, and plan for the future. Acknowledging the importance of sound financial planning can help inform consumers on how to maximize their and their family's potential to improve their quality of life. Latino families would benefit from planned Financial Planning Week activities that will include toll free hotlines in both English and Spanish for individuals to call a financial planner with questions about their finances.

All families and businesses are well served by using the services of financial planners to plan for college, prepare for retirement, invest in financial products and life insurance to help get through times of need and estate planning. In the past year, proclamations have been issued in numerous states and the District of Columbia recognizing the importance of the financial planning process in meeting long-term financial objectives and achieving the goal of financial independence.

We urge you to cosponsor H. Res. 973 so that we may help educate families on how to best prepare and improve their financial lives.

Please contact me or David Ferreira, Director of Government Affairs, at 202.842.1212 if we can be of further service in advancing this worthwhile goal.

Sincerely,

MICHAEL L. BARRERA,
President and CEO.

CROSS FINANCIAL SERVICES
CORPORATION,
September 11, 2006.

Hon. RUBÉN HINOJOSA,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN HINOJOSA: As a member of FPA®, I would like to thank you for introducing H.R. 973, in recognition of Financial Planning Week. I would also like to personally express my gratitude for your efforts for increasing financial literacy. On a daily basis, I see the need and importance for increasing financial literacy as a nation. Financial Planning Week serves as an opportunity to help the American public realize the importance of sound financial planning in their personal lives.

Many Americans seem to have not been taught the lessons their forefathers learned during the depression about debt and cash reserves nor have had the basic understanding of financial knowledge passed on to them from the previous generation. It is imperative that they receive that information. Today, financial planners, like myself, deliver objective advice to help individuals and families as they make their financial decisions. I work with a variety of clients, including individuals and small businesses, to support and deliver objective financial planning advice.

Thank you for your efforts to support sound financial planning for all Americans.

Sincerely,

KIRK W. FRANCIS,
Government Relations Director, San Antonio-South Texas Chapter, The Financial Planning Association.

MASTERCARD INTERNATIONAL,
LAW DEPARTMENT,
Purchase, NY, September 27, 2006.

Hon. JUDY BIGGERT,
Hon. RUBÉN HINOJOSA,
Washington, DC.

DEAR REPRESENTATIVES BIGGERT AND HINOJOSA: I am writing to communicate MasterCard Worldwide's strong support for House Resolution 973, which recognizes October 2-8 as Financial Planning Week and honors financial planning professionals for their devotion and commitment to promoting the financial planning process.

MasterCard Worldwide shares your goal of increasing financial planning, illustrated by our various consumer education programs. Specifically, MasterCard has developed two programs called Debt Know How and Are You Credit Wise? which target consumers at different stages of their financial lives and aims to increase successful financial planning.

By working with community leaders to offer consumers easy-to-understand tips and resources to increase their financial planning efforts, MasterCard's Debt Know How program helps consumers successfully manage financial debt. The program was developed in conjunction with the University of Minnesota Extension Service and is available in both English and Spanish.

Are You Credit Wise? is MasterCard's consumer education program which aims to increase financial literacy rates among America's college students by teaching successful financial planning skills. The program employs a peer-to-peer teaching model to maximize its effectiveness, as college students are more included to listen and act upon information coming from their peers than from parents, teachers or counselors.

We once again applaud your leadership and your tireless efforts to improve the lives of the American people through increased financial literacy and planning.

Sincerely,

JOSHUA PEIREZ.

Hon. JUDY BIGGERT,
Hon. RUBÉN HINOJOSA,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVES BIGGERT AND HINOJOSA: On behalf of Citigroup's Office of Financial Education, I am writing in support of H. Res. 973, which recognizes Financial Planning Week and encourages Americans to become engaged in the financial planning process in order to achieve their financial goals. Financial literacy is a critical skill that people need to master if they are to function in our global economy.

Citigroup is strongly committed to promoting financial education as evidenced by our ten-year, $200 million dollar commitment and our multi-lingual curriculum designed for consumers of all ages.

We applaud the work of the Financial Literacy Caucus and thank you both for your continued efforts to improve the lives of Americans in this area.

Sincerely,

DARA DUGUAY,
Director, Citigroup's Office of Financial Education.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Ms. WATERS. Mr. Speaker, I rise in support of H. Res. 973, "Recognizing Financial Planning Week." I want to thank Mr. HINOJOSA and Mrs. BIGGERT for introducing the resolution. I am cosponsor of this resolution because I believe that we must acknowledge the importance of financial planning for all Americans.

This resolution accepts the goal of financial planning as a tool to enable families and individuals to achieve their financial and life goals. It recognizes the relevance of financial planners, many of whom are essential to American individuals and families planning for their futures.

Sound financial planning must be integrated into any comprehensive life plan. Many of the financial instruments and investments require basic if not advanced financial planning to be used productively. Financial independence is a goal that I strongly advocate. Without financial independence it is impossible to function and to meet future challenges.

The Financial Planning Association has designated the week beginning October 2, 2006 as Financial Planning Week. The House officially recognizes the importance of financial planning and financial planners in the process, and this resolution embraces Financial Planning Week. Therefore, I urge my colleagues to support this resolution.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in strong support of H. Res. 973, and the goals and the ideals of Financial Planning Month. I am proud to say that I am an original co-sponsor of this bill, and a member of the Financial Literacy Education Caucus.

I would first like to start by thanking my colleagues Mrs. BIGGERT and Mr. Hinojosa for their leadership on this issue.

Mr. Speaker, we need to be paying more attention to financial literacy in this country, and to making sure our constituents have the tools to be responsible consumers, good savers and savvy investors.

An estimated 40 percent of Americans say they know only some, a little or not much, about how to manage their finances and only 10 percent of college students have had financial education in high school.

And yet, everyday life requires an increasing knowledge of banking and finance. The average American family spends $200,000 to raise a child to the age of 18, but the overall savings in this country barely breaks above 1 percent.

Prices for basic essentials—for health care, housing, schooling—are all skyrocketing. How are our families going to pay for it all if they aren't saving?

I am pleased that the Congress is voting to pass this financial planning awareness resolution at this time. Next week, I will be hosting the banking and finance portion of the Congressional Hispanic Caucus Institute Summit.

Financial literacy education is such an important topic that I have chosen to make it the focus of our summit. During our discussion, we will talk about "best practices" in financial literacy education.

It is essential that our citizens develop the tools of good financial management. These are the tools that will allow them to build wealth to enrich their families and communities.

They are also the tools that will protect them from fraud and exploitation, and help them be more responsible with their finances. This is not just important for individuals and their families, it is important to our nation as a whole. Less debt, more savings and more investment will be the foundation of our future economic success.

Once again I thank my colleagues for bringing H. Res. 973 to the floor and urge its passage.

Ms. McCOLLUM of Minnesota. Mr. Speaker, today I rise in strong support for House Resolution 973—recognizing Financial Planning Week. Now more than ever, working families need the tools and resources to make sound financial decisions.

American families are struggling with financial burdens—from growing student loan and credit card debts to increasing interest rates. Flattened wages and negative savings rates mean that too may families have to choose between sending their children to college and saving for retirement.

The financial situation for most American families is grim. In fact in 2005—for the first time since the Great Depression—the personal savings rate of Americans was negative. Americans have depleted their savings to pay off debt and to simply make ends meet. This is a dangerous trend for Americans that must be reversed.

That is why financial planning is more critical than ever. Americans need the tools and resources to know how to save for a variety of life opportunities and situations—including retirement, college, starting a new business, and buying a first home. Many families simply need assistance with budgeting for everyday needs. I commend the financial institutions that have included in their business models financial planning assistance for their customers. These institutions help to strengthen the economic situation for our communities and families.

What is unfortunate is that this Republican Congress has done little to provide relief to struggling families. Instead, families are being squeezed—flat wages, increased costs of health care, skyrocketing prices at the gas pump, and double digit college tuition increases. In nearly every aspect of life, American families are faced with financial burdens and tough budget decisions.

Congress could benefit from better financial planning—America deserves a Government that knows how to model good budget decisions. Unfortunately, this Republican Congress has led our Government into a negative savings rate—spending and borrowing more than our Nation can afford—while passing budgets that benefit the Nation's wealthiest while shortchanging hardworking, middle class families.

Today, I rise to support this important resolution. I will continue to work to support legislation that will encourage working families to save for their futures and to ensure that working families have the resources to make sound budget decisions.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the adoption of H. Res. 973, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and agree to the resolution, H. Res. 973, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 2330

JOHN J. SINDE POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5989) to designate the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the "John J. Sinde Post Office Building".

The Clerk read as follows:

H.R. 5989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOHN J. SINDE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, shall be known and designated as the "John J. Sinde Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "John J. Sinde Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume, and I am pleased to support H.R. 5989 introduced by the distinguished gentleman from Illinois (Mr. DAVIS).

John J. Sinde began his political career in 1949 when he joined the Material Service following 3½ years of service to the United States Navy. In 1973, he became the president of the Westchester Park District Board, where he remained until being appointed president of Westchester, a position he maintained for 24 years.

In addition to his political commitment, Mr. Sinde was also actively involved with the youth of his community. He found the time to manage the Pee Wee League, umpire the Westchester Girls Softball team, and served as a member of the Westchester Boys Baseball team. John Sinde passed away in November of 2005, and I am pleased to support a bill honoring him as a pillar of his community.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am indeed proud to sponsor this resolution honoring a man who was the epitome of not only excellence but Mayor Sinde was a businessman turned politician. After getting involved in politics, everything that he touched seemingly turned to gold. He ran the park district in his town for 24 years as a volunteer, he was the Little League coach, he was the Girls Softball coach, he was elected mayor five times, he solved the city's water problem, and he was simply an icon.

Everybody in the village knew him, and I was fortunate to have had a great relationship with him. He was a Republican and I was a Democrat, but that never stood in our way. We had some of the most wonderful times that I can imagine.

Mayor Sinde, just before he died, and he was a serious senior citizen by then, last worked as a volunteer crossing guard. After he had retired from being the mayor, and being everything else in the town that one could do, he volunteered as a crossing guard. And so I and I am certain all of the residents of Westchester, Illinois, are very pleased to know that this postal facility will be named in honor of their great mayor and their great friend, and I urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 5989, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 5989.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WALLACE W. SYKES POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5990) to designate the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the "Wallace W. Sykes Post Office Building".

The Clerk read as follows

H.R. 5990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WALLACE W. SYKES POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, shall be known and designated as the "Wallace W. Sykes Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Wallace W. Sykes Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. MARCHANT).

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to support another bill introduced by my distinguished friend, the gentleman from Illinois (Mr. DAVIS). Pastor Wallace Wyatt Sykes is well known for his accomplishments within, and devotion to, his community of Maywood, Illinois.

In addition to providing leadership to the Church of God since 1961, Pastor Sykes has played an active role in his church's day care center, music center, talent and tutoring center, as well as the community crisis center.

His contributions to Maywood have greatly been appreciated by its citizens, and I hope all Members will join me in honoring him.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am also very proud and very pleased to be the sponsor of this resolution honoring one of Maywood's proud citizens and one of its great leaders. In addition to the Second Baptist Church providing religious services, it also developed social programs, had a program to help those who were needy, developed housing programs, and, in addition, provided motivation.

Out of the Second Baptist Church, under the leadership of Reverend Sykes, has come two mayors of the village of Maywood and the recorder of deeds from the County of Cook, which is the second largest county in the United States of America. So Reverend Sykes is a great motivator, stimulator, activator, and seriously religious man.

I am very pleased to honor him by naming this postal facility in his honor

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of H.R. 5990, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the bill, H.R. 5990.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MAJOR GEORGE QUAMO POST OFFICE BUILDING

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3613) to designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the "Major George Quamo Post Office Building".

The Clerk read as follows

S. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAJOR GEORGE QUAMO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, shall be known and designated as the "Major George Quamo Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Major George Quamo Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Major George Quamo was the youngest member of the Special Forces Unit during the Vietnam War. He was the leader of three reconnaissance teams while serving in Vietnam and was responsible for the safe return of 14 men whose lives would have otherwise been lost.

Throughout his career, the major was awarded 26 medals, including the Distinguished Service Cross and two Silver Stars. He was killed at the very young age of 27 when the helicopter he was flying in went down.

I urge all Members to join me in honoring Major Quamo for his remarkable life and service to the United States. Without the courage, dedication, and talent of soldiers like him, our country would not be what it is today.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 3613, legislation introduced by Senator HILLARY RODHAM CLINTON, was unanimously approved by the Senate on August 2, 2006. The bill designates the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the Major George Quamo Post Office Building.

Major George Quamo was a highly dedicated and decorated member of the Special Forces Unit in the Vietnam War. He was killed in 1968 when the helicopter in which he was traveling crashed.

Mr. Speaker, we can see by the number of medals and honors and decorations that this soldier earned that he is indeed deserving of this honor. I urge its passage.

Mr. SWEENEY. Mr. Speaker, as the sponsor of the corresponding House legislation, I rise in strong support of S. 3613, a bill to designate the Post Office in Averill Park, NY, the Major George Quamo Post Office.

Major Quamo was a resident of my congressional district. He attended Averill Park High School, where he was the president of his class, and graduated with distinction in 1958. Less than 3 months later he enlisted in the U.S. Army.

After serving honorably in the Army for nearly 10 years, his life was cut tragically short in the Vietnam War, at the young age of 28.

Major Quamo commanded a team of the Army Special Forces, a group that led a number of covert missions during Vietnam Conflict. He was the youngest Major in Vietnam's Military Assistance Command.

When his helicopter crashed in the Vietnamese jungle, his remains were not discovered until 6 years later. He was returned to the U.S. and quietly buried in Arlington National Cemetery.

Having saved over 14 soldier's lives and exhibiting legendary heroism, his accomplishments went unrecognized until recently. Major Quamo was awarded over 26 medals including the Distinguished Service Cross, 2 silver stars, a bronze star, the Legion of Merit and the Presidential Unit Citation.

Major Quamo served his country with extraordinary courage and was one of the most highly decorated soldiers in the Vietnam Conflict. I would be privileged and honored to name a post office in his memory to rest in his hometown to remind all of the residents in Averill Park of his exemplary valor and service to his country.

Mr. DAVIS of Illinois. I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I urge all Members to support the passage of Senate 3613, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the Senate bill, S. 3613.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RICHARD L. CEVOLI POST OFFICE

Mr. MARCHANT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3187) to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the "Richard L. Cevoli Post Office".

The Clerk read as follows:

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RICHARD L. CEVOLI POST OFFICE.

(a) DESIGNATION.—The post office located at 5755 Post Road, East Greenwich, Rhode Island, shall be known and designated as the "Richard L. Cevoli Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the Richard L. Cevoli Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. MARCHANT) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. MARCHANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARCHANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, born in 1919, U.S. Navy Commander Richard L. Cevoli was a long-time resident of East Greenwich and a student at what is now the University of Rhode Island. He fought bravely in World War II, for which he was awarded the Navy Cross, as well as the Korean War, in which he served as the executive officer of his squadron.

In addition to these honors, Commander Cevoli's courageousness and commitment to his country earned him eight Air Medals and two Distinguished Flying Crosses. His life was taken far too soon on January 18, 1955, when his plane crashed during a training mission. He was rightfully remembered in the Rhode Island Aviation Hall of Fame, and I am pleased to support this bill honoring his great legacy.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 3187, legislation introduced by Senator JACK REED of Rhode Island, was unanimously passed by the Senate on July 20, 2006. The bill designates the facility of the United States Postal Service located at 5755 Post Road, East Greenwich, Rhode Island, as the Richard L. Cevoli Post Office.

The late Richard Cevoli, a decorated Navy commander, fought bravely in World War II and the Korean War and served at Naval Air Station at Quonset Point. His legacy is memorialized in the Rhode Island Aviation Hall of Fame.

□ 2345

Mr. Speaker, honoring this soldier, this commander, this leader, is certainly appropriate by naming this postal facility in his honor.

Mr. Speaker, I understand this is our last measure. It certainly has been a pleasure for me to work with the gentleman from Texas. I want to wish him a good night's rest as we leave.

Mr. Speaker, I yield back the balance of my time.

Mr. MARCHANT. Mr. Speaker, I thank the Honorable Mr. DAVIS. I appreciate having had the opportunity to share these few minutes with him.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of S. 3187, a bill that would designate a post office located in East Greenwich, RI, as the "Richard L. Cevoli Post Office." I thank my Rhode Island colleagues in the Senate for introducing this bill to honor U.S. Navy Commander Richard Cevoli, a life-long resident of East Greenwich who proudly served his country in World War II and the Korean War.

Richard Cevoli was born in East Greenwich, RI in 1919, and graduated from LaSalle Academy and Rhode Island State College, which is now the University of Rhode Island. In World War II, Commander Cevoli was awarded the prestigious Navy Cross for his bravery during the Battle of Leyte Gulf off the Philippines Coast in 1944. In addition to the Navy Cross, Commander Cevoli earned two Distinguished Flying Crosses and eight Air Medals during his active flying career. He was also inducted into the Rhode Island Aviation Hall of Fame. Commander Cevoli died serving his country when his plane crashed during a training mission on January 18, 1955, leaving behind his wife, Grace, and three children, Steven, Carol, and Elizabeth.

I ask my colleagues to support S. 3187 so that all Rhode Islanders can be reminded of Commander Cevoli's duty to his country and his impressive accomplishments.

Mr. MARCHANT. Mr. Speaker, I urge that all Members support the passage of S. 3187, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MARCHANT) that the House suspend the rules and pass the Senate bill, S. 3187.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ON THE CONFLICT BETWEEN ISRAEL AND HEZBOLLAH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to express my extreme concern that the fragile peace in the Middle East could easily fall apart if we continue to sit idly by and watch Lebanon and the UN troops do virtually nothing to disarm the Hezbollah terrorist group.

It seems to me that the international community may be in serious danger of repeating mistakes from the past. More than 2 years ago, the UN passed Security Council Resolution 1559, which called on Lebanon to disarm militias operating within the country's borders, including the Hezbollah terrorist group. Two years later, rather than seeing Hezbollah disarm, we saw a resurgent militia that raided an Israeli military post and started a month long conflict. Lebanon clearly failed to meet its requirements under the Security County resolution and Hezbollah actually got stronger with more weapons smuggled in from Iran and Syria.

Now we are in the process of implementing Security Council Resolution 1701, and there is plenty of reason to worry that the same thing will happen all over again. Hezbollah is refusing to disarm and refusing to let UNIFIL, the expanded UN force in the region, take any action against them. The Lebanese government seems to be giving Hezbollah a pass as well, saying that they will let the terrorist group keep their weapons, as long as they remain hidden.

What is worse, the UN force is sitting in Lebanon with little clue as to what they are supposed to do. They are apparently operating only at the behest of the Lebanese government, which doesn't seem to want the international troops to take any action.

The fact remains, however, that Hezbollah dominated Southern Lebanon and became a proxy for Iran and Syria because the Lebanese government was unwilling to take action and because the Lebanese army was incapable of using real force. If the UN troops aren't there to actually help carry out the terms of Resolution 1701, what exactly are they doing in the region?

Mr. Speaker, just as troubling is the fact that Lebanon seems to want to do little to control their border with Syria, where most of Hezbollah's arms are being smuggled through. They have declined to invite international forces to deploy along that border, even though it is clear that the Lebanese army cannot do what it takes to control and secure crossings between the two countries. Leaving this at the discretion of the Lebanese government is a recipe for deja vu, a rearming of Hezbollah and a renewal of the recent conflict.

Mr. Speaker, Sheik Hassan Nasrallah, the leader of Hezbollah, has made it clear that they have no intention of complying with the demands of the resolution. He announced last week that the terrorist group has no intention of surrendering its weapons, and even threatened the international forces not to try. I cannot comprehend why the United States and the international community would stay silent in the face of such blatant defiance of international will.

It is clear that President Bush must show decisive leadership to urge the international community to take measures needed to accomplish the goals of Security Council Resolution 1701. Lebanon cannot be allowed to continue to hold international forces at bay while it does nothing to confront Hezbollah's operations.

The U.S. and other nations cannot sit idly by and watch a terrorist group rearm and regroup in preparation for attacking Israel again and further destabilizing the region. The international force needs to be beefed up closer to the authorized level of 15,000 troops and given the mandate it needs to ensure compliance with the resolution.

Mr. Speaker, we also must take action to let Hezbollah supporters, Syria and Iran, know that the international community will not turn a blind eye towards their blatant support of terrorism against Israel. The U.S. must implement the full range of sanctions under the Syria Accountability Act until it is clear that Syria is no longer funneling weapons and other support to Hezbollah.

Mr. Speaker, if we are serious about maintaining stability in the Middle East and moving towards a lasting peace, then we need to be serious in our oversight of the implementation of the ceasefire between Israel and Hezbollah. Standing by and watching will only embolden the terrorists.

A TRIBUTE TO HANES BRANDS, INCORPORATED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. Foxx) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, it is my distinct pleasure to rise today and honor Hanes Brands, Incorporated. Well over a century old, Hanes Brands started in 1901 when J. Wesley Hanes founded Shamrock Mills, a manufacturer of men's hosiery. In 1902, Pleasant Hanes founded the P.H. Hanes Knitting Company and began manufacturing two piece men's undergarments. In 1910, Shamrock Mills, the original production site for J. Wesley Hanes products, changed its name to Hanes Hosiery Mill and also began to manufacture women's hosiery.

As their businesses expanded, the two different Hanes companies merged in 1965. Then in 1988, Adams-Mills Sock Company was acquired and later would become the Sarah Lee Sock Company. Hanes went on to manufacture undershirts, briefs, sleepwear and knitted shorts. But this was only the start of an emerging company that would grow to become a leading manufacturer of undergarments to T-shirts, casual and active wear to socks.

It was the humble beginning of J. Wesley Hanes in 1901 that placed Hanes Brands on the path to a major corporation that currently employs 50,000 people. On September 6, 2006, Hanes Brands spun off from its parent company Sarah Lee and emerged as a publicly held and traded company with a net worth of $4.5 billion.

Hanes Brands sells high volume, high quality apparel, and can credit its success to anticipating what the consumer wants and working to meet those needs in value, fit, comfort and customer service.

It is the largest seller of apparel essentials in the United States. Last year, Hanes Brands manufactured and sold over 400 million T-shirts and nearly half a billion pairs of socks. Hanes Brands is now listed on the New York Stock Exchange under the symbol HBI. A recent survey showed that Hanes brands can be found in eight of ten American households.

Currently Hanes Brands manufactures some of the most commonly known clothing lines, such as Hanes, Champion, Playtex, Bali, L'eggs, Just My Size, Hanes Hosiery, Barely There, Wonderbra and Outer Banks, as well as Duofold Performance Base Layer. Hanes Brands has grown into a full service clothing line and has established itself as a tremendous asset for Winston-Salem, North Carolina.

Hanes Brands is a fantastic company that spurs economic growth and employs many people from the Fifth District of North Carolina. It is also a responsible corporate partner in the community, and I know it will continue to act in the future as an important neighbor in the community.

Hanes Brands' new emergence as a stand-alone company will provide opportunities in education, will support further economic development and will continue to build value and leadership within the community. I have no doubt that after 105 years in business, Hanes' commitment to the community will grow even stronger through the years. That is why North Carolina and Winston-Salem are blessed to have such a responsible and growth-oriented corporation headquartered there. The opportunities are limitless.

Not only does Hanes Brands have a long standing tradition of quality manufacturing and customer service, but Hanes Brands also adheres to strict values, which has made it successful and has clearly added to the longevity and popularity of the company. All persons involved with the company are proud of their work and reputation. They strive for the best, and that is what has made them so successful since their inception in 1901.

I believe some of the reasons for Hanes Brands' success are the four core principles it adheres to: Number one, integrity/ethical standards; two, inclusivity/diversity; three, quality/superior performance; and four, reliability/commitment.

It follows these values and understands that in order to succeed and become successful, it must set forth a mission statement, which it has. I believe it is a fantastic vision that sets a course for success and accomplishments.

Hanes Brands' mission statement is: "To profitably grow our leading brands by intimately understanding our customers, out-executing our competition and leveraging our sustainable competitive advantage."

With such forward thinking and dedication to its goals, it is no wonder that Hanes Brands is one of the most recognizable names in clothing and why eight out of ten American households have Hanes Brands products.

I cannot stress enough the importance of this move by Hanes Brands to become a separate company and how its new revitalized presence in Winston-Salem will bring so many wonderful opportunities to the local community.

I am proud to represent Hanes Brands and recognize it is an outstanding company and community leader. As a strong supporter of those people and companies which strive for success, all the while contributing to the community, I commend Hanes Brands for its continued commitment to excellence. I am eager to watch Hanes Brands progress and stand ready to assist in any way I can.

TRIBUTE TO CAPTAIN BRIAN CHONTOSH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. I must say, Mr. Speaker, I appreciate our colleague from North Carolina briefing us on Hanes. I must say those briefs were uplifting. Cross my heart.

But what I would like to address in the remaining couple of minutes we have here is something that keeps coming up. We keep hearing from people about we want to blame America first. That is not what we should be about. We even heard a former Marine common this floor and accuse current active duty Marines of being cold-blooded killers, without them being charged, without a trial, based on nothing but hearsay.

So it is my deep pleasure, Mr. Speaker, to come and pay tribute to those who have won some of our Nation's highest honors.

On occasion, events occur that become synonymous with the dates on which they occur; December 7, 1941, and September 11, 2001, for example. For Marine Captain Brian Chontosh, March 25, 2003, that is such a day.

That day, while leading his weapons platoon for 3rd Battalion, 5th Marine Regiment, 1st Marine Division, north of Highway 1 outside of Baghdad, then 29-year-old Lieutenant Chontosh's platoon moved into a coordinated ambush of mortars, rocket propelled grenades and automatic weapons fire. With coalition tanks blocking the road ahead, he realized his platoon was caught in a kill zone.

He had his driver move the vehicle through a breach along his flank where he was immediately taken under fire from entrenched machine gun. Without hesitation, Captain Chontosh ordered the driver to advance directly at the enemy position, enabling his .50 caliber machine gunner to silence the enemy. He then directed his driver into the enemy trench, where he jumped out of his vehicle and began to clear the trench with his rifle and 9 millimeter pistol.

The citation for Chontosh's Navy Cross picks up the narrative: "With complete disregard for his safety, he twice picked up discarded enemy rifles and continued his ferocious attack. When his audacious attack ended, he had cleared over 200 meters of the enemy trench, killing more than 20 enemy soldiers and wounding several others. By his longstanding display of decisive leadership, unlimited courage in the face of enemy fire and utmost devotion to duty, First Lieutenant Chontosh reflected great credit upon himself and upheld the highest tradition of the Marine Corps and the United States Naval Service."

In effect since April 1917 and established by an act of Congress on February 4, 1919, the Navy Cross may be awarded to any person who, while serving with the Navy or Marine Corps, distinguishes himself or herself in action by extraordinary heroism not justifying an award of the Medal of Honor. The action must take place in one of these circumstances, such as while engaged in an action against the enemy of the United States.

Mr. Speaker, that is one day where we cherish our freedom and remember the men and women who have risked so much to defend it, on July 4th, that is. Let us remember the heroes today and every day.

Mr. Speaker, God bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STUPAK (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. GREEN of Wisconsin (at the request of Mr. BOEHNER) for today until 8:30 p.m. on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. AL GREEN of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. MARCHANT) to revise and extend their remarks and include extraneous material:)

Mr. GOHMERT, for 5 minutes, today.

Mrs. BLACKBURN, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today.

Mr. SIMPSON, for 5 minutes, today and September 29.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2250. An act to award a Congressional Gold Medal to Dr. Norman E. Borlaug; to the Committee on Financial Services.

ENROLLED BILLS SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 683. An act to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

H.R. 1036. An act to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

H.R. 3127. An act to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

H.R. 5574. An act to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 213. An act to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

S. 2146. An Act to extend relocation expenses test programs for Federal employees.

S. 3850. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

BILLS PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on September 27, 2006, she presented to the President of the United States, for his approval, the following bills.

H.R. 1442. To complete the codification of title 46, United States Code, "Shipping", as positive law.

H.R. 3408. To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

H.R. 3858. To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until today, Friday, September 29, 2006, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9674. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Pine Shoot Beetle; Additions to Quarantined Areas; Wisconsin [Docket No. APHIS-2006-0039] received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9675. A letter from the Director, Regulations Policy and Mgmt. Staff, Department of

Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Bacteriophage Preparation [Docket No. 2002F-0316 (formerly 02F-0316)] received September 6, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9676. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Acquisition Planning [DFARS Case 2003-D044] received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9677. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Training for Contractor Personnel Interacting with Detainees [DFARS Case 2005-D007] received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9678. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Prohibition on Acquisition from Communist Chinese Military Companies [DFARS Case 2006-D007] (RIN: 0750-AF34) received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9679. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Limitations on Tiered Evaluation of Offers [DFARS Case 2006-D009] (RIN: 0750-AF36) received September 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9680. A letter from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting the Department's notification of the decision to conduct a Streamlined Competition for commercial activities study under OMB Circular A-76; to the Committee on Armed Services.

9681. A letter from the Chief Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — List of Communities Eligible for the Sale of Flood Insurance [Docket No. FEMA-7788] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9682. A letter from the Chief Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7941] received September 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9683. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 20-06 informing of an intent to sign the Fundamental Research Hypersonic Flight Experimentation Project Arrangement between the United States and Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

9684. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

9685. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of the United Kingdom (Transmittal No. DDTC 040-06); to the Committee on International Relations.

9686. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of the United Kingdom (Transmittal No. DDTC 058-06); to the Committee on International Relations.

9687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) and (d) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of Switzerland (Transmittal No. DDTC 020-06); to the Committee on International Relations.

9688. A letter from the Office of the District of Columbia Auditor, transmitting a copy of a report entitled, "Audit of Advisory Neighborhood Commission 4B for Fiscal Years 2004 Through 2006, as of March 31, 2006," pursuant to D.C. Code section 47-117(d); to the Committee on Government Reform.

9689. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9690. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9691. A letter from the Executive Secretary/Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

9692. A letter from the Assistant Attorney General, Department of Justice, transmitting The activites of the Department of Justice regarding prison rape abatement for Fiscal Year 2004, pursuant to 42 U.S.C. 15604 Public Law 108-79, section 5(b)(1); to the Committee on the Judiciary.

9693. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Blasting Operations, Demolition of Mattabassett Outfall, Connecticut River, Cromwell, CT [CGD01-06-108] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9694. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Cleveland National Air Show, Lake Erie, OH. [CGD09-06-114] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9695. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Labor Day Celebration Fireworks, Baldwinville, N.Y. [CGD09-06-115] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9696. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Pirate Days, Heart Island, Alexandria Bay, NY [CGD09-06-113] (RIN: 1625-AA00) received Septmeber 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9697. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; R.Ozzie Wedding Fireworks Display, Manchester By The Sea, MA [CGD01-06-102] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9698. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Old Mormon Slough Sediment Contamination — McCormick and Baxter Superfund Site, Stockton, California [COTP San Francisco Bay 06-031] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9699. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Celebrate Revere Fireworks, Broad Sound, Revere, MA [CGD01-06-095] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9700. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project, COnstruction Barge "MARMACK 12," Tacoma Narrows, Gig Harbor, WA [CGD13-06-027](RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9701. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; New Tacoma Narrows Bridge Construction Project, Bridge Deck Lifting Beams, Tacoma Narrows, Gig Harbor, WA [CGD13-06-026] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9702. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Glouchester Schonner Festival Fireworks, Glouchester Harbor, Glouchester, MA [CGD01-06-070] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9703. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Route 33 Bridge Construction, Pamunkey River, West Point, VA [CGD05-06-059] (RIN: 1625-AA00) received September 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9704. A letter from the Chairperson, O'Hare Noise Compatibility Commission, transmitting a copy of the 2005 ONCC Annual Report;

to the Committee on Transportation and Infrastructure.

9705. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Certain Cost-Sharing Payments (Rev. Rul. 2006-46) received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9706. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Railroad Track Maintenance Credit [TD 9286] (RIN: 1545-BE91) received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9707. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Extension of Replacement Period for Livestock Sold on Account of Drought [Notice 2006-82] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9708. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Election under Section 355(b)(3)(C) of the Internal Revenue Code, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9709. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2006-80] received September 15, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9710. A letter from the Deputy Assistant Secretary, Office of Legislative and Intergovernmental Affairs, Department of Homeland Security, transmitting the Department's report regarding its efforts in the area of transportation security for the calendar year 2005, pursuant to 49 U.S.C. 44938(a) and (b); to the Committee on Homeland Security.

9711. A letter from the Deputy Chief Counsel for Regulations, TSA, Department of Homeland Security, transmitting the Department's final rule — Driver Licensed by Canada or Mexico Transporting Hazardous Materials To and Within the United States [Docket No. TSA-2006-25541; Amendment No. 1572-6] (RIN: 1652-AA50) received August 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Homeland Security.

9712. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities; Amendment [CMS-3145-F] (RIN: 0938-AN36) received September 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

9713. A letter from the Executive Director, Medicare Payment Advisory Commission, transmitting an update of the Commission's report entitled, "Report to the Congress: Physician-owned specialty hospitals," pursuant to Public Law 108-173, section 507(c)(3) (117 Stat. 2297); jointly to the Committees on Energy and Commerce and Ways and Means.

9714. A letter from the Secretaries, Department of Energy, Department of Agriculture, transmitting a jointly submitted copy of the Annual Report to Congress on the Biomass Research and Development Initiative for FY 2005, pursuant to 7 U.S.C. 7624 Public Law 106-224, section 309(a); jointly to the Committees on Science and Agriculture.

9715. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions; and Establishment of a Quality Assessment and Performance Improvement Program; Suspension of Effectiveness [CMS-1910-IFC] (RIN: 0938-AJ17) received September 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 4857. A bill to better inform consumers regarding costs associated with compliance for protecting endangered and threatened species under the Endangered Species Act of 1973 (Rept. 109–693). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 512. A bill to require the prompt review by the Secretary of the Interior of the long-standing petitions for Federal recognition of certain Indian tribes, and for other purposes (Rept. 109–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 6143. A bill to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS (Rept. 109–695). Referred to the Committee of the Whole House on the State of the Union.

Mr. PUTNAM: Committee on Rules. House Resolution 1052. Resolution providing for consideration of the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978 (Rept. 109–696). Referred to the House Calendar.

Mr. OXLEY: Committee on Financial Services. H.R. 5851. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians (Rept. 109–697). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 1674. A bill to authorize and strengthen the tsunami detection, forecast, warning, and mitigation program of the National Oceanic and Atmospheric Administration, to be carried out by the National Weather Service, and for other purposes; with an amendment (Rept. 109–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROGERS of Kentucky: Committee Coference. Conference report on H.R. 5441. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes (Rept. 109–699). Ordered to be printed.

Mr. COLE of Oklahoma: Committee on Rules. House Resolution 1053. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–700). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 1054. Resolution waiving points of order against the conference report to accompany the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes and providing for consideration of the bill (S. 3930) to authorize trial by military commission for violations of law of war, and for other purposes and consideration of the bill (H.R. 4772) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other governments officials or entities acting under color of State law, and for other purposes (Rept. 109–701). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROYCE:

H.R. 6225. A bill to authorize the issuance of Federal charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the regulation and supervision of National Insurers and National Agencies, to provide for policyholder protections in the event of an insolvency or impairment of a National Insurer, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KELLER (for himself and Mr. SCOTT of Virginia):

H.R. 6226. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; to the Committee on the Judiciary.

By Mr. FOSSELLA (for himself, Mr. GENE GREEN of Texas, Mr. ENGEL, and Mr. SULLIVAN):

H.R. 6227. A bill to establish a grant program to provide vision care to children; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. MICA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MARCHANT, Ms. GRANGER, Mr. BARTON of Texas, Mr. BURGESS, Mr. EDWARDS, Mr. HALL, Mr. SAM JOHNSON of Texas, and Mr. SESSIONS):

H.R. 6228. A bill to amend section 29 of the International Air Transportation Competition Act of 1979 relating to air transportation to and from Love Field, Texas; to the Committee on Transportation and Infrastructure.

By Mr. MCGOVERN (for himself, Mrs. EMERSON, Mr. LANTOS, Mr. HYDE, Mr. SKELTON, Mr. WOLF, Mr. POMEROY, Mr. SMITH of New Jersey, Ms. DELAURO, Mr. LEACH, Ms. HERSETH, Mr. OSBORNE, Ms. KAPTUR, Mr. WALSH, Mr. BOSWELL, Mr. BOUSTANY, Mr. MCCOTTER, Mr. PAYNE, Mr. SHIMKUS, Mr. MOORE of Kansas, Mr. ENGLISH of Pennsylvania, Mr. SNYDER, Ms. MCCOLLUM of Minnesota, Ms. SOLIS, and Mr. MORAN of Kansas):

H.R. 6229. A bill to amend the Farm Security and Rural Investment Act of 2002 to reauthorize the McGovern-Dole International Food for Education and Child Nutrition Program, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HALL:

H.R. 6230. A bill to authorize the Secretary of Energy to make energy consumption reduction incentive payments to encourage the utilization of the best available technology in the development of desalination facilities, and for other purposes; to the Committee on Resources.

By Mr. FITZPATRICK of Pennsylvania (for himself and Mr. Chandler):

H.R. 6231. A bill to catalyze change in the care and treatment of diabetes in America; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas:

H.R. 6232. A bill to amend the Elementary and Secondary Education Act of 1965 to improve the method of determining adequate yearly progress, and for other purposes; to the Committee on Education and the Workforce.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Petri, and Mr. DeFazio):

H.R. 6233. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BURTON of Indiana (for himself, Mr. Poe, Mr. LaHood, Mr. Linder, Mrs. Blackburn, Mr. Kennedy of Minnesota, Mr. Carter, and Mr. Miller of Florida):

H.R. 6234. A bill to amend the Higher Education Act of 1965 to require the disclosure of substantial gifts of cash or property to programs assisted under title VI of that Act; to the Committee on Education and the Workforce.

By Ms. DeLAURO (for herself, Mr. Hinchey, Mr. Conyers, Ms. Jackson-Lee of Texas, Mrs. Davis of California, Ms. Solis, Mr. McDermott, Ms. Linda T. Sánchez of California, Mr. Stark, Mr. Moran of Virginia, Mr. Grijalva, and Mrs. Capps):

H.R. 6235. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the Office of Women's Health and the regulation of breast implants, and to provide for a scientific workshop on the use of emergency contraception by women under age 18; to the Committee on Energy and Commerce.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. Pomeroy):

H.R. 6236. A bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare Program; to the Committee on Ways and Means.

By Ms. ESHOO (for herself, Mrs. Maloney, Mr. Ackerman, Mr. Andrews, Ms. Baldwin, Ms. Berkley, Mr. Bishop of New York, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Mrs. Capps, Mr. Capuano, Ms. Carson, Mrs. Christensen, Mr. Clay, Mr. Clyburn, Mr. Conyers, Mr. Crowley, Mr. Cummings, Mr. Davis of Illinois, Mrs. Davis of California, Ms. DeLauro, Mr. Emanuel, Mr. Engel, Mr. Evans, Mr. Farr, Mr. Filner, Mr. Frank of Massachusetts, Mr. Grijalva, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Hinchey, Mr. Holt, Mr. Honda, Mr. Israel, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Kennedy of Rhode Island, Mr. Kucinich, Mr. Langevin, Mr. Lantos, Mr. Larson of Connecticut, Ms. Lee, Mr. Lewis of Georgia, Mr. Lipinski, Ms. Zoe Lofgren of California, Mr. Lynch, Mrs. McCarthy, Ms. McCollum of Minnesota, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mr. Meehan, Mr. Meeks of New York, Mr. Miller of North Carolina, Mr. George Miller of California, Mr. Moore of Kansas, Mr. Moran of Virginia, Mr. Nadler, Mrs. Napolitano, Ms. Norton, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Payne, Mr. Rangel, Mr. Rothman, Mr. Rush, Mr. Schiff, Ms. Schwartz of Pennsylvania, Mr. Serrano, Mr. Shays, Ms. Slaughter, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Tierney, Mr. Towns, Mr. Van Hollen, Mr. Waxman, Mr. Wexler, Ms. Woolsey, Mr. Wynn, and Mr. Weiner):

H.R. 6237. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal land, and to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FEENEY:

H.R. 6238. A bill to improve the H-1B nonimmigrant program by increasing the exchange of information between the Departments of Labor and Homeland Security; to the Committee on the Judiciary.

By Mr. GARRETT of New Jersey (for himself, Mr. Hyde, Mr. Souder, Mr. Stearns, and Mr. Goodlatte):

H.R. 6239. A bill to require the President to prepare a thorough report of all United States contributions to the United Nations; to the Committee on International Relations.

By Mr. GOODE (for himself, Mr. Boucher, Mrs. Drake, Mr. Wolf, Mr. Tom Davis of Virginia, Mr. Forbes, Mrs. Jo Ann Davis of Virginia, Mr. Scott of Virginia, Mr. Cantor, and Mr. Goodlatte):

H.R. 6240. A bill to designate the facility of the United States Postal Service located at 1155 Seminole Trail in Charlottesville, Virginia, as the "Corporal Bradley T. Arms Post Office Building"; to the Committee on Government Reform.

By Mr. HASTINGS of Washington (for himself, Mr. Baird, Mr. Walden of Oregon, and Mr. Dicks):

H.R. 6241. A bill to amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, and for other purposes; to the Committee on Resources.

By Mr. HERGER:

H.R. 6242. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Ways and Means.

By Mrs. MALONEY:

H.R. 6243. A bill to improve Federal agency oversight of contracts and assistance and to strengthen accountability of the governmentwide debarment and suspension system; to the Committee on Government Reform.

By Mr. MORAN of Virginia:

H.R. 6244. A bill to amend the Hobby Protection Act to require that imitation Civil War items be clearly marked as copies; to the Committee on Energy and Commerce.

By Mrs. MUSGRAVE:

H.R. 6245. A bill to designate as wilderness certain land within the Rocky Mountain National Park, and for other purposes; to the Committee on Resources.

By Mr. PAUL:

H.R. 6246. A bill to reduce the excessive burden the liability system places on the health care delivery system by establishing new rules for lawsuits related to health care provided pursuant to a Federal program; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PRYCE of Ohio (for herself and Mrs. Myrick):

H.R. 6247. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide coverage for individuals participating in approved cancer clinical trials; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROGERS of Michigan (for himself, Mr. Blunt, Mr. Knollenberg, and Mr. Schwarz of Michigan):

H.R. 6248. A bill to authorize the Secretary of Energy to make certain loan guarantees for advanced conservation and fuel efficiency motor vehicle technology projects; to the Committee on Energy and Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHIMKUS (for himself and Mr. Boucher):

H.R. 6249. A bill to authorize the Secretary of Energy to make price floor loans to certain low-carbon coal-to-liquid fuel projects; to the Committee on Energy and Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SNYDER (for himself, Ms. Herseth, and Mr. Filner):

H.R. 6250. A bill to amend title 38, United States Code, to recodify as part of that title the educational assistance programs for members of the reserve components; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself, Mr. Udall of Colorado, Ms. DeGette, and Mr. Brown of Ohio):

H.R. 6251. A bill to provide for health care benefits for certain nuclear facility workers; to the Committee on Energy and Commerce.

By Mr. THOMPSON of Mississippi (for himself, Ms. Zoe Lofgren of California, Mr. DeFazio, Mrs. Christensen, Mr. Markey, Mr. Pascrell, Mr. Meek of Florida, Ms. Jackson-Lee of Texas, and Mrs. Lowey):

H.R. 6252. A bill to reaffirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MUSGRAVE:

H.J. Res. 98. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. GOODE (for himself, Mr. PAUL, Mr. JONES of North Carolina, and Mr. TANCREDO):

H. Con. Res. 487. Concurrent resolution expressing the sense of Congress that the United States should not engage in the construction of a North American Free Trade Agreement (NAFTA) Superhighway System or enter into a North American Union with Mexico and Canada; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KILPATRICK of Michigan:

H. Con. Res. 488. Concurrent resolution congratulating the Detroit Shock for winning the 2006 Women's National Basketball Association Championship, and for other purposes; to the Committee on Government Reform.

By Mr. DAVIS of Illinois (for himself, Ms. JACKSON-LEE of Texas, Ms. MILLENDER-MCDONALD, Ms. KILPATRICK of Michigan, Mrs. CHRISTENSEN, Mr. LEWIS of Georgia, Mr. JEFFERSON, Ms. NORTON, Mr. HASTINGS of Florida, Ms. MOORE of Wisconsin, Mr. AL GREEN of Texas, Mr. FORD, Mr. BISHOP of Georgia, Mr. CUMMINGS, Mr. SNYDER, Mr. CLYBURN, Mr. PAYNE, Mr. COOPER, Mr. WATT, Mr. OWENS, Mr. MEEK of Florida, Mr. THOMPSON of Mississippi, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FATTAH, Mr. BUTTERFIELD, Mr. CLEAVER, and Mr. TOWNS):

H. Res. 1055. A resolution honoring the Fisk Jubilee Singers; to the Committee on Education and the Workforce.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. HINOJOSA, Mr. GORDON, Mr. GONZALEZ, Ms. JACKSON-LEE of Texas, Mr. HOLT, Mr. MCDERMOTT, Mr. SERRANO, Mr. BUTTERFIELD, Mr. SCHIFF, Mr. EHLERS, Mrs. NAPOLITANO, Mr. BACA, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. BECERRA, Mr. CARDOZA, Mr. COSTA, Mr. CUELLAR, Mr. GUTIERREZ, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. SOLIS, Ms. VELÁZQUEZ, Mr. HINCHEY, Mr. GENE GREEN of Texas, and Mr. HONDA):

H. Res. 1056. A resolution recognizing the efforts and contributions of outstanding Hispanic scientists in the United States; to the Committee on Science.

By Mr. NADLER:

H. Res. 1057. A resolution honoring, on the occasion of his eightieth birthday, the life and six decades of public service of Jacob Birnbaum and especially his commitment to freeing Soviet Jews from religious, cultural, and communal extinction; to the Committee on International Relations.

By Ms. PELOSI (for herself, Ms. WOOLSEY, Mr. LANTOS, Mr. GEORGE MILLER of California, Mr. MCDERMOTT, Mrs. TAUSCHER, Ms. MATSUI, Mr. SAXTON, Mr. FARR, Mr. WAXMAN, Mr. HONDA, Mr. SHERMAN, Mr. MORAN of Virginia, Mrs. CAPPS, Ms. ESHOO, Ms. WATSON, Mr. DOGGETT, Mr. GRIJALVA, Mr. BERMAN, Ms. WATERS, Ms. SOLIS, Ms. ZOE LOFGREN of California, Mr. BECERRA, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Mr. THOMPSON of California, Mr. UDALL of Colorado, Mr. DICKS, Mr. HINCHEY, Mr. MARKEY, Ms. LEE, Mr. BLUMENAUER, Mr. RAHALL, Mr. FILNER, Mr. ALLEN, Mr. HOYER, Mrs. NAPOLITANO, Mr. SCHIFF, Mr. STARK, Mr. INSLEE, Mr. UDALL of New Mexico, and Ms. MCCOLLUM of Minnesota):

H. Res. 1058. A resolution congratulating Dr. Edgar Wayburn on his 100th birthday and commending his lifelong dedication to preserving our environment for our use and the use of future generations; to the Committee on Resources.

By Mrs. TAUSCHER (for herself, Mr. CONYERS, Mr. FARR, Mr. SERRANO, Mr. LEACH, Mr. ROTHMAN, Mr. STARK, Mr. MEEHAN, Mr. ABERCROMBIE, Mr. ALLEN, Mr. CROWLEY, Ms. LORETTA SANCHEZ of California, Mr. SKELTON, Mr. MCDERMOTT, Mr. DELAHUNT, Ms. LEE, Mr. DOGGETT, Mr. GEORGE MILLER of California, Ms. PELOSI, Ms. MATSUI, Mr. KENNEDY of Rhode Island, and Mr. MCGOVERN):

H. Res. 1059. A resolution expressing the sense of the House of Representatives that the Senate should act swiftly and expeditiously to give its advice and consent to ratification of the Comprehensive Test Ban Treaty; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII,

446. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 152 memorializing the Congress of the United States to support the National Cancer Institute's plan to eliminate suffering and death from cancer by the year 2015; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. WHITFIELD.

H.R. 65: Mrs. MUSGRAVE, Mr. ADERHOLT, Mr. MORAN of Virginia, Mr. CARTER, Mr. SODREL, Ms. BORDALLO, Mr. ISTOOK, Mr. SHAW, and Mr. STEARNS.

H.R. 147: Mr. JINDAL and Mr. ROGERS of Kentucky.

H.R. 517: Mr. RUSH, Mr. LIPINSKI, Ms. SLAUGHTER, Mr. HINCHEY, and Mr. Engel.

H.R. 550: Mr. GILCHREST, Mr. WATT, Ms. ZOE LOFGREN of California, and Mr. PETERSON of Minnesota.

H.R. 583: Mrs. BLACKBURN, Mr. MARSHALL, Mr. FORBES, and Mr. SMITH of New Jersey.

H.R. 602: Mr. PASCRELL, Mr. MCCOTTER, and Ms. HARMAN.

H.R. 752: Mr. BISHOP of Georgia, Mr. GUTIERREZ, Ms. WATERS, Ms. BERKLEY, and Mr. DAVIS of Tennessee.

H.R. 819: Mr. ALEXANDER.

H.R. 864: Mr. PORTER.

H.R. 910: Mr. KUHL of New York.

H.R. 921: Mr. DAVIS of Alabama, Mr. TOM DAVIS of Virginia, and Mrs. DRAKE.

H.R. 933: Ms. BORDALLO.

H.R. 1000: Mr. HOLT.

H.R. 1105: Mr. SOUDER and Mr. JOHNSON of Illinois.

H.R. 1125: Mr. SMITH of New Jersey.

H.R. 1245: Mr. ALEXANDER.

H.R. 1264: Mr. ROSS, Mr. RAMSTAD, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, and Mr. PORTER.

H.R. 1298: Mr. NUNES.

H.R. 1333: Mr. WEXLER.

H.R. 1376: Mr. DINGELL.

H.R. 1548: Mr. KELLER, Mr. NEAL of Massachusetts, Mr. BURGESS, and Mr. MEEHAN.

H.R. 1578: Mr. HYDE and Mr. CAMPBELL of California.

H.R. 1671: Mr. LARSEN of Washington and Mr. MCNULTY.

H.R. 1687: Ms. SCHWARTZ of Pennsylvania, Mr. THOMPSON of Mississippi, Mr. PASTOR, MR. BERMAN, and Mr. SERRANO.

H.R. 1688: Mr. WELDON of Pennsylvania.

H.R. 2014: Mr. GERLACH.

H.R. 2088: Mr. WALDEN of Oregon, Mr. CAMPBELL of California, and Mr. SULLIVAN.

H.R. 2230: Mr. SIMMONS.

H.R. 2231: Mr. SCOTT of Virginia, Mr. COSTA, and Mrs. MILLER of Michigan.

H.R. 2239: Mr. GOODLATTE, Mr. AKIN, and Mr. FORBES.

H.R. 2421: Mr. ALEXANDER, Mr. LIPINSKI, Ms. SCHWARTZ of Pennsylvania, Mr. MANZULLO, Ms. JACKSON-LEE of Texas, and Mr. JACKSON of Illinois.

H.R. 2533: Mr. MILLER of Florida.

H.R. 2592: Ms. LEE, Mr. MEEKS of New York, Mr. ENGEL, Mr. PAYNE, and Ms. NORTON.

H.R. 2631: Ms. KILPATRICK of Michigan.

H.R. 2662: Mr. KUCINICH and Mr. BECERRA.

H.R. 2960: Mr. WEXLER.

H.R. 3098: Mr. ANDREWS.

H.R. 3248: Mr. PETERSON of Minnesota.

H.R. 3437: Mr. MORAN of Kansas.

H.R. 3547: Mr. ALLEN and Mr. KUCINICH.

H.R. 3605: Ms. WATERS and Mr. LEACH.

H.R. 3628: Mr. TIERNEY.

H.R. 3690: Mr. WEXLER.

H.R. 3715: Mr. GOODLATTE.

H.R. 3753: Mr. MCHENRY and Mr. WELDON of Florida.

H.R. 3795: Mr. HAYWORTH and Mr. LEWIS of Kentucky.

H.R. 3875: Mr. LARSEN of Washington and Mr. HOLT.

H.R. 3954: Mr. SERRANO.

H.R. 4063: Mr. KILDEE.

H.R. 4198: Mr. CONYERS.

H.R. 4277: Mr. MILLER of Florida.

H.R. 4341: Mr. MATHESON and Mr. ROGERS of Kentucky.

H.R. 4520: Mr. ORTIZ.

H.R. 4560: Mr. LIPINSKI.

H.R. 4597: Mr. UDALL of Colorado, Mr. VAN HOLLEN, Ms. SOLIS, Ms. LINDA T. SÁNCHEZ of California, Mr. NUSSLE, Mr. LARSEN of Washington, Ms. SCHWARTZ of Pennsylvania, Mr. MILLER of Florida, and Mr. CONYERS.

H.R. 4727: Mr. SIMMONS, Mr. WEXLER, Mr. MCCOTTER, and Mr. KUCINICH.

H.R. 4903: Ms. DEGETTE and Mr. PAYNE.

H.R. 4925: Mr. CUMMINGS.

H.R. 4961: Mr. PRICE of North Carolina and Mr. ALLEN.

H.R. 4993: Mr. HOLT.

H.R. 4994: Mr. BOREN.

H.R. 5072: Mrs. CAPITO.

H.R. 5099: Mr. FORD.

H.R. 5100: Mr. SHAYS.

H.R. 5134: Mr. STUPAK.

H.R. 5139: Mr. BOSWELL and Mr. MANZULLO.

H.R. 5147: Mr. KILDEE, Mr. FARR, Ms. JACKSON-LEE of Texas, and Mr. MCNULTY.

H.R. 5171: Mr. KUHL of New York.

H.R. 5198: Ms. BEAN.

H.R. 5348: Mr. HOLT.

H.R. 5355: Mr. MURPHY and Mr. FITZPATRICK of Pennsylvania.

H.R. 5363: Mr. BOSWELL, Mr. BERRY, Mr. UDALL of New Mexico, Mr. MCINTYRE, Mr. ETHERIDGE, Mr. CARDOZA, Mr. MELANCON, Mr. BOREN, Mr. DAVIS of Tennessee, Mr. COSTA, Mr. UDALL of Colorado, Mr. HOLDEN, Mr. CHANDLER, Mr. CUELLAR, Mr. THOMPSON of Mississippi, Mr. SCOTT of Georgia, Mr. FILNER, and Mr. ROSS.

H.R. 5465: Mr. SMITH of New Jersey and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5472: Mr. CALVERT, Ms. DEGETTE, Mr. WHITFIELD, Mr. BASS, and Mrs. BONO.

H.R. 5513: Mr. THOMPSON of Mississippi, Mr. STRICKLAND, and Mr. BOREN.

H.R. 5541: Mr. EDWARDS.

H.R. 5555: Mr. RUPPERSBERGER.

H.R. 5558: Mr. KELLER, Ms. GRANGER, Mr. CONAWAY, Mr. PAUL, and Mr. HALL.

H.R. 5562: Mr. WILSON of South Carolina.

H.R. 5598: Mr. HOLT.

H.R. 5635: Mr. TIERNEY.

H.R. 5699: Mr. JACKSON of Illinois.

H.R. 5704: Mr. HOBSON, Mr. HONDA, Mr. CRAMER, and Mr. TIERNEY.

H.R. 5746: Mr. WYNN.

H.R. 5755: Ms. BORDALLO.

H.R. 5834: Mr. MCHUGH.

H.R. 5864: Mr. ALLEN, Mr. TANCREDO, Mr. HENSARLING, Mr. DOOLITTLE, Mr. AKIN, Mr. MARCHANT, Mr. GOHMERT, Mr. GARRETT of New Jersey, Mr. BURTON of Indiana, Mr. KING of Iowa, Mr. HOLT, Mr. CONYERS, Mrs. CAPPS, and Mr. KUHL of New York.

H.R. 5866: Mr. SWEENEY, Mrs. CAPITO, Mr. MILLER of Florida, Mr. BOREN, and Mr. GOODLATTE.

H.R. 5888: Mr. WELDON of Florida.

H.R. 5892: Mr. OTTER and Mr. REHBERG.

H.R. 5900: Mr. MCCOTTER.

H.R. 5908: Mr. STARK.

H.R. 5917: Mr. MILLER of Florida and Mr. TIAHRT.

H.R. 5918: Ms. BALDWIN and Mr. PRICE of North Carolina.

H.R. 5929: Mr. RUSH, Mrs. BIGGERT, Ms. BEAN, Mr. MANZULLO, Mr. HYDE, and Mr. HASTERT.

H.R. 5965: Mr. LARSEN of Washington, Mr. CONYERS, Mr. SCOTT of Georgia, Mr. MEEHAN, and Ms. HARMAN.

H.R. 6003: Mr. GOODE.

H.R. 6011: Mrs. NAPOLITANO and Mr. BOSWELL.

H.R. 6027: Mr. OWENS.

H.R. 6030: Mr. ALEXANDER, Mr. LARSEN of Washington, Mr. FRANK of Massachusetts, and Mr. GOODLATTE.

H.R. 6036: Mr. ALEXANDER and Mrs. CAPITO.

H.R. 6053: Mr. BISHOP of Georgia and Mr. MILLER of Florida.

H.R. 6064: Mr. FILNER, Mr. BLUMENAUER, Mr. KUHL of New York, Mr. UDALL of New Mexico, Ms. LEE, and Ms. WATERS.

H.R. 6080: Mr. CANNON.

H.R. 6083: Ms. SOLIS, Mr. KUCINICH, and Mr. HONDA.

H.R. 6093: Ms. MOORE of Wisconsin.

H.R. 6098: Ms. MATSUI.

H.R. 6130: Mr. GREEN of Wisconsin, Mr. MCHUGH, and Mr. PENCE.

H.R. 6132: Mr. EHLERS, Mr. KILDEE, Mr. PLATTS, Mr. HINCHEY, Mr. DAVIS of Tennessee, Mr. TIERNEY, Mr. SMITH of New Jersey, Ms. MCCOLLUM of Minnesota, Mrs. MILLER of Michigan, Mr. GOODLATTE, Mr. KUCINICH, and Mr. BOYD.

H.R. 6135: Mr. PORTER and Mr. MCINTYRE.

H.R. 6136: Mr. WELDON of Florida, Mr. NUSSLE, Mr. CHANDLER, Mr. CRAMER, Mr. ISRAEL, Mr. DAVIS of Tennessee, Mr. ROSS, Mr. TANNER, Mr. ADERHOLT, Mr. BASS, Mr. FORBES, Mr. LUCAS, Mr. OXLEY, Mr. SODREL, Mr. KELLER, Mr. MILLER of Florida, Mr. MORAN of Virginia, Mr. HOSTETTLER, Mr. RYUN of Kansas, Mr. BARRETT of South Carolina, Mr. CASTLE, Mr. FRELINGHUYSEN, Ms. GRANGER, Mr. JINDAL, Mrs. KELLY, Mr. KINGSTON, Mr. LOBIONDO, Mr. MCCRERY, Mr. MACK, Mr. MURPHY, Mrs. NORTHUP, Mr. POMBO, Mr. SAXTON, Mr. THOMAS, Mr. LEWIS of Kentucky, Mr. JONES of North Carolina, Mr. PORTER, Mr. REYNOLDS, Mr. SHAYS, Mr. LINDER, Mr. RENZI, Mr. SKELTON, Mr. DAVIS of Illinois, Mr. MOORE of Kansas, Mr. HOLDEN, and Mr. ENGEL.

H.R. 6140: Ms. SCHWARTZ of Pennsylvania, Mr. DEFAZIO, Mr. DOYLE, Ms. CORRINE BROWN of Florida, and Mr. CARDIN.

H.R. 6141: Mr. UPTON.

H.R. 6144: Mr. PAYNE.

H.R. 6172: Mrs. BLACKBURN, Mr. WOLF, and Mr. MCCOTTER.

H.R. 6173: Mr. OBERSTAR.

H.R. 6175: Mr. CUELLAR.

H.R. 6176: Mr. MILLER of Florida.

H.R. 6184: Mr. CONYERS and Mr. BOUCHER.

H.R. 6187: Mr. HINCHEY, Mrs. MALONEY, Ms. BORDALLO, Mr. KENNEDY of Rhode Island, Mr. FILNER, Mr. MORAN of Virginia, Mr. GEORGE MILLER of California, Mr. BRADY of Pennsylvania, Ms. WOOLSEY, Ms. LEE, Mrs. MCCARTHY, Mr. VAN HOLLEN, Ms. MATSUI, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. WAXMAN, Mr. WYNN, Mr. BOUCHER, Mr. MCDERMOTT, and Mr. BLUMENAUER.

H.R. 6191: Mr. MCNULTY, Mr. WEINER, Mrs. TAUSCHER, Mr. OWENS, Mrs. MCCARTHY, Mrs. NAPOLITANO, Mrs. LOWEY, Mr. MCDERMOTT, Mr. SCHIFF, Mr. SERRANO, Mr. CONYERS, Mr. SMITH of Washington, and Mr. BERMAN.

H.R. 6193: Mr. RUPPERSBERGER.

H.R. 6197: Mr. SOUDER, Mrs. BIGGERT, Mr. FORTUÑO, Mr. KUHL of New York, and Mr. REGULA.

H.R. 6199: Mrs. CAPITO.

H.R. 6203: Mr. KENNEDY of Minnesota, Mr. ROGERS of Michigan, Mr. GOHMERT, Mr. SIMMONS, Mr. KUHL of New York, Mr. ENGLISH of Pennsylvania, Mr. KIRK, and Mr. WELLER.

H.R. 6211: Mr. HINCHEY.

H. Con. Res. 174: Mr. FARR, Mr. WALSH, Mr. LATHAM, Mr. SALAZAR, Mr. PALLONE, and Mr. BRADLEY of New Hampshire.

H. Con. Res. 343: Mr. KING of New York, Mr. ACKERMAN, Mrs. KELLY, and Mr. OWENS.

H. Con. Res. 348: Mr. DELAHUNT, and Mr. WYNN.

H. Con. Res. 390: Mr. DOOLITTLE, Mr. CAMP of Michigan, Mr. BARTLETT of Maryland, Mr. BURTON of Indiana, Mr. CHOCOLA, Mr. AKIN, Mr. GERLACH, Mr. ROYCE, Mr. GONZALEZ, Mrs. DRAKE, Mr. SHADEGG, Mr. SHUSTER, Mrs. BIGGERT, Mr. ABERCROMBIE, Mrs. KELLY, Mr. ENGLISH of Pennsylvania, Ms. JACKSON-LEE of Texas, Mr. CHANDLER, Mr. LIPINSKI, Mrs. NAPOLITANO, Ms. SLAUGHTER, Mr. HINOJOSA, Mr. MCCAUL of Texas, Mr. RUPPERSBERGER, Mr. COSTELLO, Mr. BAIRD, Mr. NEAL of Massachusetts, Mr. WAXMAN, Mr. KILDEE, Mr. MATHESON, Mr. BOSWELL, Mr. ROSS, Mr. CARDOZA, Mr. TANNER, Mr. SPRATT, and Mr. WU.

H. Con. Res. 404: Mr. RANGEL, Mr. ROTHMAN, Mr. STARK, and Mr. ALLEN.

H. Con. Res. 457: Mr. WELDON of Pennsylvania, Mr. CALVERT, and Mr. CLAY.

H. Con. Res. 482: Mr. KILDEE, and Mr. LUCAS.

H. Res. 158: Mr. LARSON of Connecticut.

H. Res. 222: Mr. KING of New York, Mr. HAYWORTH, Mr. RENZI, and Mr. FRANKS of Arizona.

H. Res. 466: Mr. CUMMINGS, Mr. WYNN, and Mr. ALLEN.

H. Res. 518: Mr. YOUNG of Alaska, Mr. SIMMONS, Mr. DEFAZIO, Mr. OLVER, and Mr. CHANDLER.

H. Res. 548: Ms. JACKSON-LEE of Texas.

H. Res. 759: Mr. CUMMINGS and Mr. ACKERMAN.

H. Res. 863: Mr. MCINTYRE.

H. Res. 944: Ms. HERSETH, Mr. CHABOT, Mr. DICKS, and Mr. PORTER.

H. Res. 960: Mr. BILBRAY.

H. Res. 964: Mr. FILNER.

H. Res. 973: Mr. THOMPSON of Mississippi.

H. Res. 984: Ms. LEE.

H. Res. 990: Ms. LEE.

H. Res. 993: Ms. SCHWARTZ of Pennsylvania and Mr. GOODLATTE.

H. Res. 1031: Mr. SMITH of New Jersey, Mr. THOMPSON of Mississippi, Ms. LEE, Mr. SWEENEY, Mr. CONYERS, Mr. WALSH, and Mr. HINOJOSA.

H. Res. 1032: Mr. RANGEL.

PETITIONS, ETC.

Under clause 3 of rule XII,

154. The SPEAKER presented a petition of the Town of Woodstock, Ulster County, New York, relative to Resolution No. 119-06 requesting an investigation of the grounds for impeachment of the President of the United States and the Vice President of the United States; which was referred to the Committee on Rules.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO INSUREME

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I would like to take this time to recognize the achievement of a financial and insurance company in my district. InsureMe of Englewood, Colorado was recognized as one of the "Best Small & Medium Companies to Work for in America" by the Society for Human Resource Management.

This award was given to InsureMe for their open communication between senior managers and company employees, generous salaries and benefits, and their dedication to high profits and low turnover. I would also like to add that the employees of InsureMe volunteer monthly to serve dinner to the homeless and some have even traveled to Ghana to build an orphanage. InsureMe's commitment to their community and successful business is clear.

Mr. Speaker, it is my distinct pleasure to honor InsureMe of Englewood and their achievements here today, and wish them the best in the future.

HONORING DOCTOR PATRICK MAXWELL

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to join me today to honor Dr. Patrick Maxwell for his service to others.

In 2005, Dr. Maxwell received the American Society of Plastic Surgeons' Presidential Award for excellence in his field. While Dr. Maxwell is regarded as one of the premier surgeons in his field, he's also known for his charity.

Patrick is co-founder of the Tennessee-Kentucky chapter of Operation Smile, past president of the Nashville Chapter of the American Cancer Society, Founding Member of the Aspen Center for Integrative Medicine, and he actively supports his alma mater, Vanderbilt University School of Medicine.

We appreciate Dr. Maxwell's dedication to giving back to our community and I hope you'll join me in thanking him today.

TRIBUTE TO PROFESSOR MESFIN WOLDE MARIAM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, in August 2006, I visited Professor Mesfin Wolde Mariam in Kaliti prison in Ethiopia. Though it was saddening to see him in that kind of situation, I was nevertheless thrilled to have had the opportunity to pay my respect to a man I have known for over a decade. Professor Mesfin is one of the most dedicated and true champions of human rights. He chose to dedicate his life to studying famine and food security, writing about and promoting human rights and bringing to light issues often ignored and forgotten by many.

I first met Mesfin in the early 1990s, shortly after he founded the Ethiopian Human Rights Council, EHRCO, the most effective human rights organization in Ethiopia. I was with several Members of Congress on an official visit to Ethiopia. We decided to go to EHRCO's office and hold our meeting with Professor Mesfin in order to show our support for EHRCO and to underscore the significance of their valuable work. It was a memorable meeting and the opportunity to learn of their monumental undertaking was very valuable.

Unfortunately, this is not the first time Mesfin is in prison. He has paid dearly over the decades for standing up for what he believes in and for exposing systematic abuses and sometimes neglect as the case may be over a period of several decades. What is amazing about this incredible human being is his sharpness and focus even in prison. This is a dedicated human being who chose to stay in his native Ethiopia to stand up for, and educate the helpless and the neglected, even though he had plenty of opportunity and offers to live comfortably elsewhere.

In April 2006, his three children wrote about their father stating: "Many months have passed since Mesfin Wolde Mariam, the father of all three of us, and grandfather of Semra, Kristos, Kokeb, Tinsae and Oscar has been incarcerated. We miss him terribly and would love to see him home. No less important is our utmost respect, concern and commitment for the principles he has so staunchly promoted for longer than anyone of us has been around."

I was thrilled to learn that the New York Academy of Sciences decided to recognize Professor Mesfin for "his leadership in advocating for the disadvantage and in promoting human rights, civil society, and a peaceful transition to democracy." Professor Mesfin deserves this recognition and I thank the New York Academy of Science for its leadership and efforts.

INTRODUCTION OF THE CITY YOUTH VIOLENCE RECOVERY ACT OF 2006

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I rise today with the distinguished gentleman from Georgia, Mr. LEWIS, to introduce the City Youth Violence Recovery Act. I want to thank Congressman LEWIS for his work on this bill and for his lifelong work to unite every community into what he calls The Beloved Community.

As the media reports daily about the loss of life in the war in Iraq, we often ignore the war being fought at home in city streets across this country. After a decadelong decline of violent crime, it is again on the rise. In Hartford, for example, there have been 140 shooting victims since the beginning of 2006—this is an 18.6% increase over last year's city reports. And again, just over the weekend, gun violence claimed another young life. It was the city's 19th homicide this year. He was 19.

The challenges facing the city of Hartford are not unique. This violence, perpetrated both by and against young people, has devastated urban communities in cities both large and small. In a disturbing trend, our city children and teenagers are losing their lives, losing their friends, losing their family members, and losing their youth. They feel fear, helplessness, horror and the sense that life and safety are in danger. Tragically, many have grown numb to the violence around them.

Since community violence is caused by many things, there is no simple, single solution to eradicate it from our neighborhoods. We must address employment, housing, education, transportation, law enforcement, and other quality of life issues. Until we address these issues, we must do something to help the youth in our cities overcome the long-term emotional harm of witnessing this community violence.

In July, I was honored to have Mr. LEWIS come to Connecticut to talk with local leaders and children in the Hartford community. It was clear that the community's young people require more than physical security to keep them safe from harm. They need a network of support to treat the emotional, mental and developmental harms associated with community violence. Today, I am proud to be joined by Congressman LEWIS and 27 of my distinguished colleagues to introduce the City Youth Violence Recovery Act of 2006. This bill is a step in the right direction in healing the youth of Hartford and the youth in cities devastated by violence throughout the United States. Specifically, this bill would create a Department of Health and Human Services grant program to provide urban communities with funding for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

counseling, mental health services, post-traumatic stress type services, and violence prevention and conflict mediation for city youth.

We can no longer remain indifferent to the needs of our urban youth. As Members of Congress, as Americans, and as fathers and mothers, we cannot allow any more young lives to be lost in this war at home. Our cities' children deserve better; they deserve a future.

HONORING BRENTWOOD MIDDLE SCHOOL AND FRANKLIN ELEMENTARY SCHOOL

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, today I ask my colleagues to join me in honoring two schools in Tennessee's 7th Congressional District that have been ranked among the Nation's best.

Both Brentwood Middle School and Franklin Elementary School have earned recognition from the U.S. Department of Education as 2006 No Child Left Behind Blue Ribbon Schools.

The schools qualified for this distinction by scoring in the top 10 percent in State assessments. While only six schools in Tennessee achieved this distinction, our community has been blessed with two.

Mr. Speaker, the students, parents, teachers, and administrators at Brentwood Middle and Franklin Elementary deserve our congratulations for their commitment to excellence. Our students are gaining skills that will make them lifelong learners, and that's a real credit to the community.

I would especially like to thank Brentwood Middle Principal Kay Kendrick and Franklin Elementary Principal Mark Tornow for their hard work and dedication.

COMMEMORATING THE 15TH ANNIVERSARY OF THE REPUBLIC OF AZERBAIJAN'S INDEPENDENCE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to acknowledge Azerbaijan's 15th anniversary of its re-independence on October 18. In the current global political climate, Azerbaijan is unique among democracies as the world's first Muslim democratic republic.

Azerbaijan is one of the United States' most important friends and supporters. We share important political, economic and security interests.

Azerbaijan was the first among nations to offer the United States unconditional support in the war against terrorism, providing airspace and airport use for Operation Enduring Freedom in Afghanistan. Azerbaijan cooperates with the United States within international and regional institutions including U.N., Organization for Security and Cooperation in Europe—OSCE, and NATO's Partnership for Peace program. Azerbaijan also works together with the United States within the framework of the Organization for Democracy and Development—GUAM which is comprised of Azerbaijan, Georgia, Moldova, and Ukraine. The group was created as a political, economic and strategic alliance aimed at overcoming common risks and threats and strengthening the independence and sovereignty of its member states.

The Republic of Azerbaijan is a standout nation among the South Caucasus countries, with a population of 8 million people and an ambitious economic policy. During the last decade Azerbaijan has been implementing structural reforms and adopting numerous laws and legislative changes, paving the way toward further integration within the global economy. The Nation has been moving toward a more diversified economy to achieve sustainable growth and to meet the social and development needs of its population. As reported by the International Monetary Fund, IMF, Azerbaijan's macroeconomic performance "has been impressive with strong growth, low inflation, and a stable exchange rate." Real GDP grew by an annual average of over 10 percent during the last 6 years and build up to 34.4 percent in the first 8 months of 2006, driven by investments in the energy sector, followed by growth in the construction and transportation sectors, and agriculture.

Since signing the "Contract of the Century" in 1994, Azerbaijan has developed its energy sources within the Caspian region to diversify western energy supplies. On July 13, 2006 the Baku-Tbilisi-Ceyhan main oil export pipeline was inaugurated.

Diversification of the economy and ensuring the development of non-oil sectors is a priority for the government. This policy includes implementation of projects and programs that create favorable conditions for development of private entrepreneurship, attracting investment in non-oil sector, creating new jobs, evaluation of potential industries and markets and development of infrastructure in the regions.

A democratic, prosperous, and peaceful Azerbaijan will be a strong partner and ally for the United States. I look forward to working with the Azerbaijani Government and people to develop this relationship.

Mr. Speaker, I join my colleagues in the House of Representatives today in commemorating Azerbaijan's independence. I look forward to the bonds of friendship between the United States and Azerbaijan becoming even stronger in the future.

PAYING TRIBUTE TO GARY L. MAAS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to recognize the achievements of retiring Littleton Police Chief Gary Maas. Chief Maas, a constituent of mine, was able to reorganize and improve the Littleton Police Department since the beginning of his term in 1996.

During his tenure, Chief Maas focused on developing a community outreach program to provide services to neighborhoods across divisional lines. Along with this success, Maas oversaw the initiation of community surveys in order to determine the priorities of the citizens. A caring and committed individual, Mr. Maas restored confidence and strength in the Littleton Police Department through his implementation of educational requirements on entry level positions and his work with the union to establish the Master Police Officer program.

Mr. Speaker, it is my distinct pleasure to honor Mr. Gary Maas and his achievements here today, and wish him all the best in his retirement.

HONORING THE LIFE AND SERVICE OF MARINE LANCE CORPORAL TIMOTHY CREAGER

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to rise today in honor of Marine LCpl Timothy Creager.

Timothy is one of America's fallen heroes. He was one of our best and brightest, and he had the courage to put himself in harm's way for our country.

On July 1, 2004, Lance Corporal Creager was killed in action while on patrol near Fallujah, in the Al-Anbar Province in Iraq, surrounded by his fellow marines of 2nd Light Armored Reconnaissance Battalion. His sacrifice shows us how precious freedom is—that a man would give his life to preserve it for his family and fellow Americans.

We Tennesseans knew Tim as an outstanding student, Eagle Scout, and battalion commander in the Civil Air Patrol at Craigmont High School. In 2003, he gave up his scholarship to the Citadel after his sophomore year because he felt it was his duty to enlist in the Marines. Timothy chose this path because he believed in America.

On Veterans Day this November 11, 2006, the Bartlett community will hold a 5K race to honor Timothy. The community will also be dedicating an expanded Bartlett Veterans Memorial to honor Timothy and all those who have served our country.

Mr. Speaker, nothing can replace Timothy and no words can express our gratitude to his friends and family for raising the kind of young man who would give his all for America. We can only honor his life and always remember his courage.

Our thoughts are with his mom and dad, Kay and Mike. I want them to know their country is grateful and we won't forget what their son did for us all.

TRIBUTE TO GREGORY AND DR. NIKOLAOS STAVROU

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, we all remember the heady days when the Communist bloc collapsed on its own weight and the peoples of Eastern Europe came out of the dark days of totalitarianism and into the light of freedom. The collapse was so abrupt and so spontaneous that few people had the luxury of taking stock of the heroic efforts made by so many people over a period of 70 years that proceeded the days of freedom; and there were heroes in every country of Eastern Europe throughout the dark days of communist terror.

From all countries of Eastern Europe none was so isolated and its people more oppressed than Albania. The Enver Hoxha regime was the last one to collapse, and just a few days after its demise, over one million Albanians crossed the borders of neighboring countries in search of food and freedom. This particular regime thrived in its splendid isolation and the knowledge that if no one was allowed to enter or leave the country, then no one would tell the true story of a suffering people. But there were idealists who never forgot the Albanian people and found ways to expose the regimes' sins. I rise today to pay tribute to two such idealists who have been ignored in our hastiness to absolve all former communists if they would just declare themselves democrats, no questions asked. I must refer to two such individuals with unbound idealism, one whom lives among us, the other made the ultimate sacrifice. They are the Stavrou brothers, Gregory and Nikolaos.

Gregory, at age 23 assumed risky intelligence missions into Albania for the Greek service. In his last mission, aimed at restoring a vital network that the British traitor Kim Philby betrayed he, too, was betrayed, captured, tortured, tried before a military tribunal and executed on September 3, 1953. It appears he was Philby's last victim in Albania. I am told that Gregory's last words to the military judges were, "I will do it again, if I have another chance." His heroism gave hope to the Albanian people that they were not forgotten. For his bravery, Gregory was posthumously decorated by Decree of the Greek Government on September 19, 1991 with the Medal of Exceptional Deeds for his courage and unparallel heroism."

Dr. Nikolaos A. Stavrou, his brother and prominent professor in International Affairs at Howard University continued his brother's work by other means. His testimony before committees of the U.S. House of Representatives and his appearance before the U.N. Commission on Human Rights earned him the wrath of the Hoxha regime. Dr. Stavrou was among the few scholars in the West who regularly exposed Albanian atrocities and Hoxha's vast gulag. His articles appeared in the Washington Post. Outlook Section, the Manchester Guardian, To Vema (Greece), Borba (Yugoslavia), The World and I, World Affairs, and many other journals. For 12 years, he was the analyst of Albanian Affairs for the Hoover Institution's Annual Review of World Communist Movement. He annoyed the Tirana regime so badly that it condemned him to death in absentia.

For 15 years since the collapse of the Albanian Communist regime, Dr. Stavrou sought quietly the help of the Albanian Govermnent to locate, exhume and retrieve Gregory's remains and give him a decent funeral. He approached this truly human tragedy quietly and away from public fanfare and nationalistic overtones until now. Two Albanian Prime Ministers and a Speaker of the Albanian parliament promised him to conduct an inquiry into his brother's death but ultimately nothing came of it. As an American citizen, Dr. Stavrou sought the help of the State Department and again was disappointed. Though he never gave up searching for his brother, he was stymied in every step of the way. The evidence is overwhelming yet the Albanian Government has been less than forthcoming in helping Professor Stavrou honor a hero of the Cold War who happened to be his brother. I have also called upon our Department of State to use its good offices with the Albanian Government and to solve a humanitarian issue but never received a satisfactory answer. The least we can do is honor this family for the sacrifice they made for freedom. I am among those who consistently supported the cause of the Albanian peoples to gain their freedom and develop their country. However, our support should not be taken for granted. I hope the government of Prime Minister Berisha would be more respectful of those who gave their lives for freedom.

PAYING TRIBUTE TO KELSEY MARTINEZ

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to one of my constituents, Ms. Kelsey Martinez of Centennial, Colorado. Ms. Martinez has been accepted to the People to People World Leadership Forum here in our Nation's Capital. This year marks the 50th anniversary of the People to People program founded by President Eisenhower in 1956.

Ms. Martinez has displayed academic excellence, community involvement and leadership potential. All students chosen for the program have been identified and nominated by educators.

Mr. Speaker, I would like to join in paying tribute to Kelsey Martinez, and wish her the best in all her future endeavors.

EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A LET'S ALL PLAY DAY

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I want to thank the distinguished gentleman from Rhode Island, Mr. LANGEVIN for his leadership on this bill. As cosponsor, I also want to express my strong support for children of all abilities to have environments where they can learn and play together.

As the father of three, I understand that play is essential to healthy childhood development. Play inspires thinking, imagination, problem-solving and creates learning opportunities that can't be found in the classroom. Playgrounds are where children can play, learn and understand the world around them. Unfortunately, in many cases, the design of traditional playground isolates children with disabilities from playing, learning and sharing with their peers.

Today, we are introducing legislation that recognizes that all children should have equal access and equal opportunity to play together on barrier-free, inclusive playgrounds. This bill would express the sense of Congress that a "Let's All Play Day" should be established for all children, including the estimated 6 million children in the United States with a disability that make it hard or impossible to enjoy traditional playgrounds.

As we discuss the importance of play for all children, I want to take a moment to recognize the work of the National Center for Boundless Playgrounds. The National Center for Boundless Playgrounds is a champion in bringing the joy of play to all children with and without disabilities. Formed in 1997 and located in the town of Bloomfield in the First Congressional District, Boundless Playgrounds in collaboration with Hasbro, Inc. and GameTime has helped communities in 21 states create more than 100 extraordinary "boundless" barrier-free playgrounds. I want to thank the Center for their tireless work and dedication in the state of Connecticut and across the country on behalf of all children.

Mr. Speaker, as children with and without disabilities learn together in classroom, we should encourage their learning together outside on the playground. I encourage my colleagues and communities across the country to join me and Congressman LANGEVIN in celebrating the joy of play for all children, with all abilities, in every community.

HONORING SAM SMITHSON ON HIS BIRTHDAY

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, it is a privilege to rise today to honor Mr. Sam Smithson on his 94th birthday and to thank him for his dedication and service to our country.

Born in Williamson County, Tennessee on October 4, 1912, Mr. Smithson was inducted into the Army as a Private First Class in December of 1942.

He fought bravely in major battles across Normandy, northern France, the Rhineland, and in the Ardennes as a member of B Company, 612th Tank Destroyer Battalion. On December 17, 1944, Pfc. Smithson was captured by German forces and sent to a prisoner-of-war camp, Stalag XIII–C, deep within Germany.

After living in captivity under brutal conditions for nearly six months, the camp was liberated by Allied Forces on April 28, 1945. Mr. Smithson's heroism and determination in the face of adversity earned him a promotion to Corporal upon his discharge from the Army in October 1945.

Mr. Smithson and his late wife Fronie were married for 69 years and had one son, Sam Smithson, Jr. On Saturday, September 30th, Mr. Smithson's family and friends will gather to celebrate his 94th birthday.

Sam's story is the American story. It's a testament to the determination and love of country that has kept us free for more than two centuries now. It's because of men like Sam that the American Dream lives. We thank God for his service to America, and it's right that we take time to reflect on his life and celebrate his 94th birthday.

Mr. Speaker, I ask my colleagues to join me in sending our thanks to Mr. Smithson for his service to our nation and our best wishes as he celebrates his birthday.

REGARDING HIV/AIDS AND AFRICAN AMERICANS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today on the crisis of HIV/AIDS among African Americans.

There are currently more than 68,000 Texans living with the disease.

Americans should be reminded that HIV/AIDS does not discriminate when it comes to who can catch the disease. In fact, HIV is taking a devastating and disproportionate toll on people of color.

Among women living with HIV in Texas in 2005: 19 percent are White, 18 percent are Hispanic, and over 60 percent are African American.

The Congressional Black Caucus will continue to lead the HIV/AIDS fight in Congress and support programs that are making progress against this devastating disease.

We can and must all do more. Governments, corporations, foundations, religious groups and private citizens must unite to win the war on AIDS.

There is no other moral or practical choice.

PAYING TRIBUTE TO DETECTIVE MIKE THOMAS

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to a fallen policeman from Colorado, Mike Thomas.

This week thousands of Coloradans paid their respects to Detective Thomas, who was killed earlier this month while waiting at a stoplight. According to reports, officers came from as far away as Canada to pay their respects.

Mr. Thomas was a longtime dedicated public servant. He spent more than two decades serving the community as a policeman, and like his father Delbert, was an Air Force veteran. He will be sorely missed.

I was particularly moved by an account I read in The Denver Post about Mr. Thomas recounted by police Captain Jerry Hinkle. Hinkle told those gathered at the funeral about a card the department had received from a well-wisher named "George" after news of Mike Thomas' tragic death. In the card, George wrote about how when he was a teenage gang member whose future prospects looked bleak, he encountered Mr. Thomas. Thomas pulled up to the boy in his squad car, Hinkle said, and told him to get in. The two talked, and today George is the owner of a successful security company.

Mr. Speaker, all Coloradans owe a great debt of gratitude to Mike Thomas, and all of the men and women of law enforcement who risk their lives each day to guarantee our safety.

He will be missed by all who knew and loved him.

HONORING FIRST BAPTIST CHURCH OF CLARKSVILLE ON 175 YEARS OF WORSHIP

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, it is a privilege for me today to take a moment and honor a community of people in Clarksville, Tennessee. The First Baptist Church in Clarksville is celebrating a remarkable 175 years of worship and that's an achievement we ought to all applaud.

With a history of faithful and dynamic leadership, the First Baptist congregation has blessed the community of Clarksville with their ministry and prayer. Pastor Roger Freeman continues this legacy of good works through faith as the current Senior Pastor of First Baptist.

From an active Senior Adult Ministry to a tremendous Preschool Ministry, the church is making our community a better place every day. With strength and faith, the congregation reaches out to the community of Clarksville and offers many a beacon of hope and comfort.

Mr. Speaker, I ask my colleagues to join me in thanking Pastor Freeman and the congregation of First Baptist Church of Clarksville for their continued ministry and with them all the best for another 175 years of dedication to the Lord.

RECOGNIZING JIMMY SEEMAN OF DADE CITY, FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize the amazing achievements of Jimmy Seeman of Dade City, Florida. Already exhibiting an entrepreneurial spirit at the age of 17, Jimmy runs his own 40-acre nursery, Gardens Wholesale Nursery.

Jimmy began to take an active interest in the agricultural field at the age of 13 while working alongside his father at his lawn maintenance business. Starting by growing a few plants on the side, Jimmy eventually expanded his operation and opened his own nursery. Today Gardens Wholesale Nursery includes several employees and 40-acres of plantable land.

Showing an amazing drive for personal growth, Jimmy has taken it upon himself to learn Spanish to better communicate with many of his employees, often waking at 3 a.m. to study and practice his Spanish. Jimmy has also taught himself to fix computers and install irrigation.

With the support of his parents, Cathy and Jimmy, and his two brothers, Michael and Jacob, Jimmy has shown that neither age nor experience are required to be an accomplished businessman. Through hard work and dedication Jimmy has proven to his family and friends that he is well on his way to achieving remarkable success in his chosen field.

Mr. Speaker, it is young men and women like Jimmy Seeman that should be congratulated for contributing to the American Entrepreneurial spirit. I look forward to following Jimmy's career as he runs Gardens Wholesale Nursery and wish him the best of luck in his future endeavors.

PERSONAL EXPLANATION

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CASTLE. Mr. Speaker, if I had been present to vote on Monday, September 25 and Tuesday, September 26, 2006, I would have voted in the following way:

Yes—H.R. 5059—New Hampshire Wilderness Act of 2006

Yes—H.R. 5062—New Hampshire Wilderness Act of 2006

No—H.R. 5092—Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Modernization and Reform Act of 2006

No—H.R. 4772—Private Property Rights Implementation Act of 2006

Yes—H. Res. 989—Commending the United Kingdom for its efforts in the War on Terror, and for other purposes

Yes—H. Res. 1017—Affirming support for the sovereignty and security of Lebanon and the Lebanese people

Yes—H. Res. 1038—Rule providing for H.R. 2679—Public Expression of Religion Act

Yes—H. Res. 1039—Rule providing for S. 403—Child Custody Protection Act

No—S. 403—Child Custody Protection Act

Yes—H. Res. 723—Calling on the President to take immediate steps to help improve the security situation in Darfur, Sudan, with a specific emphasis on civilian protection

Yes—H. Res. 992—Urging the President to appoint a Special Envoy for Sudan

HIV/AIDS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. RUSH. Mr. Speaker, in 2004, my State of Illinois, had the 4th highest numbers of African Americans living with AIDS—nearly 8,000—of the more than 35,000 people living with HIV/AIDS. Despite the improvements in the health outcomes of AIDS patients in the general population, in communities of color AIDS is the leading cause of death of African American women between the ages of 25 and 34 and the third leading cause of death among Hispanics between the ages of 35 and 44.

Mr. Speaker, last week, the House Energy and Commerce Committee, on which I serve, reported H.R. 6143, the Ryan White HIV/AIDS Treatment Act by a vote of 38 to 10. While the bill is flawed in several respects—particularly in the level of funding that it authorizes to provide essential treatment and services to victims of HIV/AIDS—the legislation did, for the first time, codify the Minority Aids Initiative (MAI) as a separate title of the Ryan White CARE Act reauthorization.

This means that for the first time in its history, the Minority AIDS Initiative will become permanent law when H.R. 6143 is enacted.

The Minority AIDS Initiative is specifically designed to bridge the gap in HIV service delivery by providing culturally competent and linguistically appropriate HIV care and support services provided for under the MAI.

Since communities of color still account for a disproportionate number of HIV/AIDS cases, I am pleased that the Committee's bill took the first step in directing resources to address the problem of HIV/AIDS in the African American community. It is my sincere hope that future Congresses will be able to more adequately address this epidemic.

THE STORY OF TED WILLIAMS—A NATIVE SON OF CALIFORNIA AND AN AMERICAN HERO

HON. JOHN CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CAMPBELL of California. Mr. Speaker, born on April 24th, 1921 in Hawthorne, California, Theodore ("Ted") Ralph Williams was delivered into a family divided by divorce and early hardships. Fortunately, the happiest years of his youth were spent with his mother, step-father and siblings on a 35-acre citrus nursery and farm which skirted the eastern border of the giant Irvine Ranch in Orange County, California. It was on the farm where Williams developed the strong work ethic and key survival skills which have served him so well over the course of his life.

Following the death of his beloved step-father in 1935 and his family's ensuing financial challenges, Ted Williams left Tustin High School during his senior year and enlisted in the U.S. Marine Corps. On January 18, 1940, he was sworn in as a "Boot Marine" and immediately deployed to the Philippine Islands where he was stationed in the Manila area near Clark Field, Cavite and Mariveles, part of the 4th Marine Regiment and home port to the 16th Naval District Fleet. Less than a year later, on December 7th, 1942, the United States was attacked by the Japanese at Pearl Harbor. The very next day, the Japanese attacked the Philippines; and Williams found himself cut-off from the rest of the world.

Alone, hungry and wounded, Williams and his military comrades waged a brave three-month fight against the enemy yet, ultimately, were forced to join a massive surrender—and the infamous Bataan Death March. For a week, more than 75,000 American prisoners marched 160 kilometers in the searing April heat toward primitive prison camps. Along the way, Williams and his fellow soldiers were aided by Filipino civilians, mostly women and children, who heroically provided water and food to the survivors of the march. Ultimately however, more than 10,000 soldiers died at the hands of the enemy through torture, disease, starvation and murder. Surviving the march yet in failing health, Williams was eventually sent to The Zero Ward at Bilibid, a dilapidated prison functioning as a crude hospital. There he recovered from amebic dysentery only to suffer a host of new injuries brought-on by harsh prison labor that lasted for nearly two years.

In June 1944, he was sent to a prison camp in the north at Cabanatuan where he was assigned to the torturous runway construction crew. A month later, Williams was shipped via prisoner boat transport (known as Hell Ships) to Camp 17 in Kyushu, Japan, where he served as a slave laborer in a coal mine, followed by time served at Camp 1 in Fukuoka, Japan. On August 25th, 1945, just weeks after the bombing of Hiroshima and Nagasaki, Williams and his fellow POWs were released by their captors.

Discharged from the Marine Corps in 1946, Williams returned to Orange County and married Dolores Wallace, whom he later divorced. After a series of odd jobs, Williams built a steady career with Sears in Southern California. In 1972, he moved to Santa Ana, where he met and married Lillian May Phipps, his travel companion and fellow adventurer. It was Lillian who brought Williams back to the Philippines to retrace his POW experiences, a trip Williams has since made 21 times. In February of 1979, Williams underwent open heart surgery and, as part of his physical and emotional recovery, began work on "Rogues of Bataan," an autobiographical account of the Bataan Death March. Just one year later, Lillian died from liver cancer.

Inspired by his late wife's kind and generous heart, Williams embarked on a series of charitable efforts including the funding of an orphanage in Mexico and the founding of TERI, Inc. (Training, Education and Research Institute) in Oceanside, CA, a private nonprofit agency providing residential care, education, job training, employment, and other programs and services for people with all sorts of developmental disabilities and special needs. Upon a return trip to the Philippines with other survivors of the Bataan Death March, Williams spearheaded the effort to build, equip and staff an elementary school on the Philippine Island of Corregidor. During this period in his life, Williams returned to his writing and completed "Rogues of Bataan," which was first published in 1999 and has since been re-released with all proceeds benefiting TERI, Inc. In 2003, Williams embarked on the creation of the Corregidor School Fund which has since built and furnished the Llamas Memorial Institute in Mariveles, Bataan, Philippines, an educational library which was officially dedicated on July 4, 2006. In recognition of his charitable works, community service and humanitarian efforts to the Filipino people, Ted Williams was placed on the prestigious "Perpetual Honor Roll" for the Order of the Knights of Rizal (as chartered by the Philippine government) on March 16, 2006. Now, at age 85 and in failing health, Ted Williams is worthy of his own special recognition by the United States of America. This native son of Southern California is a true American Hero, a passionate patriot and a caring and humble community servant.

RECOGNIZING THE AMERICAN RED CROSS CHISHOLM TRAIL CHAPTER ON THEIR 90 YEARS OF SERVICE

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. GRANGER. Mr. Speaker, I rise today to recognize the Chisholm Trail Chapter of the American Red Cross as they celebrate 90 years of service in Texas, including my district in the Fort Worth area.

Chartered in 1916 in response to World War I, the American Red Cross Chisholm Trail Chapter has been present during both local and national events in U.S. history. The passionate volunteers and staff that make up the Chisholm Trail Chapter provide care, comfort and lifesaving skills to residents in my District. Headquartered in Fort Worth, the Chisholm Trail Chapter serves its neighbors by providing a variety of services throughout 23 counties, from the Tarrant County line to San Angelo.

The Chapter's variety of programs and services extend to all members of the Fort Worth community at home, in school, and in the workplace. Last year, over 111,000 people were helped by the WHEELS Transportation Service. This program assists older Americans and people with disabilities who need to help keeping their medical and vocational appointments by providing necessary means of transportation.

Constantly striving to ensure the health and safety of my constituents, the Chapter provides training in first aid, CPR, swimming, lifeguarding, and babysitting. Last year, the Chapter enrolled over 41,000 people in their Health and Safety Programs.

I am particularly impressed with their Armed Forces Emergency Services program. Twenty-four hours a day, 365 days a year, the Chisholm Trail Chapter helps military members and their families stay in touch by providing timely, accurate and verified information following the death or serious illness of a family member, the birth of a child or other critical family matter.

The Chisholm Trail Chapter has touched me personally as well. On March 28, 2000, an F–2 tornado formed and took aim at Tarrant County. Five lives were lost and homes and businesses were destroyed. The tornado began just west of downtown and made a direct hit on the Cash America building, where my office was located. From there, the storm intensified into an F–3 twister and leveled an Arlington neighborhood.

The Chisholm Trail Chapter responded in force to the tornadoes, meeting the physical and emotional needs of thousands of families. An American Red Cross Emergency Response Vehicle made its way to my office building several times each day for nearly two weeks, distributing meals and bottled water to the work crews attempting to salvage what was left from the debris.

In addition to meeting local community needs through essential programs and services, the Chisholm Trail Chapter has responded to the needs of our nation and the world by sending volunteers into a terrorist attack site following the events of September 11, 2001, and raising nearly $2 million locally to help south Asian tsunami victims in 2004. Prior to landfall of Hurricane Katrina, the Chapter deployed local volunteers to Louisiana.

The Chisholm Trail Chapter met the call to serve those left devastated in the wake of Hurricanes Katrina and Rita by opening eight shelters, housing 1,200 evacuees and providing 576,137 meals. During the months of September and October 2005, the Chapter served over 7,000 families and offered 6,606 mental health contacts to those in need of emotional assistance. This coordinated response exemplifies the Chapter's dedication to guaranteeing the health and well-being of those who have experienced the effects of natural disasters.

Mr. Speaker and fellow Colleagues, please join me in recognizing the American Red Cross Chisholm Trail Chapter on its 90th birthday. With congratulations and gratitude for the excellent work they do to enrich our lives, I am pleased to acknowledge their service to our communities throughout the Fort Worth area and all corners of this great nation.

HONORING MS. JOY TRICKETT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WOLF. Mr. Speaker, it is an honor for me to recognize Ms. Joy Trickett of Leesburg, Virginia, for her outstanding work to address homelessness and poverty in northern Virginia. Ms. Trickett is currently board chair for the Good Shepherd Alliance (GSA) Emergency Homeless Shelters in Sterling, Ashburn, Leesburg, Lucketts and South Riding in Virginia's 10th District.

For many hours each week, she volunteers to make a difference, one person at a time. On any given day, you might find Ms. Trickett in the Good Shepherd thrift store in Sterling, working with her staff, or writing a grant proposal with her administrative director in Leesburg, or interfacing with other sister organizations like the Clothes Closet in Herndon, LINK in Sterling, Loudoun Red Cross and Northern Virginia Family Services in Fairfax. She serves on the board of directors for both GSA and LINK, and on the ecumenical council of her church. Joy believes we all have an inherent responsibility to serve the poor and needy. She is an energetic, God-loving woman who leads by example.

Joy has received several awards and recognition, including the Loudoun Volunteer Services 2005 Adult Volunteer of the Year award in Leesburg during April 2005 and the National Council of Negro Women (NCNW) 2005 Outstanding Humanitarian Award in Washington, D.C., during October 2005. During the 2006 Virginia General Assembly, House Joint Resolution No. 316 was passed commending Joy Trickett. Individuals are nominated for this recognition based on efforts that are considered to be of local, state or national significance.

In short, Ms. Trickett has provided tremendous synergy for her work with Good Shepherd Alliance and LINK in Loudoun and Fairfax counties. I ask that my colleagues join me in recognizing Ms. Trickett's work and accomplishments.

TRIBUTE TO FIRE CHIEF REYNOLD "RENNY" SANTONE, JR.

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SHUSTER. Mr. Speaker, I rise today to honor Fire Chief Reynold "Renny" Santone, Jr. of the Altoona Fire Department, in Altoona, Pennsylvania, who has been named "Person of the Year" by the Blair Bedford Central Labor Council. The distinguished fire chief was nominated for the award by his fellow members of the fire department. Chief Santone, marking 41 years of protecting the Altoona Area, was recently presented with this distinguished award at the Labor Council's annual awards dinner.

This award honors people like Santone "who work for a living and who are well respected and well-loved" for their contributions to employees, co-workers and the community, said the Blair Bedford Central Labor Council's President Robert Kurtz, while delivering remarks at the event. President Kurtz commended Fire Chief Santone, saying that he is "not a paper chief" who distances himself from his firefighters, but that "he's out there in the trenches with them."

Chief Santone joined ranks with the Altoona Fire Department in 1965, and looking back on the day he joined the force, said: "They hired me on April Fool's Day. What I was really waiting for was the red International Association of Fire Fighters sticker—to me that means I was a real professional firefighter."

Chief Santone has certainly proved his abilities as a firefighter in the Altoona Area. Fifteen years after joining the department, Firefighter Reynold Santone was named fire chief in 1984. Today, he leads the department's 4 fire stations and a standing staff of 13 on call firefighters. Chief Santone remarked, "I've always known what I've wanted to do and where I wanted to be," saying that he expects to retire from the same station on Washington Avenue that he joined in 1965.

Fire Chief Reynold "Renny" Santone, Jr.'s dedication to the protection of our local community, and its citizens, is admirable. We hope that others will follow in his footsteps and serve our community with the same pride and honor as Chief Santone has done for the past 41 years.

TRIBUTE TO BROTHER PAUL HANNON

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FOSSELLA. Mr. Speaker, on October 8, 2006 Brother Paul Hannon will celebrate 25 years of service as a Christian Brother and educator.

For the past 25 years Brother Hannon has worked as a teacher, athletic director, and hockey moderator. He has spent the past 10 years of his service at my Alma mater, Monsignor Farrell High School in Staten Island, NY.

Over the last quarter century Brother Hannon has served as a Christian Brother whose assignments have been varied and enriching. His most fulfilling calls to service have been spent working with many youth, particularly those near and dear to me at Monsignor Farrell. His enthusiasm is unwavering, and he has created programs such as in-house television studios which have given students exposure to areas of study they never before would have imagined.

Brother Hannon is an invaluable member of the communities I represent and I commend him for his outstanding leadership and commitment to the people of Staten Island and Brooklyn.

IN RECOGNITION OF ANN HAMILTON

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Ann Hamilton from Gainesville in her quest to provide outdoor carriage rides to disabled and handicapped citizens.

Ms. Hamilton's mission is to build carriages designed for disabled and handicapped individuals so that they too can experience the magnificence of the outdoors. These equestrian excursions allow disabled persons to make a connection with nature that they would normally have the opportunity to do.

I admire Ms. Hamilton's passion and willingness to take the initiative to bring new opportunities to people with limited mobility. Her dedication to this project will ensure equal opportunities to citizens of the 26th District of Texas as well as the rest of the state.

IN RECOGNITION OF THE RETIREMENT OF MASSACHUSETTS BAY TRANSPORTATION AUTHORITY EMPLOYEE ROBERT O'GARA OF BRAINTREE, MASSACHUSETTS

HON. STEPHEN F. LYNCH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of a man who has dedicated the past 43 years to the Commonwealth of Massachusetts as an employee of the Massachusetts Bay Transportation Authority (MBTA).

Robert O'Gara, the son of Michael and Anna O'Gara, was born on October 28, 1941 in South Boston, Massachusetts. In 1962, after graduating from South Boston High School, Robert joined the MBTA as a Junior Clerk working out of the Everett Repair Shop. Robert developed a reputation for exceptional craftsmanship and a meticulous attention to detail. For the next decade, Robert restored trains at the Everett Repair Shop until he moved to Riverside Station as a Riverside repairman. Once he began working at the Riverside Yard, Robert took his dedication and hard work to a higher level and would place vehicle history on the dash of every vehicle sent in for repair. These notes, dubbed "O'Gara Grams", allowed repairmen to thoroughly inspect each train in order to ensure peak performance.

Along with being a committed employee, Robert is a devoted husband and father. Robert has the enormous pleasure and tremendous good fortune to be married to his wife Mary of 38 years. They are the proud parents of eight children and the grandparents of seven adoring grandchildren.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join with Robert O'Gara's family, friends and brothers and sisters of the Massachusetts Bay Transportation Authority to thank him for 43 years of remarkable service to the Commonwealth of Massachusetts. I urge my colleagues to join me in celebrating Robert's distinguished career and wishing him a happy and full retirement.

HIV/AIDS

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. AL GREEN of Texas. Mr. Speaker, I wish to bring to my colleagues' attention the devastating impact that HIV/AIDS continues to have on our country and, in particular, on African Americans.

African Americans make up only 12 percent of the United States population yet account for over 50 percent of all new HIV diagnoses. We must ask ourselves why this statistic is so high and continue to focus on ways to reduce it.

AIDS diagnoses among African Americans are increasing while diagnoses among other groups are decreasing. By the end of 2003, 172,278 African Americans were living with AIDS and studies show that number is rising.

This crisis is having an especially crippling effect on African American women who account for over two-thirds of new HIV/AIDS cases among women. Additionally, AIDS is the number one cause of death for African American women ages 25–34.

These statistics clearly reflect a catastrophic problem facing African Americans today. It is imperative that we continue to support prevention efforts and encourage a willingness to speak out about this disease in our community. We must assume the challenge of combating this crisis. If we do not, our complacency will only contribute to the devastation caused by this disease.

TRIBUTE TO MAYOR JOHN LYONS OF PEMBROKE PARK, FL

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MEEK of Florida. Mr. Speaker, it is with deep sorrow that I rise to pay tribute to the late Mayor John Lyons of Pembroke Park, FL. Mayor Lyons was a great community leader and role model, and his passing will be mourned throughout the community.

Mayor Lyons passed away on Thursday, September 21, 2006. The funeral Mass to celebrate his life will be held today beginning at 11 a.m. at Nativity Catholic Church, 5200 Johnson St., Hollywood, FL.

Mayor Lyons was a World War II veteran and a Chicago native. For over 20 years he worked for the Chicago Fire Department, from which he retired as a lieutenant. He moved to South Florida and continued his career of community leadership. He served as chairman of Pembroke Park's code-enforcement board for 4 years. In 1991, Mayor Lyons was elected to the Pembroke Park Town Commission and was a member there for the rest of his life. In 2003, his colleagues elected him mayor.

Mayor Lyons was the loving and devoted husband of Mrs. Eleanor Lyons. He is also survived by his granddaughter, Kimberly, and her husband John Hasenberg; great-grandchildren Elinor and Binyamin; brother Leo Lyons; and brother and sister-in-law Raymond and Nan Lyons.

Mr. Speaker, Mayor Lyons was an institution in Pembroke Park, FL. He was a kind and giving man who dedicated his life to community service, and he will be sorely missed.

Both Pembroke Park and Broward County have lost a great leader. I offer my sincere condolences to his family and all who were touched by his kindness and service.

TRIBUTE TO NORMAN AND IRMA BRAMAN'S 50TH WEDDING ANNIVERSARY

HON. MARIO DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I rise in recognition of Norman and Irma Braman's 50th wedding anniversary, two individuals of Miami who have dedicated their lives to philanthropic ideals which send ripples throughout our great Nation. Mr. and Mrs. Braman have been dedicated to promoting the State of Israel and remembering the Holocaust to ensure that such tragedies never occur again and to beating the disease of breast cancer, of which too many women and families suffer.

In 1995, they established the Braman Family Foundation and in 2002 gave a gift of $5 million to the Miller School of Medicine at the University of Miami to establish the Braman Family Breast Cancer Institute. With this establishment, they raise awareness of the importance of early detection and encourage regular self-examinations.

The couple have been leaders in the establishment of the Miami Beach Holocaust Memorial, where Mr. Braman is an original founder and previous president of the Board of Trustees. He has served as president and campaign chair of the Greater Miami Jewish Federation. Mrs. Braman has provided tremendous leadership to the Greater Miami Jewish Federation and has participated in numerous missions to Israel.

It is a privilege and an honor for me to call the Bramans my friends, and on behalf of the residents of Miami, I thank them for their dedication to our community and our country.

PERSONAL EXPLANATION

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PASTOR. Mr. Speaker, on rollcall Nos. 483, 484, 485, and 486, I missed voting due to my beeper malfunction. Had I been present, I would have voted "yea."

ON H.R. 5857, AND H.R. 6051, NAMING POST OFFICES FOR REPRESENTATIVES MORRIS UDALL AND JOHN F. SEIBERLING

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. UDALL of Colorado. Mr. Speaker, I want to express my thanks to Mr. GRIJALVA, and Mr. TIM RYAN, for introducing these bills; to their colleagues in the Arizona and Ohio delegations, respectively, for cosponsoring them; and to the leadership on both sides for scheduling them for consideration by the House.

H.R. 5857 would designate a Post Office in Tucson, AZ, as the "Morris K. 'Mo' Udall Post Office Building," while H.R. 6051 would designate a Federal building in Akron, OH, as the "John F. Seiberling Federal Building."

With every bill we debate and every vote I cast, I am conscious of the many years during which my father served here in the House of Representatives. He was truly a "man of the House," and I know that to him no honor could be greater than the bipartisan—non-partisan, really—support of our colleagues for a measure intended to recognize that service.

And I think it is very appropriate that at almost the same time the House will extend similar recognition to my father's longtime friend and colleague, former Representative John Seiberling of Ohio. I think nobody could be more deserving of such recognition.

My father and John Seiberling not only served at the same time, they worked closely together on many measures that came before what was then the Committee on Interior and Insular Affairs—now known as the Resources Committee. Examples include the legislation dealing with strip mining—the Surface Mining Control and Reclamation Act—finally signed into law by President Carter after President Ford had vetoed an earlier version, and the Alaska National Interest Lands Conservation Act—ANILCA—also known as the Alaska Lands Act, which was signed into law on December 2, 1980.

President Clinton later awarded John Seiberling the Presidential Citizens Medal, which is awarded in recognition of U.S. citizens who have performed exemplary deeds of service for our Nation.

In making the award, the President rightly explained that "An ardent advocate for the environment, John F. Seiberling has demonstrated a profound commitment to America's natural treasures. Championing numerous bills during his 17 years in Congress, including the Alaska Lands Act, John Seiberling safeguarded millions of acres of parks, forests, wildlife refuges, and wilderness areas." And, in recognition of John Seiberling's work as a member of the Judiciary Committee, President Clinton went on to say that "working in a spirit of bipartisanship, he also promoted civil rights and worker rights, always striving to improve the quality of life in America."

Truer words were never spoken of any Member of Congress.

In conclusion, Mr. Speaker, I want to express my strong support for the bill recognizing the service of Representative Seiberling, and my heartfelt thanks for the honor bestowed on my father and our family by the bill to name a post office in Tucson in his memory.

IN HONOR OF TENANTS RIGHTS ADVOCATE MICHAEL McKEE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to an extraordinary advocate and organizer, Michael McKee, who has worked tirelessly on behalf of New York City tenants for over three decades. Unfortunately, I was unable to attend the reception honoring him, so I hope to honor him now.

A veteran housing activist, Mr. McKee has made fighting on behalf of tenants his life's work. His combination of committed leadership and innovative organizing has grown the tenant movement into the important force it is today. Few activists have proven as forward-thinking and savvy as Mr. McKee.

When the state legislature began phasing out rent control and rent stabilization in 1971, Michael joined with housing activists statewide to begin a lobbying campaign on anti-tenant legislators. The groups called not only for the restoration of rent laws that would protect tenants in New York City, but also for reforms that would benefit tenants in parts of the state without rent regulation.

The tenant movement became firmly grounded in legislative action, and gave birth in 1974 to Tenants & Neighbors, an advocacy organization that has been at the forefront of tenants rights since its inception. Under the leadership of Mr. McKee, the leaders of Tenants & Neighbors focused on the warranty of habitability law and the Senior Citizen Rent Increase Exemption. They urged passage of the Emergency Tenant Protection Act, which restored rent control and rent stabilization. Later, they led the fight to elect tenants to public housing boards outside of New York City, and helped pass the Disability Rent Increase Exception. Mr. McKee soon joined other advocates to create the People's Housing Network, a program to develop tenant leaders across the state.

As a tenant organizer for the Metropolitan Council on Housing and the Brooklyn Tenants Union, Mr. McKee taught thousands of New Yorkers how to fight for their rights in a meaningful and lasting way. When Tenants & Neighbors began a major overhaul in 1994, membership increased 16-fold in response to Mr. McKee's direct mail and phonebanking programs. This new grassroots approach brought tenants together to pressure elected officials and create a fundraising base.

Mr. McKee is now building on the voter education efforts of Tenants & Neighbors by pouring his energies into political organizing. All too often, tenants lose when their needs are weighed against the financial interests of landlords and property owners. Mr. McKee has successfully encouraged tenants to take an active part in the political process, and has helped to make tenants rights organizations a powerful force in pushing government officials to address tenant issues.

Michael McKee has been not just a key strategist in many of the battles New York City tenants have faced over the past 30 years, but also a graceful public face. On behalf of tenants throughout the five boroughs, I commend his work on behalf of thousands of New Yorkers, and look forward to another 30 years of successful activism.

PERSONAL EXPLANATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. RANGEL. Mr. Speaker, I would like to offer a personal explanation of the reason I missed rollcall vote 431 on Thursday, September 7, 2006. This vote concerned amendment H. Amdt. 1204 to H.R. 503, the "American Horse Slaughter Prevention Act." It would provide that the Secretary of Agriculture must certify that sufficient horse sanctuaries exist to care for unwanted horses before the law will take effect.

I was hosting a crime forum ("Crime in the Cities: America's Mayors Fight Back") as part of the 36th Annual Congressional Black Caucus Legislative Conference.

Had I been present, I would have voted against this amendment ("nay").

CELEBRATING THE 50TH ANNIVERSARY OF CHILD GUIDANCE RESOURCE CENTERS ("CGRC")

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WELDON of Pennsylvania. Mr. Speaker, this fall 2006, Child Guidance Resource Centers will celebrate its 50th anniversary of service to the community. CGRC has been instrumental in providing community-based therapeutic, supportive, and preventive behavioral health-care services for children, adolescents and families with mental health, developmental disability, and residential needs.

In 1956, CGRC opened its doors in Media, Pennsylvania, and today is an independent, private, non-profit community organization dedicated to meeting the behavioral health care and special educational needs of those living in southeast Pennsylvania, in the counties of Delaware, Chester, Montgomery and Bucks, in addition to the State of Delaware.

Child Guidance Resource Centers, now headquartered in Havertown, Delaware County, Pennsylvania, is entering its 50th year of service addressing the needs of over 3,000 children and families each year, through 25 different programs in 23 different locations. CGRC has over 350 employees, including highly qualified professional therapists and clinicians.

Child Guidance is committed to creating and sustaining healthy and secure communities through an array of highly-qualified clinical services that address and maintain the health and well-being of the clients they serve. Vital to this commitment is an outstanding clinical and support staff that provides services of unparalleled value.

Programs include a broad spectrum of alternative efforts to address the needs of children with autism: Elementary Education Services, After School, Extended School Year and Summer Therapeutic Activities Programs. CGRC also offers a wide variety of educational services for children that enable them to ultimately flourish within the least restrictive educational settings possible—through Elementary Education Services, Extended School Year, and School-Based Contracted Services Programs. The staff involved with CGRC's Truancy and Delinquency Prevention Program and its Multisystemic Therapy Program collaborate actively with local county Juvenile Justice Departments, District Justices and School Districts, to reduce truancy and delinquency throughout the county. The cornerstone of CGRC's work involves cutting edge mental health intervention through those programs noted above, as well as many other centerbased and community-based services.

CGRC is registered with the Pennsylvania Bureau of Charitable Organizations; licensed by the Pennsylvania Department of Public Welfare; accredited by the Joint Commission on Accreditation of Healthcare Organizations; a United Way participating agency; and a member of the Pennsylvania Community Providers Association, as well as the National Council for Community Behavioral Healthcare.

The citizens of the 7th District and I are very proud of the Child Guidance Resource Centers for their continued efforts to provide quality service to those in need of them. I know that the CGRC will continue its fine tradition of service, community support, and its many admirable efforts in the future.

Mr. Speaker, I ask my colleagues to join me today in recognizing the Child Guidance Resource Centers on its 50th anniversary of service to our community.

HONORING THE MEMORY OF MR. GEORGE SINOPOLI

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Mr. George Sinopoli, who passed away peacefully on Wednesday, August 30, 2006. Mr. Sinopoli lived a life of honor and sincere loyalty to those he cared for and to the causes for which he fought. He was an exemplary advocate within the entire State of California for Veterans' Rights.

Born on April 13, 1918, Mr. Sinopoli spent his childhood in both Fresno and Chicago Heights, Illinois. He returned to Fresno as a teen and lived there the remainder of his life. In 1942, Mr. Sinopoli enlisted in the United States Army Air Corps, where he served as an airplane mechanic. His interest in airplanes flourished and through hard work and determination he proved that he qualified for flight training as a cadet. Mr. Sinopoli graduated as a pilot in 1943 and he immediately reported to his first assignment with the Troop Carrier Command. Upon completion of his service in the military, Mr. Sinopoli joined the workforce and embarked on his lifelong career with Jensen & Pilegard. After 54 years of dedicated service, Mr. Sinopoli retired from the company.

Aside from his commitments to his family and the workforce, Mr. Sinopoli was a longtime advocate for veterans in the Valley. In 1951 he joined the American Legion and held many offices in the organization, including: Post Commander of 594, District Commander, Department Commander of the State of California, and as an aide to the National Commander. He was also a life member of the American Legion, Disabled American Veterans and AM-VETS. Further, Mr. Sinopoli was a member of the Elks Lodge and Chairman of the California Citizens Flag Alliance.

In 1964, Mr. Sinopoli's leadership efforts were recognized when he received the distinctive honor through his appointment, by then Governor Pat Brown, to the California Veterans Board. His extensive knowledge surrounding veterans' affairs allowed him to also serve on the California Veterans Board as Chairman for Governors Ronald Reagan, Jerry Brown, Gray Davis, and most recently, Arnold Schwarzenegger. In addition to his responsibilities to the State Board, Mr. Sinopoli energetically supported assistance to the homeless veterans, as well as those placed in residence at the three California Veterans Homes. Lastly, he was a founding member of the Central California Veterans Home Support Foundation, a support group dedicated to build a veterans home in Fresno to serve all Valley veterans.

George Sinopoli is survived by his wife, Mary; daughter, Gloria Jean; son, Sam and his wife Judi; grandchildren, Anthony, Michael, Julie and Lauren; and sister, Louise.

Although his passing brings sadness to those whose life he touched, Mr. Sinopoli's warm and compassionate personality which inspired those around him will be missed deeply and his life and his accomplishments will always be remembered.

TRIBUTE TO ALFONSO R. DE LEON

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. REYES. Mr. Speaker, I urge my colleagues to join me in thanking U.S. Citizenship and Immigration Services, USCIS, Harlingen District Director Alfonso R. de Leon for his over 40 years of Federal service and in congratulating him on his upcoming retirement.

Mr. de Leon began his career in 1970, when he joined the Immigration and Naturalization Service, INS, as a radio operator with the U.S. Border Patrol in Del Rio, Texas.

In 1975, he transferred to Laredo, Texas, where he served with INS Inspections as Trainee, Journeyman, Training Officer, Special Case Officer, Supervisor, Assistant Port Director, Acting Port Director and, finally, Port Director.

In September 1988, at the height of the influx of asylum-seekers brought on by political turmoil in Central America, Mr. de Leon was selected as the Assistant District Director for the Harlingen, Texas, District Office. In 1991, he was promoted to Deputy District Director.

Mr. de Leon also played a leadership role during the establishment of the Department of Homeland Security, DHS, and in 2003 was named Interim District Director of USCIS. The following year he was promoted to USCIS District Director, a position he holds today.

I have known Mr. de Leon since 1970. My friend and former colleague is truly an American success story, having worked his way up through the ranks of INS and DHS. He has always exemplified expertise, dedication, and professionalism in every position he has held throughout his career.

As a result, Mr. de Leon has earned widespread respect from his colleagues and employees as well as numerous other local, state, and federal law enforcement officials. He has also been a leader in implementing innovative programs to enhance national security, eliminate the immigration caseload backlog, and improve customer service in the Harlingen District.

Most importantly, Mr. de Leon is also a devoted family man. He and his wife, Mary Blanch, have three children and four grandchildren. I know that of his many accomplishments, Mr. de Leon is perhaps most proud of his fine family, and deservedly so.

Again, Mr. Speaker, I urge my colleagues to join me in expressing the House of Representatives' appreciation for Harlingen District Director Alfonso R. de Leon's service to our Nation and in wishing him all the best in his retirement.

COMMENDING MICHIGAN STATE UNIVERSITY DEAN GEORGE E. LEROI FOR HIS SERVICE TO THE STUDENTS OF MICHIGAN STATE UNIVERSITY AND HIS SIGNIFICANT CONTRIBUTION TO THE SUCCESS OF THE COLLEGE OF NATURAL SCIENCES

HON. JOHN J.H. "JOE" SCHWARZ

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to take this opportunity to commend Michigan State University Dean George E. Leroi for his service to the students of Michigan State University, and his significant contribution to the success of the College of Natural Sciences. George Leroi's long career includes service as an assistant professor of chemistry at Princeton University and as a professor of chemistry at Michigan State University. During his tenure at both of these fine academic institutions, Dr. Leroi guided, supported, taught, befriended, and counseled numerous students throughout both their academic and professional careers.

Dr. Leroi was awarded a Ford Foundation Fellowship, a SURF Research Fellowship with the U.S. National Bureau of Standards, and served as a Research Collaborator with the National Synchrotron Light Source at Brookhaven National Laboratory. In 1996, George Leroi was named as the Dean of the College of Natural Sciences at Michigan State University, and he continues to serve in that position today. Dr. George Leroi's significant experience in chemistry and his personal commitment to the success of the Michigan State University College of Natural Sciences brings great credit to himself, the State of Michigan, and the United States of America, and we recognize him upon the date of his retirement, October 6, 2006.

CELEBRATION OF THE UNVEILING OF THE MOHANDAS GANDHI STATUE IN THE CLEVELAND CULTURAL GARDENS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. KUCINICH. Mr. Speaker, I rise today to celebrate the installation of a statue of Mohandas Gandhi in the Cleveland Cultural Gardens. The statue stands as a beacon for the ideals Gandhi promoted: peace, amity, and cooperation of all people of all nations.

The unveiling event is being co-hosted by the Cleveland Cultural Gardens Association and the Federation of Communities of India

Communities Association. The Cleveland Cultural Gardens started as a 256-acre tract of land donated to the City of Cleveland by John D. Rockefeller in 1896. With the theme "Peace Through Mutual Understanding," the Gardens are represented by 24 nations from all around the world. These Gardens, which have become both a staple of Cleveland and the entire country, have inspired people of all backgrounds throughout its entire rich history. President Herbert Hoover once said of the Gardens that, "Cleveland, by its series of cultural gardens, is setting a notable example to the nation."

The addition of a statue of Gandhi continues this shining example of peace and cooperation. The statue stands in the India Cultural Garden on a mixture of Indian and American soil. In accordance with the values taught by Gandhi, the earth, which belongs to us all, can only be stewarded through cooperation, understanding, and embracing diversity.

Mohandas Gandhi, who pioneered the global civil rights struggle, has become a symbol of the movement for peace in international politics, brotherhood amongst diverse communities, and social progress through understanding. Gandhi, though a Hindu by practice, embraced diversity of all religions and expressions of spirituality and urged all human beings to stay in touch with a transcendental bond that connects us all. His life is a testament to strengthening international peace efforts through acknowledgement of each individual's power to make a positive peaceful change in this world.

Born in 1869 in Gujarat, India, Gandhi studied law at University College London where he found himself at a cultural crossroads trying to embrace English customs while still preserving the traditions of his Indian ancestry. Gandhi would go on to lead the civil rights struggle in South Africa and finally the independence movement in his native India. Though he studied, lived, and worked in many countries, Gandhi became more of a global citizen, adopting the idea that all humans on the earth share a common thread of wanting peace, security, self-expression, and individuality in a diverse society. It is this sense of global citizenship and acceptance of all people that is echoed in the Cleveland Cultural Gardens with the installation of this new statue.

Mr. Speaker and colleagues, please join me in recognizing the contributions to peace and community of Mohandas Gandhi through this statue in the Cleveland Cultural Gardens.

TRIBUTE TO GRACELAND UNIVERSITY SIFE TEAM

HON. LEONARD L. BOSWELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. BOSWELL. Mr. Speaker, as a proud Graceland University alumnus, I rise today to honor the Graceland University Students in Free Enterprise, or SIFE, Team, who recently took home the second place trophy in the SIFE World Cup Competition in Paris, France.

SIFE is a global non-profit organization, with activities in more than 40 countries. SIFE strives to teach market economics, success skills, entrepreneurship, financial literacy, and business ethics to students. SIFE teams use their knowledge to work to create economic opportunities for their communities.

The SIFE World Cup Competition brings together SIFE teams from all over the world, and I am proud that the Graceland team represented not only its university honorably, but represented our great Nation with distinction. Mr. Speaker, the following students comprised the team that beat out 44 other national championship teams from around the world: Richa Acharya, Francis Ambrosia, Pooja Ananthanarayanan, Brittany Atwood, James Bailey, Andi Barber, Misha Barbour, Shara Barbour, Ben Berning, Karin Blythe, Tyler Bridge, Emily Brock, Kris Brown, Calee Bullard, Landon Burke, Ariana Bytyci, Curtis Calloway, Ashley Campbell, Sabina Curovac, Leatha Daily, Leonard Dalipi, Joe John De La Cerda, Stephen Donahoe, Cassie Eskridge, Allison Forth, Lindsay Garret, Tyler Garrett, Nicholas Gay, Shaw Geldreich, Shannan Graybill, Heather Gunn, Alexis Haines, Brieanna Hattey, Clayton Hines, Allan Hughes, Travis Hunt, Doug Hunter, Mercedes Jenkins, Kasey Johnson, Cooper Jones, Tyler Jones, Olga Khrentsova, Erik King, Kendra King, Colin Kohler, Andy Lavender, Hava Maloku, Garet Manuel, Jacqui Everett, Flora Ferati, Abe Forth, Lauren McClain, Michaela McCoy, Amanda McLead, Ethan Mechling, Barett Miller, Amy Morgan, Aaron Nugent, Toks Olushola, Terra Paialii, Maria Prieto, Ryan Richards, Charlie Rogers, Regan Russell, Guillermo Sanchez, Katherine Say, Michael Say, Reed Manuel, Sarah Marolf, Colin McClain, Jennifer Shumacher, Lauren Seaman, Jessica Serig, Andrea Stuck, Gelila Taddesse, Lora Toncheva, Lora Topourova, Eric Van Kuiken, Leah Webb, Cara Wildermuth, Briana Williams, Shelby Williams, Stuart Williams, Sarah Wouters, James Young, and Zana Zeqiri.

As a proud alumnus, I join Graceland University, and all of Iowa, in congratulating them and commend them for their great achievement.

RECOGNIZING DR. HILARY KOPROWSKI ON THE OCCASION OF HIS 90TH BIRTHDAY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WELDON of Pennsylvania. Mr. Speaker, today I wish to recognize the outstanding achievements of Dr. Hilary Koprowski—a man who has changed America, and the world, for the better.

Dr. Koprowski is one of the most distinguished and respected biomedical researchers in American history and is known for his work as a creative scientist. One of Dr. Koprowski's most notable achievements is his discovery of the first oral polio vaccine. Today, the Western Hemisphere has been declared free of paralytic polio, and eradication of polio around the globe is within sight. The pioneering work of Hilary Koprowski has made this possible.

Today, Dr. Koprowski is the author or co-author of over 860 articles in scientific publications and is co-editor of several journals. Currently, he is the President of the Biotechnology Foundation, Inc., Director of the Biotechnology Foundation Laboratories at Thomas Jefferson University and Head of the Center for Neurovirology at Thomas Jefferson University in Philadelphia.

Born in Warsaw, Poland, Dr. Hilary Koprowski was faced with a choice between a career in music or science. He received a degree in piano from the Warsaw Conservatory as well as the Santa Cecilia Academy of Music in Rome. In 1939, Dr. Koprowski obtained his M.D. and adopted scientific research as his life's work. Music remains a significant part of Dr. Koprowski's life. His compositions are published and are currently being played by various orchestras. Dr. Koprowski often compared science to music when he said, "A well-done experiment gives the same sense of satisfaction that a composer feels after composing a sonata."

Mr. Speaker, Dr. Hilary Koprowski is a hero. He has been a world leader in scientific research for over 56 years. His expertise and leadership in the field of science has helped save countless lives. I know the House will join me in paying tribute to this outstanding scientist on the occasion of his 90th birthday.

HONORING UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 951 PRESIDENT ROBERT POTTER UPON HIS RETIREMENT

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. HOEKSTRA. Mr. Speaker, I rise today to honor Robert Potter, President of the United Food and Commercial Workers (UFCW) Union Local 951, upon his retirement.

A graduate of Calvin College in Grand Rapids, MI, Robert Potter won election nine times as President of UFCW 951. Since 1980, he grew the organization from an unaffiliated union of 6,000 members into one of the largest local unions in Michigan and the largest UFCW local in the United States. Today, UFCW 951 represents more than 35,000 members in an exemplary fashion: with innovative programs, a diverse and dedicated staff and professional management systems.

Robert Potter proved over the course of his career to be a skilled and pragmatic negotiator, facilitating several labor agreements that have preserved thousands of employee salaries and ensured the sustained prosperity of numerous businesses. In the early 1980s, he structured contracts with Kroger in West Michigan that allowed the grocer to remain profitable through today. The same contract model still guides other area employers. He also negotiated complex contracts covering all Michigan operations of Meijer, Inc. for 10 bargaining cycles without a single strike.

Robert Potter graciously shared his talents beyond his UFCW service by holding several officer positions within organized labor, including Vice President of both the Michigan State

AFL–CIO and the Metro Detroit AFL–CIO. He also won election and re-election as an officer of the Michigan Economic Alliance of Business and Labor, serving from 1990 to the present.

Robert Potter's accomplishments and leadership will not soon be forgotten, and his years of dedicated service and expertise will continue to shape the UFCW long after his retirement. As Chairman of the Committee for the Future of the UFCW, he helped to guide the group that will undoubtedly play a significant role in ensuring the UFCW's future success.

Mr. Speaker, please let it be known that on this 27th day of September in 2006, the U.S. House of Representatives acknowledges the contributions and achievements of Robert Potter.

TRIBUTE TO COMMISSIONER ISRAEL L. GAITHER

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to honor a great African-American, Commissioner Israel L. Gaither, National Commander of the United States Salvation Army. Commissioner Gaither is the first African-American to hold the position in the Salvation Army's 126-year history.

In his position, Commissioner Gaither heads a vast Army of 3,661 officers, 112,513 soldiers, 422,543 members, 60,642 employees and nearly 3.5 million volunteers, who serve more than 31 million people annually. He is the Salvation Army's chief spokesperson in the U.S. and coordinates matters of national concern to its mission. He acts as the chairman of the national board of trustees and is responsible for presiding over tri-annual commissioners' conferences, which bring together key executive leaders of the Salvation Army's four territories in the United States.

The General of the Salvation Army describes Commissioner Gaither as a "model of spiritual leadership . . . [whose] experience in South Africa and London give him a worldview of the challenges facing the Army today, while retaining the historical mission of the Army rooted in biblical truth and values."

Israel Gaither is a man who leads with total dependence on God and in partnership with territorial leaders to effectively impact those on the margins of American society. He loves the Salvation Army and is deeply committed to its mission.

Commissioner Gaither officially arrived at national headquarters in Alexandria, Virginia, on May 1, 2006. Prior to joining national headquarters, he worked for 4 years in London, England, where he was second-in-command of the worldwide organization and his wife Eva Gaither served as world secretary for women's ministries. The Gaithers have served individually and jointly in numerous leadership positions throughout the Army, including roles as pastors of Salvation Army corps, congregations, in Aliquippa, Erie, and Pittsburgh, Pennsylvania as well as in Brooklyn, New York's Bedford-Stuyvesant. In addition, they have held various regional, national, and international leadership positions in business administration. The Gaithers met at the Salvation Army's School for Officer Training in Suffern, NY, and were commissioned as officers in 1964. They married in 1967 and have two children and two grandchildren.

Mr. Speaker, Commissioner Israel L. Gaither is the highest ranking African-American in the Salvation Army. He is an inspiration for young men and women, and I stand here to honor him today for his years of service to this Nation's and the world's needy.

INTRODUCTION OF THE KA'U COAST PRESERVATION ACT

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed Ka'u Coast Preservation Act, a bill directing the National Park Service to assess the feasibility of designating coastal lands on the Ka'u Coast of the island of Hawai'i between Kapaoo Point and Kahuku Point as a unit of the National Park System.

In March 2005, I wrote to the National Park Service to ask that it conduct a reconnaissance survey of the Ka'u coast to make a preliminary evaluation of the unique natural resources of the area to determine its suitability for inclusion as a unit within our National Park Service.

The draft reconnaissance report providing an overview of the natural and cultural resources of the study area is currently in the final stages of review, but the draft I have reviewed concludes that "Based upon the significance of the resources in the study area, and the current integrity and intact condition of these resources, a preliminary finding of national significance and suitability can be concluded." The draft report goes on to recommend that Congress proceed with a full resource study of the area.

At present, the beautiful coastline of Ka'u is largely pristine: unspoiled, undeveloped, and uninhabited. It contains significant natural, geological, and archeological features. The northern part of the study area abuts Hawai'i Volcanoes National Park and contains a number of notable geological features, including a huge ancient lava tube known as the Great Crack, which the NPS expressed interest in acquiring in the past.

The study area includes both black and green (olivine) sand beaches as well as a number of endangered and threatened species, most notably the endangered hawksbill turtle (half of the Hawaiian population of this rare sea turtle nests within the study area), the threatened green sea turtle, the endangered Hawaiian monk seal, the endangered Hawaiian hawk, native bees, the endangered and very rare Hawaiian orange-black damselfly (the largest population in the state), and a number of native endemic birds. Humpback whales and spinner dolphins frequent the area. The area also boasts some of the best remaining examples of native coastal vegetation in Hawai'i. Although the NPS was unable to conduct a full survey of marine resources, it is expected that the varied and undeveloped habitats in the study area support high levels of biodiversity.

Archeological resources reflecting ancient Hawaiian settlement in the study area includes the Puhi'ula cave, dwelling complexes, heiau (religious shrines), walls, fishing and canoe houses or sheds, burial sites, petroglyphs water and salt collection sites, caves, and trails. The Ala Kahakai National Historic Trail runs through this area. The area is also remarkable for its magnificent viewsheds.

Ka'u is one the last unspoiled areas left in Hawai'i. It is, however, under tremendous development pressure, despite the fact that these coastal lands are subject to volcanic eruptions, seismic activity, tsunami, and other hazards. More earthquakes occur in the Ka'u area than anywhere in the State and the hazard risk level in the study area ranges from the highest (category 1) to between 3 and 6 for the balance of the study area. The outstanding resources of Ka'u deserve protection; development along the coast poses risks to these resources and potentially to human life.

I urge my colleagues to join me in supporting this bill, and invite you to come to the island of Hawai'i to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

SUPPORT FOR THE NATIONAL LEAGUE OF DEMOCRACY

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SOUDER. Mr. Speaker, I rise today in support of the National League of Democracy (NLD) and all of those who languish in crushing servitude. On 27 September 1988, the NLD was founded by the forces of Democracy in Burma. The NLD was founded at what seemed like a turning point in Burmese history. After decades of military rule and dictatorship, the leaders of Burma announced that free elections would be held in 1990.

Led by Aung San Suu Kyi, the NLD won those elections with 60 percent of the vote and 83 percent of the parliamentary seats. Alas, the military never allowed a new government to form. Sadly, Liberty was crushed and the promise of that time has never been realized.

Today, Aung San Suu Kyi is under house arrest. Many other NLD members and other defenders of democracy are in prison, in exile, or in hiding. The brutal military dictatorship that very nearly did the right thing so many years ago is still in power. They continue to brutalize the people of Burma in savage ways that we can hardly imagine.

International pressure is mounting, however. After turning a blind eye to Burma's actions Burma's ASEAN neighbors are distancing themselves from Burma. Last week at the United Nations, the First Lady of the United States Laura Bush held a forum on Burma. She urged the military leadership of Burma to release Aung San Suu Kyi and the adoption of a U.N. resolution condemning Burma's dictatorship.

And for the first time, Burma has been placed on the agenda of the United Nations Security Council. For those of us who have been active on Burmese issues for some time, this is truly a victory. On Friday, Ibrahim Gambari, U.N. Undersecretary General for Political Affairs, will report on the latest situation in Myanmar at the 15-member council. Getting a resolution through the Security Council will be no small task. Burma's stalwart ally China is ever ready to block any criticism of its neighbor.

The United Nations is not known for its tough stances on any issue. Time after time we have seen the U.N. shy away from condemnation of even the most egregious evil. I urge the U.N. to be firm. The United Nations Security Council must use this unmatched opportunity to defend the least among us.

In closing, I congratulate the NLD on their 18-year commitment to democracy. I hope they never give up their struggle for freedom. I will never abandon my commitment to them or the people of Burma.

INTRODUCTION OF THE LEAD POISONING REDUCTION ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. SLAUGHTER. Mr. Speaker, I am pleased to introduce today the Lead Poisoning Reduction Act, a bill that will tackle one of the most dangerous environmental hazards to our children's health—lead poisoning. America has made an important pledge to eliminate this problem by 2010, and it is critical that Congress give our communities the tools needed to eradicate lead dangers.

Despite the fact that lead poisoning is preventable, it continues to affect 434,000 American children every year, resulting in serious health problems ranging from brain damage and hearing loss to coma and death. We cannot stand by and watch our children continue to be exposed to toxins when we have the knowledge and tools to keep them healthy. In doing so, we rob them, and our communities, of their greatest potential.

Unfortunately, children are often most vulnerable to lead hazards in the places they ought to be the most safe—in their homes and in their childcare facilities. In 2003, the Department of Housing and Urban Development's Office of Healthy Homes and Lead Hazard Control found that 14 percent of licensed childcare facilities had significant lead hazards. At facilities where the majority of children attending were African American, 30 percent were determined to pose serious risks of lead poisoning.

Our childcare professionals work tirelessly to care for our children and keep them safe. But they desperately need the appropriate resources to protect children from the hidden dangers of lead hazards. Like its companion bill, introduced in the other Chamber by Senator OBAMA, the Lead Poisoning Reduction Act will establish the Select Group on Lead Exposures which will be comprised of experts from the Secretary of Education, the Centers for Disease Control and Prevention, the National Institute of Environmental Health Science, the Administration for Children and Families, and the National Institute of Child Health and Human Development.

The Select Group will be charged with conducting a study of current State and local programs intended to prevent lead poisoning at childcare facilities. Within 1 year of enactment, the Select Group will establish lead safety standards and abatement procedures for such facilities. The bill provides for lead testing of child care centers, and directs the Select Group to establish and administer a grant program to defray abatement costs to help facilities comply with the new lead-safety standards. Finally, the Lead Poisoning Reduction Act will require that contractors hired for repair, renovation, or reconstruction of childcare facilities are provided with educational materials about lead hazards and the guidance necessary to avoid imposing additional risks of lead exposure. These initiatives will play an integral role in preventing future incidences of lead poisoning.

America's children deserve to be safe at their childcare facilities. I, therefore, urge my colleagues to join me in supporting the Lead Poisoning Reduction Act.

IN HONOR OF THE RETIREMENT OF JAMES JOSEPH RUSH OF BOSTON, MA

HON. STEPHEN F. LYNCH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of James Joseph Rush, in recognition of his outstanding contributions to the Commonwealth of Massachusetts Trial Court and to commend him for 43 years of dedicated service.

The son of John and Mary Rush, immigrants from County Mayo, Ireland, James was born on February 9, 1931 in Boston's Mission Hill neighborhood, As a youth, James was very active in the Sacred Heart Church in Roslindale, MA, and served as the first president of the Boston Archdiocesan Chi-Rho Association.

After graduating from Roslindale High School, James enlisted in the United States Navy and served his country honorably from 1951 to 1955. During his tenure James served onboard the USS *John W. Weeks*, DD–701.

Upon completion of his distinguished service to our country James attended Boston College and graduated from the Carroll School of Management with a bachelor of arts degree in 1960. After graduation, James began a career in the Commonwealth of Massachusetts Trial Court as a probation officer overseeing juveniles. Following this position James was assigned assistant chief of probation until 2004 when he was named the chief of probation in the West Roxbury Division of the Boston Municipal Court.

Along with providing distinguished service to his country and State, James is also an active member of his community. A faithful parishioner at St. Theresa's in West Roxbury, James has served as a eucharistic minister for many years. James is a past president of the St. Theresa's School Parent-Teacher Association, has served on the parent advisory board of Catholic Memorial and is a member of the Boston College Alumni Association. James is also a member of the John G. Williams Council of the Knights of Columbus in Roslindale, MA.

Mr. Speaker, throughout his career in the Massachusetts Trial Court and his volunteer work in the community, James has served as a mentor and role model for Massachusetts youth. Above all of these accomplishments the title James cherishes most is that of husband and father. James has the enormous pleasure and tremendous good fortune to be married to his wife of 36 years, Virginia; they are the proud parents of six wonderful children and the grandparents of four adoring grandsons.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join with James Rush's family, friends and contemporaries to thank him for his remarkable service to the Massachusetts Trial Court. I urge my colleagues to join me in celebrating James' distinguished career and wish him a happy and full retirement.

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO TREAT INCOME EARNED BY MUTUAL FUNDS FROM EXCHANGE-TRADED FUNDS HOLDING PRECIOUS METAL BULLION AS QUALIFYING INCOME

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ENGLISH of Pennsylvania. Mr. Speaker, today I introduced legislation to update the Internal Revenue Code mutual fund rules to clarify that a mutual fund is permitted by the tax rules, as they are by the securities law, to invest in publicly traded securities representing interests in trusts holding precious metal bullion, such as gold.

Beginning in November 2004, the Securities and Exchange Commission has permitted the registration of securities representing equity interests in trusts holding precious metal (gold and silver). These securities now trade on the New York Stock Exchange and the American Stock Exchange. They did not exist at the time the mutual fund tax rules were most recently amended by Congress.

These investments share the same essential characteristics as other securities that give rise to good income for mutual funds under the Internal Revenue Code. In particular, they are clearly "securities" for purposes of the Investment Company Act of 1940, and under the mutual fund tax rules, gain on sale of "securities" is clearly good income for the mutual fund.

However, because the bullion funds are treated as "grantor trusts" for income tax purposes, it is not clear whether the income from these securities would be considered qualifying income under the Internal Revenue Code

Section 851(b) mutual fund rule that requires that 90 percent of the income of the mutual fund must be from securities and other specified passive investments. The Tax Code provisions applicable to grantor trusts generally treat the shareholder, "grantor," as owning directly the underlying assets of that trust, rather than owning merely its equity interest in the trust, even when the shares in the trust are traded as securities on the major exchanges. As a result, a mutual fund's income from such an investment, including gain on sale, could be considered nonqualifying income. Excessive nonqualifying income would destroy the mutual fund's qualification as a mutual fund and subject the fund income to a layer of tax at the fund on the same income that is also taxed to the shareholders.

The bill updates the Internal Revenue Code to correct that problem for securities holding precious metal bullion. It provides that the income derived from any interest in such a trust, including gain on the sale of such an interest, is considered qualifying income for purposes of the 90 percent rule. To qualify under this amendment, at least 95 percent of the holdings of the trust must be in the form of precious metal bullion.

As a result, individuals and pension plans that invest through mutual funds will have access to these types of investments in bullion when the mutual fund manager wants to make those investments.

The amendment would be effective for tax years beginning after date of enactment.

CONGRATULATIONS TO WESTGATE ELEMENTARY SCHOOL

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. KIRK. Mr. Speaker, I rise today to recognize Westgate Elementary School in Arlington Heights, Illinois, for being named a 2006 No Child Left Behind Blue Ribbon School.

Nearly 600 students, kindergarten through 5th grade, attend Westgate Elementary. The teachers and faculty at Westgate are focused on providing hands-on instruction that motivates and excites children about learning. As a result, these students consistently score above state and national averages on standardized tests in all subject areas.

Westgate Elementary is among 250 schools from across the Nation chosen by the Secretary of Education to receive this acknowledgement. These schools have distinguished themselves by embodying the goals of reaching high standards and closing the achievement gap. Schools selected for this honor either have students from all subgroups that have demonstrated significant improvement or have students that achieve in the top 10 percent of their state on statewide tests.

This is a great honor for the 10th district, and I congratulate the principal, Dr. Kevin Dwyer, the students, and teachers at Westgate Elementary for this achievement.

HONORING MINNIE VAUTRIN

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. HONDA. Mr. Speaker, I rise today to honor Minnie Vautrin, an American woman and missionary whose heroism changed the course of history during World War II.

Our country has seen countless acts of heroism in the face of war atrocities both in our country and abroad. Japan's violent occupation of then-capital Nanking, China, historically known as the Rape of Nanking, claimed the lives of hundreds of thousands of innocent Chinese men, women and children and left its mark on history as one of the most brutal massacres and crimes against humanity of the 20th Century. An estimated 300,000 Chinese civilians were killed, and an estimated 20,000 women were raped, with some estimates as high as 80,000.

Minnie Vautrin, a missionary who worked at a women's college in Nanking, courageously stood against the Japanese imperial army. A native of Illinois, she was one of the few Americans in the region when the Japanese army invaded Nanking.

By using the American flag and proclamations issued by the American Embassy in China maintaining the college a sanctuary, Minnie helped repel incursions into the college, where thousands of women and children sought protection from the Japanese army. She often risked her own life to defend the lives of thousands of Chinese civilians.

Her devotion during this horrific event earned her the nickname "American Goddess of Mercy" among the people of Nanking, where she is fondly remembered. Her heroic actions and unparalleled efforts to save lives deserve to be recognized. Sadly, her story is relatively unknown.

That is why I, along with 14 of my colleagues, am introducing a resolution honoring her sacrifice, courage, humanity, and commitment to peace and justice during the violent Rape of Nanking. Minnie Vautrin's story defines patriotism and heroism in the midst of war, and the introduction of this resolution honors her achievements today, the 120th anniversary of her birth.

Mr. Speaker, I commend my colleagues for joining me in honor of this phenomenal yet unsung heroine. To the thousands of innocent men, women and children whose lives were spared because of Minnie Vautrin's bold courage, she will never be forgotten.

RESOLUTION OF INQUIRY REQUESTING THE RELEASE OF UNCLASSIFIED VERSIONS OF THE APRIL 2006 NIE AND OTHER IRAQ INTELLIGENCE REPORTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CONYERS. Mr. Speaker, over the weekend, the media reported that American intelligence agencies completed a National Intelligence Estimate, NIE, finding that the Iraq war has increased the danger of terrorism against the United States. This is significant because the NIE represents the consensus judgment of the entire United States intelligence community and is approved by John D. Negroponte, the Director of National Intelligence. According to portions of the NIE declassified by the President, the intelligence agencies conclude that Islamic radicalism "has metastasized and spread across the globe." This conclusion raises considerable questions about President Bush's public statements that the war in Iraq has made us safer. Even though President Bush declassified about four pages of the 30-page NIE, the American people are entitled to the full story, not just pieces the President may selectively reveal.

Media accounts further indicate that the Administration has an additional classified intelligence community report that gives a grim assessment of the situation in Iraq. Some have expressed concern that release of this second NIE is being slowed by the Administration to avoid discussion before the November elections. If the intelligence estimate is finished, it should not be hidden from the American people.

In order to inform the public more fully regarding the impact of the occupation in Iraq on terrorism, I along with 45 of my colleagues am introducing a Resolution of Inquiry that would call for the immediate release of the full unclassified versions of both the April NIE as well as any other pending report on Iraq. While President Bush has released a small part of the April 2006 NIE, it is important that all unclassified materials on these matters be released.

The American people deserve to know the whole truth about the impact of the war in Iraq on the global war on terrorism. If what has been reported is correct, these Intelligence Estimates indicate that the Iraq war is part and parcel of this administration's failed national security record, and has made us less safe from terrorist attacks.

REV. WILLIAM SCHULTZ REMARKS AT CEREMONY TO HONOR WAITSTILL SHARP AND MARTHA SHARP, AMERICAN HEROES OF THE HOLOCAUST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LANTOS. Mr. Speaker, a few weeks ago a very moving ceremony was held at the United States Holocaust Memorial Museum and a plaque was placed to honor the Reverend Waitstill Sharp and his wife, Martha, true heroes of the Holocaust who risked their lives to save Jews from the atrocities of the Nazi regime.

On June 13, 2006, the Yad Vashem Holocaust Remembrance Authority in Israel honored the Sharps posthumously as "Righteous Among the Nations" for risking their lives to save Jews during the Holocaust. They are only the second and third Americans to be so honored. Varian Fry, with whom the Sharps worked, was the first American.

The Sharps' incredible story is a powerful reminder that all of us have the moral obligation to do all we can to end violence and genocide where ever and when ever such atrocities occur. They, along with those who helped to make their work possible, deserve our gratitude and admiration. Each of us should make every effort to learn more about the atrocities and genocidal actions occurring around the globe today, strive to have the foresight and courage shown by the Sharps, and act with resolve to do everything we can to stop these horrors.

Our colleagues in the Senate passed a resolution on September 8 of this year honoring the courageous service of the Sharps. Representative JAMES MCGOVERN, my colleague from Massachusetts, where the Sharps once lived, and I are introducing similar legislation in the House remembering the Sharps and their heroism.

Mr. Speaker, the Reverend William Schultz made particularly outstanding remarks at this ceremony honoring the Sharps at the U.S. Holocaust Museum. I urge my colleagues to ponder his comments and learn more about this brave, selfless couple and their amazing deeds.

REMARKS DELIVERED BY REV. WILLIAM SCHULZ U.S. HOLOCAUST MEMORIAL MUSEUM SEPTEMBER 14, 2006

I think continually of those who were truly great.
Who, from the womb, remembered the soul's history
Through corridors of light where the hours are suns
Endless and singing. Whose lovely ambition
Was that their lips, still touched with fire,
Should tell of the Spirit clothed from head to foot in song . . .
What is precious is never to forget . . .

These are the opening lines of a poem by Stephen Spender, the British man of letters.

So often when we hear the exhortation, "Never forget!", it is the victims of atrocities whose fates are being invoked. But today, with the addition of the names of Martha and Waitstill Sharp to the "Wall of Rescuers," it is two people whose "lips . . . told of the Spirit clothed from head to foot in song" that we would have the world remember and the faith that inspired them to take risks on behalf of unknown others and the courage that led them to face the Nazis not once, but twice and a kind of almost incomprehensible determination they exhibited that most of us mortals can only dream of.

The plaque we install today has only 100 words on it, only 100 words in which to tell their story. The documentary short produced by the Unitarian Universalist Service Committee, which we will see in a few moments, has only twenty-minutes to make their heroism clear. So it is fitting that the museum is adding to its collection the 8–9,000 pages of documentary evidence that Larry Benequist and Bill Sullivan, the makers of the film, have gathered from attics, from dusty store rooms in Czechoslovakia and France, from carefully preserved Gestapo archives in Berlin, and from collections of personal letters. And it is fitting that the museum has acquired the hours of interviews with Martha and Waitstill which Ghanda Difiglia taped for UUSC while they were still alive. The museum will no doubt also want to preserve the hours of recollections of people who were rescued by the Sharps, people like Rosemarie Fiegl, and of people who knew them like Yehuda Bacon recollections which Deborah Shaffer is filming. All of these fragments of the story will be preserved here so that scholars, historians, and authors can study them and make more accessible the obligation to remember.

Today's dedication means that future visitors to this museum will be continually reminded of two of who were truly great—Martha and Waitstill Sharp.

And part of what made them great were the moral choices they made. How many of us would set out from our comfortable homes, leaving our small children behind, to travel to an unstable part of the world where we would match wits with the Gestapo and lead journeys across the Pyrenees?

And yet the fact that they did that means that any one else could have done it if they had decided to, that it was not beyond the bounds of the human imagination. If even one person in a generation makes a moral choice, it leaves the rest of us with less excuse for our ethical torpidity. William Lloyd Garrison founded the New England Anti-Slavery Society in 1831 when the slaveholder Andrew Jackson was President. That removes any hope Jackson or his fellow slaveholders might have had to claim ignorance as a defense for holding other human beings in chains. And Elizabeth Cady Stanton began the fight for women's equality in 1840 when women were excluded from the world antislavery convention, so after 1840 what was Garrison's excuse for remaining a misogynist?

But of course not every one of us accurately reads the tides of history. I often ask myself what moral myopia I am subject to at this very moment, something that twenty or forty years from now will seem like unimaginable shortsightedness. And that is what strikes me as most remarkable about the Sharps. They went to Europe in February, 1939. February, 1939 was less than three months after the Kristallnacht. It was before the Nazis required Jews in Germany to relinquish their silver and gold. It was before the occupation of Czechoslovakia. It was before the German "Pact of Steel" with Italy. It was before the SS St. Louis set out on its fateful voyage to Cuba and before its 900 Jewish refugee passengers were returned to Europe. It was before Germany attacked Poland, before Britain declared war on Germany. It was before the Warsaw Ghetto. And it was before Auschwitz, before "Auschwitz" became the name of anything other than a pretty little town in Poland. It was, in other words, before most of the rest of the world awoke to the true extent of the Nazi peril and the full measure of its threat to the Jewish people. It was in fact five whole years before Adolf Eichmann would offer to trade the lives of one million Jews for 10,000 trucks and the British High Commissioner in Egypt, Lord Moyne, would reject the offer, saying, "But where shall I put them? Whatever would I do with one million Jews?" The Sharps, their sponsors and their colleagues, were gauging the tides and gauging them with astonishing perspicuity. It is easy to feel small and blind in comparison to that.

But that is not the lesson that I suspect the Sharps would have us draw. We honor the Sharps as heroes who saved hundreds of lives. But I am willing to bet that Waitstill and Martha knew that though they and their colleagues, the Dexters and Charles Joy, were the ones risking their lives on the streets of Prague and in the mountains of Spain, they were dependent upon a much larger circle of friends and acquaintances who made their heroism possible: the people who cared for their children, the members of their congregation in Wellesley Hills who maintained their church while they were gone, the supporters of the Unitarian denomination that financed their cause. And, yes, the tailors who darned their clothes, the shoemakers who soled their shoes, the pilot who steered their ship and the housekeeper who kept their rooms.

That, you see, is why we have institutions. Because not every one of us can set out for war-torn Europe. Not every one of us can visit the refugee camps of Darfur or the US detention camps in Iraq or Afghanistan or God knows where else. But every one of us can be a part of the lives of those who do. Every one of us can be a part of institutions that make such heroism possible and in that measure can claim a degree of kinship with the righteous among the nations. That Waitstill and Martha's work resulted not just in the immediate rescue of hundreds of lives, but in the creation of an institution that came to be known as the Unitarian Universalist Service Committee, an institution that multiplied those rescues a thousand fold in the years that followed, is testimony that, acute as their reading of history surely was, they knew that they were but a part of a much larger circle of heroes and heroines who made their enterprise possible and without whom their legacy and the values it embodied could never be sustained across the decades.

Spender's poem ends:

Near the snow, near the sun, in the highest fields
See how these names are feted by the waving grass
And by the streamers of white clouds
And whispers of wind in the listening sky.
The names of those who in their lives fought for life
Who wore at their hearts the fire's center.
Born of the sun they traveled a short while towards the sun,
And left the vivid air signed with their honor.

Thank you for helping us honor two people who wore at their hearts the fire's center and left the vivid air signed with their own honor.

HONORING THE MEMORY OF ABE JOLLEY

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANNER. Mr. Speaker, today I rise in tribute to my good friend, Abe Jolley, whose community service and sportsmanship will be recognized next month at the inaugural Abe

Jolley Memorial Golf Tournament in our hometown of Union City, Tennessee. The tournament will raise money for a scholarship program in northwest Tennessee.

Abe was as avid and skilled a golfer as anyone I have ever met. In 1939—the same year he was lucky enough to marry his wife, the former Velma Taylor—he hit his hole-in-one, only three weeks after he had started playing golf. Another 50 years passed before his second hole-in-one, a slump he blamed on the hole always being in the wrong place. He hit four more holes-in-one toward the end of his golf career, including one at the age of 85.

Abe was more than a golfer, though. He was a dedicated husband, father and grandfather. He worked at the Obion County Motor Company, was active at Union City First United Methodist Church, served more than 50 years as a Mason and was a charter member of Union City Civitan Club.

I knew Abe Jolley all my life and, like all who knew him, was deeply saddened when he passed in 2004. Abe lived his life with energy and excitement that I always admired. Mr. Speaker, I hope you and our colleagues will join me in honoring the memory of a very extraordinary man and my dear friend, Mr. Abe Jolley.

IN LASTING MEMORY OF BOBBIE GENE "BOB" LANN

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I rise today to honor the memory of Bobbie Gene "Bob" Lann, who passed away September 15, 2006, in Magnolia, Arkansas at the age of 79.

After serving in the Unites States Army, Bob Lann moved to Stamps, Arkansas, where he lived for twenty-two years. Bob served as captain of the Stamps Fire Department, served on the Stamps City Council and was charter president of the Stamps Jaycees. He was also ordained as a Deacon of the First Baptist Church where he was also treasurer and Sunday school Superintendent.

Bob later moved to Magnolia, Arkansas, where he opened Furniture Land. He was active in the community by serving as president of the Magnolia Columbia Chamber of Commerce, as a member of the Rotary Club and Optimist Club and Deacon at Central Baptist Church.

Bob Lann was an avid bluegrass fan and loved playing the fiddle with his friends.

My deepest condolences go to his wife of fifty-nine years, Bobbie Ruth Coffman Lann; his daughter, Arneta Vines and her husband Johnny; his son Randy Lann and wife Cindy; his two grandchildren Julia Lann and Brad Lann; his step granddaughter, Toni Dickinson and his step great-granddaughter Emilee Dickinson. Bob Lann will be greatly missed in Columbia County and throughout the state of Arkansas.

PAYING TRIBUTE TO ROD A. DAVIS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Rod A. Davis for his leadership as CEO of St. Rose Dominican Hospital.

Rod attended college at Idaho State University, majoring in business administration with an emphasis on information systems. Following college, he began installing IBM computer systems in hospitals, where he says he "started catching the spirit of hospitals really helping people . . . and thinking this would be an excellent career."

Today, Rod oversees the operation and direction of three St. Rose Dominican Hospitals in Southern Nevada for Catholic Healthcare West, a not-for-profit, religious-based and non-tax-supported hospital system. St. Rose's is a major healthcare employer in Southern Nevada, with a current payroll of more than 2,100 workers. As St. Rose's CEO, Rod has stabilized operations and overseen the creation of the Barbara Greenspun WomensCare Center of Excellence, the launch of Henderson's only open-heart surgical and pediatric intensive care center program, and the development of numerous outreach programs.

Mr. Speaker, I am proud to honor my good friend Rod A. Davis. Under his leadership, St. Rose Dominican Hospitals have expanded tremendously and have greatly enhanced the lives of countless citizens of southern Nevada. I applaud his success and with him the best with his future endeavors.

IN RECOGNITION OF DEANNA ABLESER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, very few people in our society possess the power to change a child's life the way a teacher can. The values, ethics, work habits and ambition they instill in our youth serve as life lessons that translate into action for the rest of their lives.

That is why I rise today to honor one of my constituents, Deanna Ableser of Torrance, California, who has been awarded the VSA Arts Playwright Discovery Teacher Award. This award is presented annually to educators who creatively bring disability awareness to the classroom through the art of playwriting.

Deanna Ableser teaches six drama courses at Dana Middle School in Hawthorne, California. A significant portion of her curriculum is dedicated to playwriting. She encourages her students to write about characters with physical or mental disabilities in hopes of expanding empathy, understanding, compassion and tolerance. Her intermediate playwriting course is dedicated exclusively to the VSA Arts Project.

It is testament to Ms. Ableser's effectiveness as a teacher that her students have won numerous awards for their accomplishments in acting, playwriting and technical theatre.

On behalf of my constituents and the students and families at Dana Middle School, I extend our congratulations to a wonderful educator and role model, Deanna Ableser, and best wishes for this school year.

Break a leg!

IN RECOGNITION OF CRANIOFACIAL ACCEPTANCE MONTH

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I am pleased to share my support and acknowledgement of September as Craniofacial Acceptance Month.

Each year approximately 100,000 children are born in the United States with some form of facial disfigurement. In many cases, reconstructive surgeons can correct these problems early—often while the children are still infants. In other cases, however, reconstruction is not so easy or even possible. The Children's Craniofacial Association, CCA, is an organization that supports these children and their families. Through CCA's continued dedication and efforts, I am pleased to share my support and thanks for their designation of September as Craniofacial Acceptance Month.

In 2001, my constituent, Wendelyn Osborne, brought the craniofacial disorders issue to my attention. At a young age Wendelyn was diagnosed with craniometaphyseal dysplasia, CMD. CMD is a rare disorder that affects only 200 people worldwide. Specifically, CMD involves an overgrowth of bone which never deteriorates. In Wendelyn's case, this caused an abnormal appearance, bilateral facial paralysis and deafness. Other cases can include those characteristics as well as blindness and joint pain. Wendelyn has had to go through 17 reconstructive surgeries to counteract the medical difficulties that comprise her disorder.

Unfortunately, the majority of reconstructive surgeries, such as these that Wendelyn has undergone, are not covered by insurance companies. Rather, many of them are treated as strictly cosmetic. As a result, individuals are forced to fight their insurance companies just to receive the life-saving surgeries they need. The fact that these surgeries have been grouped in the same "cosmetic" category as surgeries that simply make people look better or younger is a tragedy.

Wendelyn's story inspired me to introduce legislation that would assist these thousands of individuals who are affected by a craniofacial disorder. My legislation, the Reconstructive Surgery Act, would ensure nationwide insurance coverage for medically necessary reconstructive surgeries.

It is my hope that further education and understanding of craniofacial disorders will allow our nation to move forward and update existing laws to better meet the medical needs of those needing reconstructive, not cosmetic, surgery. I urge my colleagues to join in this effort and help recognize these conditions through Craniofacial Acceptance Month so that all Americans can access the care they need.

PAYING TRIBUTE TO WALTER M. HIGGINS III

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Walter M. Higgins III for his leadership as CEO of Sierra Pacific Resources, the parent company to both Nevada Power Company and Sierra Pacific Power Company.

Walter's first career was as a U.S. naval officer. After obtaining a nuclear science degree from the U.S. Academy, he served as a nuclear submarine officer. After ending his active military service, Walter remained a naval reservist, ultimately retiring as a captain after a total of 29 years of service.

The transition from military service to a civilian career was relatively easy for Walter, who obtained a position with Bechtel Corp., which was designing and constructing nuclear power plants, From there, he worked at the U.S. Atomic Energy Commission, Portland General Electric and Louisville Gas & Electric. He expected to remain in Louisville as the CEO for Louisville Gas & Electric throughout the remainder of his career, but was surprised when utility companies began recruiting him. He subsequently accepted a job with Sierra Pacific Power Co. in 1993. He then moved to Atlanta to head a natural gas company, only to return to Reno in 2000 as CEO of Sierra Pacific Resources.

Mr. Speaker, I am proud to honor my good friend Walter M. Higgins III. I applaud his professional success and efforts on behalf of the community; he has greatly enriched countless lives with his activism. I wish him the best in his future endeavors.

IN RECOGNITION OF RUDY F. DELEON

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, I rise today to pay tribute to Rudy F. de Leon, whom I have known since he was a wet-behind-the-ears staff assistant on Capitol Hill. I have enjoyed watching Rudy serve our country in jobs ranging from staff assistant, senior staff, Undersecretary of Defense, Deputy Secretary of Defense, and senior corporate officer for one of America's most important corporations.

Rudy's service to the United States Government has spanned over a quarter century. At 54 years, I would submit that we have not seen the last of him. Allow me to just cover some of what he has done for his country.

After graduating in 1974 from Loyola University—now Loyola Marymount—in Los Angeles, Rudy came to Capitol Hill. I can still remember the day when that young, red-headed, fresh-faced, full-of-enthusiasm staffer started as a staff assistant on the Senate side, working for a California Senator, John Tunney, whom I also served. Who would have guessed that he would go on to the lofty positions he attained?

Rudy has accomplished a great deal, whether it was working on the Goldwater-Nichols legislation or legislation for the authorization for the use of force during the Persian Gulf war in 1991, or strategies for saving the C–17 Globemaster, or ways to help the families of POWs and MIAs.

Rudy approached his position at Boeing with the same enthusiasm I saw when he showed up on the Capitol grounds. On one cold winter night while holding a meeting with his department heads, Rudy summoned them to come outside in front of Boeing's building. After a short while, and once everyone was sufficiently cold—they didn't take coats because they did not think they would be there long—he told them the Space Station was about to pass overhead. Sure enough, the Space Station did pass overhead, just as he promised it would. That bonding experience made the team grow tighter.

Boeing, the Department of Defense, and Capitol Hill all had an opportunity to size up Rudy. All respect him and feel affection for him. I do not know what his next move will be, but hopefully his wife Anne, his daughters Elizabeth and Kerry, his father, Big Rudy, and brother and family in my congressional district will see more of him. Rudy and his family always have a home back in Torrance, CA, and on Capitol Hill, where it all started.

IN HONOR AND APPRECIATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I rise today to honor America's Historically Black Colleges and Universities. Historically Black Colleges and Universities were not officially recognized by the government until 1964, but these valuable institutions have had a lasting impact on our nation for more than a century.

As the United States Representative for Arkansas's Fourth Congressional District, I have the distinct honor to represent my state's largest and only four-year public Historically Black University, the University of Arkansas at Pine Bluff. UAPB was founded in 1890 and now provides more than 3,600 students with a quality, affordable education.

The University of Arkansas at Pine Bluff is an anchor for the town of more than 55,000 people as it provides jobs, resources, opportunities and education to the entire region. Growing up in rural Arkansas, I had the unfortunate opportunity to see how segregation affected Southern towns. The division that was placed on different cultures was stretched far and wide. Prior to 1964, it was almost impossible for an African American student to enroll in a public institution of higher education. Thankfully, these students had the opportunity to continue learning and pursuing their dream because of Historically Black Colleges and Universities. When doors were shut to African American students, those students refused to take no for an answer and created institutions of higher education where education was the focus, not a distraction.

Historically Black Colleges and Universities are vital to the education of our Nation's youth. They enroll 14 percent of all African American students in higher education, yet the 102 recognized Historically Black Colleges and Universities only constitute three percent of America's 4,084 institutions of higher education. Twenty-four percent of all baccalaureate degrees earned by African Americans nationwide are earned in our Historically Black Colleges and Universities.

I wish that those brave Americans who formed the first black college could be here today to see the lasting impact they have had on the thousands of Americans who have benefited from an education at such an institution. Just think, without these colleges, we might have never known or heard from American icons such as Martin Luther King, Langston Hughes, Thurgood Marshall, Walter Payton or Oprah Winfrey. There is no doubt in my mind or my heart, that these great people were the product of an invaluable institution which motivated them to be leaders they became.

I am proud to have joined with my friend and colleague Ms. EDDIE BERNICE JOHNSON in passing legislation honoring our nation's Historically Black Colleges and Universities and I will fight to ensure their continued excellence in education will live on.

I am so pleased to have the opportunity to properly recognize our Nation's Historically Black Colleges and Universities before the United States Congress for their outstanding contributions to the communities and lives they have educated and will continue to impact. Please join me in applauding the amazing work these institutions have done over the course of history.

PAYING TRIBUTE TO JUDY TUDOR

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Ms. Judy Tudor for her outstanding service as a social worker, helping the abused and neglected children in her community.

Judy understands the fear and turmoil associated with being removed from her parents' home and placed into foster care. When she was 15 years old, Judy was placed in Las Vegas' residential facility for abused and neglected children, Child Haven. Judy thanks the State's social welfare system for their intervention and maintains that their actions directly contributed to her personal and professional development. Her experiences within the social welfare system propelled her into a life of community service and inspired her to pursue a career as a social worker.

In addition to being a former ward of the state, she is also physically handicapped. Shortly after entering Child Haven, Judy suddenly lost all feeling from the chest down. She was diagnosed with a type of transverse myelitis, a neurological syndrome caused by inflammation of the spinal cord.

Judy has served the State of Nevada in a number of different capacities as a social worker; having served as a foster care case manager for the state and a supervisor for child protective services in Clark County. Most recently, Judy was promoted to assistant manager of the Clark County Department of Family Services, where she supervises the investigations of child abuse and neglect of 130 case workers.

Because of her personal hardships, Judy holds a genuine belief that the best measure to take is the one that is best for the child. She also believes that the system can always improve in order to put those in need first. Judy feels empathetic to the children in her cases, with each case helping her to feel as if she has achieved her ultimate goal of giving back to her community.

Mr. Speaker, I am proud to honor Ms. Judy Tudor. I commend her for her exceptional service to Clark County and the entire State of Nevada. Her dedication has enriched countless lives of children across the State. I applaud her efforts and wish her the best in her future endeavors.

TRIBUTE TO LA CLINICA DE LA RAZA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. STARK. Mr. Speaker, I rise today with my esteemed colleague, BARBARA LEE, to pay tribute to La Clinica de La Raza on its 35th anniversary of providing exemplary health care to the East Bay communities of Alameda, Contra Costa and Solano counties in Northern California.

The mission of La Clinica de La Raza is to improve the quality of life of the diverse communities they serve by providing culturally appropriate, high quality, accessible health care for all.

Before La Clinica de La Raza was established, low-income residents in the East Bay of Northern California had few options available to them for affordable health care. As a result, many were forced to go to hospital emergency rooms for problems that could have been avoided with preventive care. In response to this need for primary care services, a group of concerned health practitioners, community activists and students came together in 1971 to establish a multiservice clinic, in Oakland, California, based on the expressed needs of the community.

La Clinica offers low cost quality health care services for multilingual and multicultural populations at 22 locations in three counties in northern California. The majority of La Clinica's patients earn far below the Federal poverty level and most lack private health insurance.

La Clinica's comprehensive services include pediatrics, chronic disease management, family medicine, health education, women's health care, adolescent services, school-based clinics, mental health services, dental and vision care, and tattoo removal as well as pharmacy, laboratory and x-ray services. To most effectively serve the diverse community, La Clinica's health practitioners come from the cultures and communities of the patients they serve. The practitioners speak a myriad of languages fluently including Spanish, English, Chinese, Hindi, Arabic and Amharic. More than 72 percent of La Clinica's patients require services in their native languages.

Since its founding in 1971, La Clinica has served hundred of thousands of individuals with a variety of health care services. Infants, children, expectant mothers, teens, seniors and families have benefited from these multiservice clinics.

The number of people needing La Clinica's services continues to grow. The organization saw a 68 percent increase in patients from 1998–2004. In 2005 alone, La Clinica provided more than 175,000 patient visits. More than half of these visits were for children and adolescents. Since 1990, La Clinica grew from 8 to 22 health care sites. One of these sites is scheduled for expansion in 2007 and is expected to double in operational capacity.

Congresswoman LEE and I salute La Clinica de La Raza's remarkable past, accomplishments and vision for the future.

COMMEMORATING THE 15TH ANNIVERSARY OF ARMENIAN INDEPENDENCE

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. BACA. Mr. Speaker, I rise today to commemorate the 15th anniversary of the Republic of Armenia's independence.

Following the collapse of the Soviet Union, Armenia re-established its freedom in the South Caucus region in 1991. Since then, Armenia has committed itself to becoming a modern and thriving nation-state. Despite many external threats, Armenia has fought to overcome trade obstacles and grow its economy. The Armenian Government has also remained a close ally to the United States and is even now providing personnel to the present war in Iraq.

The tragedies of the Armenian Genocide from 1915 to 1917 did not dampen the spirit of these persevering people. Armenia has thrived and its people carry on its rich culture and heritage all over the world. Today, over 1 million Armenian-Americans reside in the United States, and of that, more than 500,000 Armenian-Americans make my home State of California their home.

We in the United States do not take our freedom for granted and are committed to spreading democracy across the globe. As we celebrate the independence of Armenia, let us remember that freedom is a universal right that should be afforded to anyone, anywhere.

RECOGNIZING AMERICA'S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. MCCOLLUM of Minnesota. Mr. Speaker, today I rise to join with my colleagues in recognizing some of our Nation's most distinguished institutions of higher learning: America's Historically Black Colleges and Universities.

The critical role of HBCUs in preparing our Nation's students for work and life is undeniable. Nearly 14 percent of our country's African American college students are enrolled at HBCUs. These young men and women are preparing to be our future community and civic leaders, business owners, teachers, artists, scientists, and scholars.

This year's HBCUs Week, which is themed "The Tradition Continues: New Successes and Challenges," reminds us all of the important partnership between the Federal Government in ensuring access for all those who seek a higher education and the institutions that provide the opportunities for students to learn and prepare them for a competitive workforce.

HBCUs not only educate students, but they also conduct ground-breaking research and engage in community outreach—helping to ensure our Nation's higher education system remains the best in the world. It is critical that Congress continues to support the unique role our HBCUs play in our Nation's higher education system. I extend my sincere appreciation and regard for HBCUs and their faculty, staff, and students as we celebrate Historically Black Colleges and Universities Week.

JEWELERS OF AMERICA REACHES 100TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. MALONEY. Mr. Speaker; 2006 marks the 100th anniversary of Jewelers of America (JA), the oldest national association for retail jewelers. Founded in 1906 in Rochester, N.Y. and now headquartered in New York City, Jewelers of America is both a center of knowledge for the retail jeweler and an advocate for professionalism and high social, ethical and environmental standards in the jewelry trade.

In the past century, Jewelers of America has established itself as a leader in the educational, social and political support of retail jewelers. Today, the association represents 11,000 member stores and has 42 state and regional affiliates.

Throughout its existence, the association has provided meaningful and relevant educational programs that reflect the changing technologies available to jewelers. Jewelers of America believes that recognizing members' knowledge and skills benefits consumers and the entire jewelry industry. To that end, JA has established certifications that evaluate jewelry sales associates, store managers and bench jewelers by a set of national skills standards. JA also provides educational scholarships for its members.

As a leader in the jewelry industry, Jewelers of America has worked with non-governmental organizations, fellow industry trade organizations and political leaders to establish responsible business practices for the national jewelry industry. JA was centrally involved in the 2002 adoption of the international Kimberley Process Certification Scheme, the landmark initiative aimed at stopping the trade of conflict diamonds.

Realizing that trust is a key component to the jewelry industry's growth, Jewelers of America created a standardized code of ethics in 1997 to reinforce consumer confidence in the professional jeweler. According to the code, JA members must maintain the highest possible ethical standards in their business dealings.

As Jewelers of America enters its second century, it remains committed to independent jewelers and the tradition of honest and fair business practices they uphold. Conscious that it represents retailers who help their customers celebrate love and commitment, Jewelers of America rededicates itself to these noble aims.

I ask my colleagues to join me in celebrating the 100th anniversary of Jewelers of America.

INTRODUCTION OF THE BAY AREA REGIONAL WATER RECYCLING PROGRAM PROJECTS AUTHORIZATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, today I am introducing legislation that will help the San Francisco Bay Area to solve its water challenges. My bill, "The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006," will provide local agencies with the Federal partner that they need in order to implement an ambitious and forward-thinking regional water recycling program.

We put the tools for these Federal-local water recycling partnerships in place with the historic Reclamation Projects Authorization and Adjustment Act of 1992, which not only included my Central Valley Project Improvement Act but featured a provision now known simply as the "Title XVI" water recycling program.

Across the country—and especially throughout the West and California—people recognize the critical need for water recycling as a means of drought-proofing and increasing our reliable water supply. Accordingly, the Title XVI program has been embraced not only by policymakers, local agencies, and water managers but by many within the Bureau of Reclamation, from the staff level to regional directors.

Unfortunately, even though people on the ground understand the need for these recycling partnerships, the Bureau of Reclamation's official position is to oppose nearly every project proposed under Title XVI. As recently as this week, the Administration testified against two water recycling projects in the House Water and Power subcommittee.

This opposition from the Administration has made it very difficult for local agencies to get the Federal support and funding that they deserve. Instead of providing Federal cost sharing and technical support to local water recycling projects, the Bureau has effectively let proposals under the existing Title XVI program pile up.

This is a shame. These projects are the future of water supply, and it's high time the Bureau joined that future. The best water recycling and reclamation projects are sustainable, scalable, reliable, and meet local needs with a local funding source. Unlike major dams and storage projects, water recycling projects do not have to cost billions of dollars, they don't destroy rivers—in fact, they can ease the pressure on natural waterways—and they don't trigger decades of litigation.

In addition, traditional storage projects based on major dams and reservoirs have to spend the last dollar, pour the last ounce of concrete, and line the last canal before a single drop of water comes through the tap. But water recycling is modular and incremental, meaning that as each piece of the system is put in place, you can serve more people and more industries; you don't have to wait years to see results, and you can build on your successes by easily expanding the infrastructure to meet new needs.

I hope that under the new Reclamation commissioner and the new Secretary of the Interior we will see a new commitment to the Title XVI program and to these clean solutions to water conflicts. It is very clear to me and to most others who follow these issues that the Bureau has struggled to keep pace in the modern era of water policy. In future Congresses, I am hopeful that we will review the agency's mission and its budget to determine that it is headed in the right direction.

There is increasing awareness in Congress regarding the importance of water recycling, and an increasing commitment to improving Title XVI so that it works for everyone. For instance, I am very glad that my colleagues, Representative NAPOLITANO, Senator MURKOWSKI, and Senator FEINSTEIN, have taken the lead in introducing legislation to reform the Title XVI program.

Their new bipartisan, bicameral proposal, entitled "Reclaiming the Nation's Water Act," is a wise one. First, their bill makes it perfectly clear that the Bureau of Reclamation's role includes creating new water supplies by reclamation and recycling. Second, as Senator FEINSTEIN summarized it in her introductory statement, the legislation "establishes firm deadlines, a clear process, and very specific criteria by which project reviews are to be conducted." This will help ensure that deserving projects don't get left on the shelf.

This legislation is sound, and I hope to work with my colleagues to implement it. And with the Bay Area Regional Water Recycling Program Projects Authorization Act of 2006 that I am introducing today, I am applying the principles of the "Reclaiming the Nation's Water Act" to the San Francisco Bay Area.

The Bay Area Regional Water Recycling Program is a collaboration of public utilities that helps to meet our region's and state's growing water needs through a set of recycling and reclamation projects. As the program agencies wrote in a letter to me this summer: "The regional approach ensures that potential projects with the greatest regional and statewide benefit receive the highest priority and support for implementation."

The projects in this coalition have been repeatedly vetted, both internally at the local level and by the Bureau of Reclamation. The 2004 CALFED authorization directed the Department of the Interior to assess these projects' feasibility under Title XVI. That report, released this year, stated that many of the Bay Area projects "were very close to meeting the requirements," but that none passed all the Federal tests. Unfortunately, like other deserving Title XVI proposals across the West, that could have been where these projects stalled.

We need to encourage communities who are trying to meet water demands with innovative technologies. The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006, which is the result of a long process of deliberation and communication with those local agencies, authorizes the Bureau of Reclamation to participate in the six Bay Area Regional Water Recycling Program projects that are closest to completion. Each community with a project will be eligible to receive 20 percent of the project's construction cost.

Constructing all six of these projects will bring online nearly 10,000 acre-feet per year of reliable dry-year water supply. To produce the same amount of water with a traditional dam and reservoir project, you would need a dedicated facility that stored 47,500 acre-feet of water.

Projects included in the Bay Area Regional Water Recycling Program Projects Authorization Act of 2006 are located in the City of Palo Alto; in the Cities of Pittsburg and Antioch through the Delta Diablo Sanitation District (DDSD); in the North Coast County Water District; in Redwood City in partnership with the South Bayside System Authority; and in the City of Gilroy in partnership with the Santa Clara Valley Water District.

Although these worthy projects have supplied local funding, and secured matching State funding, they still need the Federal partner to step up. That's why my legislation authorizes the Secretary of the Interior to cooperate in these six projects.

I know for a fact that Pittsburg, in my district, has worked diligently, along with Delta Diablo, to move through each step of the existing Title XVI process. This legislation gives them the assurance that the Federal partner will be there for them at the end to help implement their viable, feasible, and laudable project.

There is a clear Federal interest in these projects, as there is in the other successful regional recycling programs like those of Southern California. A good water recycling program stretches existing supplies and provides certainty to all of the water users in the area; conflict can be reduced even in a critically dry year. As we all know, a stable and reliable regional water supply makes good neighbors.

This very small Federal investment in the Bay Area Water Recycling Program will yield massive dividends to the Bay Area over time. Every gallon of recycled water that goes towards irrigating a golf course or highway median—or for commercial or industrial use—is a gallon of water that didn't need to be pulled from the troubled Bay-Delta.

These programs are a fiscal and environmental win-win, and encouraging them is sound federal policy. I'm glad to be able to help them with this new bill.

I urge my colleagues to support this legislation, and I again would like to commend Representative NAPOLITANO and Senators. FEINSTEIN and MURKOWSKI for their leadership.

RECOGNIZING COLONEL STANLEY T. HOSKIN, RETIRED U.S. ARMY RESERVE, FOR BEING AWARDED THE DEFENSE SUPERIOR SERVICE MEDAL

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FORBES. Mr. Speaker, I rise today to introduce COL Stanley T. Hoskin's Defense Superior Service Medal order and citation into the RECORD. Colonel Hoskin recently retired on August 31, 2006, after 33 years of honorable service in the U.S. Army Reserve. I commend Colonel Hoskin's loyalty and dedication to his country and the American people. Mr. Speaker, please join me in honoring Colonel Hoskin.

DEPARTMENT OF DEFENSE, COMMANDER, U.S. JOINT FORCES COMMAND,
Norfolk, VA, July 18, 2006.

USJFCOM PERMANENT ORDER 540–06

Subject: Announcement of Award of the Defense Superior Service Medal.

Under the provisions of DOD Manual 1348.33–M, September 1996, the Commander, U.S. Joint Forces Command has awarded the Defense Superior Service Medal (First Oak Leaf Cluster) for exceptionally meritorious achievement to: Colonel Stanley T. Hoskin, USAR, U.S. Joint Forces Command (J02), 1 June 2004 to 31 August 2006.

E.L. SATTERWHITE,
Awards Administrator.

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE SUPERIOR SERVICE MEDAL, FIRST OAK LEAF CLUSTER, TO STANLEY T. HOSKIN

Colonel Stanley T. Hoskin, United States Army Reserve, distinguished himself by exceptionally superior service while serving as the Chief, Strategic Engagement Division, and as the Assistant Deputy Chief of Staff for Integration, Office of the Chief of Staff, Headquarters, U.S. Joint Forces Command from June 2004 to August 2006. During this period, COL Hoskin was responsible for many "firsts" in the Command including the Transformation Advisory Group, Command-wide Liaison Officer Exchange Program, and the first series of U.S. Joint Forces Command Chief of Staff to Combatant Command Chiefs of Staff video teleconferences. He was also responsible for the conceptualization and development of numerous process improvements including a Tasker System for maintaining situational awareness and accomplishment of all new staff and production work coming into the command. He followed that with development and implementation of business processes and methods to inform the Chief of Staff, Deputy Commander, and Commander in making real time decisions about Command Level Objectives to support Combatant Commanders, Services, Joint Chiefs of Staff, the Office of the Secretary of Defense, and Congress. These improvements resulted in savings of time and money, and the ability to accurately access all of the objectives about which customers were interested. Additionally, COL Hoskin instituted Command-wide training and mentoring for Objective Leads and Product Leads with greatly improved processes and analysis tools. Finally, COL Hoskin developed and implemented new templates of standardized methods for Directors to prepare various required decision point briefings to the Command Leadership. Through his distinctive accomplishments, COL Hoskin culminated a long and distinguished career in the service of his country and reflected great credit upon himself, the United States Army, and the Department of Defense.

TRIBUTE TO THE MORRIS LAND CONSERVANCY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Morris Land Conservancy, located Morris County, New Jersey, a county I am proud to represent! On October, 19, 2006, the Morris Land Conservancy will celebrate its 25th Anniversary with a reception to honor twenty-five years of land preservation within Morris County.

Incorporated on July 30, 1981, the Morris County Parks and Conservation Foundation was created by Russell W. Myers, the first director of the Morris County Park Commission. A seven member Board of Trustees guided the original organization. Today the organization, now known as Morris Land Conservancy, is governed by a board of twenty-five outstanding civic and business leaders. The mission continues to be "to preserve land and protect water resources, focusing on northern New Jersey; to conserve open space; to inspire and empower individuals and communities to preserve land and the environment."

During its history, the Conservancy has evolved from an all-volunteer organization to a state leader in open space preservation. Over 10,000 acres of open space land has been preserved in northern New Jersey. Programs developed to further the Conservancy's mission include: the award winning Partners for Greener Communities, which offers technical assistance on open space planning and land preservation to municipalities; a Geographic Information Systems (GIS) Resource Center that produces professional maps for use throughout the state to target critical open space lands for preservation; and the nationally recognized Partners for Parks Program which has organized over 5,200 volunteers from 65 corporations and civic groups to do one day community service projects in seventy-three different parks in the past ten years!

In the early 1990's, the organization became actively involved in the movement to preserve the Highlands. The Conservancy helped organize the Farny Highlands Watershed Coalition, a partnership of more than thirty towns and conservation groups dedicated to preserving the region known as "heart of the Highlands".

The Conservancy has grown dramatically since it was established in 1981. The original 56 members now number more than 1400, all working to preserve important properties and add them to the network of local, county and state parks throughout the region.

Mr. Speaker, I urge you and my colleagues to join me in congratulating Morris Land Conservancy on its twenty-fifth Anniversary.

TRIBUTE TO DR. CHRIS FISHER AND DR. JAMES BASHKIN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. UPTON. Mr. Speaker, I rise today to recognize Dr. Chris Fisher and Dr. James Bashkin, cofounders of Nano Vir, a Kalamazoo, Michigan bioscience company that received the 2006 Tibbetts Award for innovative work to identify and develop a potential treatment to fight the virus that causes cervical cancer known as Human Papillomavirus (HPV). The Tibbetts Award is a prestigious national award presented annually by the Small Business Administration to small firms, organizations, and individuals judged to exemplify the very best in small business innovation research. This year, Nano Vir is among the select group of 55 firms from across the nation who will receive the award.

The Food and Drug Administration recently approved a vaccine for HPV that will prevent individuals from becoming infected with the virus. Nano Vir's product would complement the vaccine by fighting HPV infections and preventing cervical cancer for those who already have the virus.

The importance of this research cannot be overstated. Nearly 20 million Americans have incurable HPV, and cervical cancer is the second leading killer of women by cancer worldwide. Nano Vir is at the cutting edge of DNA research, and I commend Dr. Fisher, Dr. Bashkin, and all the folks at Nano Vir for their commitment and dedication to the betterment of millions of women's lives around the world. They may soon develop one of our most potent weapons yet in the war against cancer, and I wish them every success.

CONGRATULATING DR. MARILYN GASTON AND DR. GAYLE PORTER

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate Dr. Marilyn Gaston and Dr. Gayle Porter, co-recipients of the 2006 Purpose Prize. Drs. Gaston and Porter have been recognized for innovation and success in using their lifetime of experience for the greater good.

After full careers in different health fields, Drs. Gaston and Porter teamed up to address the alarming early death and disability rates among middle aged African American women. They wrote Prime Time: The African American Woman's Complete Guide to Midlife Health and Wellness and then created an innovative health course and support group model. "Prime Time Sister Circles" has become a popular and proven health initiative in Maryland and other states, with 68 percent of the participants maintaining their health improvements for more than a year. This outstanding model should be replicated throughout our country.

I want to recognize the role of The Purpose Prize itself in changing our society's view of aging. The positive impact of the five Purpose Prize winners on thousands of people in need reveals that America's growing older population is one of our greatest untapped resources. In 2005–06 over 1,200 adults age 60 and over competed for the $100,000 cash prizes and related rewards of publicity and support for their entrepreneurial projects. Civic Ventures, the California-based non-profit organization that created the prize program, is dedicated to generating ideas and creating programs to help society achieve the greatest return on experience. I invite my colleagues to join me in furthering this view of older adults as significant contributors to our communities and nation.

Mr. Speaker, I extend my heartfelt congratulations to Dr. Marilyn Gaston and Dr. Gayle Porter on receiving the prestigious Purpose Prize in its first year and I wish them continued success. I also commend Civic Ventures, along with Purpose Prize funders, The Atlantic Philanthropies and The John Templeton Foundation, for their vision and generosity in creating this important stimulus for expanding citizen initiative for public good.

PATTERSON PARK COMMUNITY DEVELOPMENT CORPORATION 10TH ANNIVERSARY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CARDIN. Mr. Speaker, I am pleased to bring to your attention the achievements of the Patterson Park Community Development Corporation (PPCDC), which is celebrating its 10th Anniversary.

The Patterson Park area was originally known as Hampstead Hill and played an important role in the defense of Baltimore during the War of 1812. The property was also home to the wealthy Patterson family whose beautiful daughter, Betsy, was the wife of Jerome Bonaparte. The surrounding rowhouse community offered housing for a diverse population, including immigrants from Eastern Europe. Following World War II, many families moved to the suburbs, leaving older residents behind. The community became ripe for absentee landlords and investors.

In 1996, the PPCDC was founded by residents to combat the neighborhood's decline. PPCDC concentrated on an area of 3,000 rowhouses north of Patterson Park, and 2,500 houses on the park's eastern periphery. Its goal was to recreate a stable, desirable, diverse community around Patterson Park.

PPCDC embarked on strategies to improve the neighborhood and Park image, strengthen the neighborhood's social fabric and political strength, and dramatically increase investment through control of the neighborhood's real estate. Since 1996, PPCDC has spent more than $60 million in the community, attracting tens of millions of dollars in other investment. PPCDC also maintains more than 100 affordable rental units that provide decent housing to immigrants, refugees, and other families with modest incomes.

PPCDC has accomplished all this while maintaining the ethnic, racial and economic diversity of the Patterson Park community. Investment north of Patterson Park has allowed neighborhoods to the south to gather momentum and become an engine for revitalization in all of Southeast Baltimore.

Friends of Patterson Park was formed to revitalize the Park, restore the boat lake and the Pagoda, which serves as the centerpiece for summer concerts, and build a new playground for the growing number of children who live in the community. In 2002, the Patterson Park Charter School was formed by residents to entice young families to stay in the neighborhood.

I urge my colleagues in the U.S. House of Representatives to join me in saluting the accomplishments of the PPCDC and its partners and in commending them for their work in East Baltimore. Their efforts to revitalize Patterson Park have become a model for other communities around the Nation.

PROTECTING OUR NATION FROM TERRORISM

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to confront a question of central importance to our Nation: are we doing everything we should to protect our Nation from terrorism?

This is not a threat we can afford to underestimate. The terrorists' means of organization, communication, and attack challenge our intelligence community, our armed forces, and our domestic law enforcement agencies in fundamentally new ways.

We must take the fight to the terrorists, but that does not mean we must sacrifice our moral leadership in the international community. We must defend our homeland from attacks, but we must also avoid self-inflicted damage to the values we stand for and the liberties of our people. Our strategy cannot be merely aggressive; it must also be smart and efficient, and it must be true to the values that make us American.

We must not only kill and capture specific terrorists and dismantle their organizations. We must also reduce the number of new terrorists and organizations that might exist tomorrow. Ultimately, we will win this war not by denying the rights of detainees and not by law enforcement excesses, but by protecting the integrity of our free and democratic society, and by repairing our diplomacy and showing the world that there is a better way.

The Bush Administration has repeatedly implied that Americans must be prepared to set aside moral considerations, American values, and America's image in the world if such concerns get in the way of the aggressive pursuit of terrorists. In reality, such a strategic blindness will hamper our ability to win the war on terrorism. An anti-terrorism strategy informed by moral considerations, American values, and our effort to lead the world by example is consistent with an anti-terrorism strategy that pursues terrorists smartly, effectively, and aggressively. What's more, such a strategy augments our efforts because it unites the American people—and the world—behind us.

Following the 9–11 attacks, President Bush had two choices. The first option was to create and implement a smart, bipartisan anti-terrorist strategy. Such a strategy would have been focused on devoting sufficient troops and resources to Afghanistan to bring down the Taliban, find and incapacitate Osama bin Laden and his lieutenants, and enable that nation's successful reconstruction—not just in the capital but in the outlying areas that we have never fully secured.

The President could have capitalized on the tremendous outpouring of public support in the wake of the attacks to build bridges between our nation and the rest of the world, including the millions of moderate Muslims who hold no sympathy for the terrorists who are hijacking their religion. He would have proactively sought a resolution to the Israeli-Palestinian conflict, which has historically been the largest source of inspiration for new generations of terrorists. (The Iraq war can now lay claim to that ignoble reputation.) And he would have more significantly bolstered our defense and intelligence assets to prevent future attacks and dismantle terrorist networks.

Instead, the President chose a second option that has simply failed to meet the standard of an intelligent anti-terrorism strategy. He diverted resources from the hunt for bin Laden to prepare for and initiate a war of choice in Iraq—a war, incidentally, that has made the threat of terrorism worse, not better. The recent National Intelligence Estimate makes this quite clear.

In doing so, President Bush left Afghanistan vulnerable to the resurgence of the Taliban we have seen over the last several months, resulting in a deteriorating security environment in that country five years after we supposedly defeated them. He has undertaken policies that have seriously undermined public support for the U.S. in the Islamic world and beyond, including policies that cultivated a culture within the military and the intelligence community that have tolerated and even encouraged the abuse of detainees—many of whom were later determined to be innocent bystanders. He has largely neglected the Israeli-Palestinian conflict, with disastrous results for Israel, Lebanon, and the entire Middle East region.

David Schanzer, one of my constituents and director of the Triangle Center on Terrorism, got it right in a recent op-ed. He wrote: "Unfortunately, we have made no progress, and in fact may have lost ground, in the ideological conflict that is fueling jihadist violence around the globe."

So I ask today: are we doing everything we should to protect our nation against another terrorist attack? Is President Bush pursuing a smart, effective strategy to win the war on terrorism? The answer to these questions is clearly "no."

This week in the House, we are debating two prominent components of the President's strategy to fight terrorism: a bill to grant the President the right to circumvent checks by the judiciary to wiretap the phones of American citizens, and a bill to establish an extrajudiciary system for trying detained terrorist suspects. These bills are both clear examples of how the President continues to make the wrong choices in the war on terrorism.

There is no doubt that we need a more extensive and sophisticated wiretapping program directed at those who mean us harm, both outside and inside the United States. That is not the question. The question is who should make decisions that balance civil liberties with surveillance needs. The Administration says "just trust us." To that, we say a resounding no. This is not merely because the Attorney General and the Bush administration have proved unreliable stewards of our liberties. It also recognizes what our founding fathers knew quite well, that balancing power among institutions with different functional roles is the essential to our form of government. The executive branch is in the business of putting criminals and terrorists in jail; the judicial branch is in the business of interpreting the law and the Constitution, and protecting individual rights. Neither can effectively do the job of the other.

The 1978 FISA law established procedures governing how the Federal Government can constitutionally collect foreign intelligence, including the ability to gather intelligence immediately in urgent situations and to obtain a warrant post-facto. Unfortunately, this administration feels that protecting the constitutional rights of its citizens has become too cumbersome. Instead of abiding by current law, the administration has chosen to make up new ones. And now that we have called the administration on this violation of the law, it is asking Congress to formally authorize its practices. In essence, the administration is telling us that we have to choose between being safe and being free. I, for one, am not willing to accept this overly simple analysis or the proposed wiretapping bill.

We do not yet know what provisions will be included in the House bill, but the President's proposal would allow warrantless surveillance of international calls and e-mails of American citizens without any evidence that they are conspiring with terrorist organizations. The communications of Americans would only be protected if the National Security Administration "reasonably believes" all senders and recipients are in the U.S. Essentially this provision would allow anybody communicating with family or friends outside the U.S. to be monitored at any given time without any real justification or oversight.

In addition, the President's proposal would pre-approve warrantless searches on all Americans following a terrorist attack in the United States for up to 45 days. I know the investigations that take place in the days and weeks following a terrorist attack are crucial in apprehending all of those involved, and I agree that we need to make sure the intelligence community has whatever resources it needs. However, providing pre-approval to the President to violate the 4th amendment of the Constitution after an attack is completely unnecessary. Current law already allows the President reasonable exemptions in these situations, and if extensions are needed, he simply needs to request judicial approval.

The second key terrorism bill under debate in the House this week would establish a system for bringing detained terrorist suspects to trial. Again, there is wide and bipartisan agreement that this issue must be addressed. But President Bush has once again failed to choose the smart and morally acceptable way to do it.

Over the past 3 years, many of us have watched in horror as new details about the Bush administration's treatment of detainees have been revealed. Torture, arbitrary arrest and detention, indefinite imprisonment—Americans used to think of these as charges off the pages of reports about other countries, not as sanctioned American policies. While some of us have spoken out against these practices since they became public, recent actions by the Supreme Court and a handful of courageous Senators have forced the administration to revisit them. Yet, the legislation before the House—legislation supported by Republicans in the House, Senate, and White House—would do little to rein them in.

In fact, under the proposed legislation, the Administration could continue to arbitrarily arrest and detain foreign citizens. It could continue to imprison these detainees indefinitely, without standard judicial protections such as their right to challenge their detention in court and the right of the accused to know the charges against them. And, despite the coverage granted to the so-called compromise between the White House and Senate Republicans, the Administration would still be able to continue practices that violate the Geneva Conventions prohibition of torture.

Many have argued that we must prioritize winning the war on terrorism above considerations for the rights of detainees accused of having links to terrorism, as if the two were always mutually exclusive. It might be tempting to understand the issue in such simple terms, but we should resist that temptation.

It is certainly true that terrorism is such a grave threat to our nation that, in some circumstances, extraordinary actions may be necessary to protect American lives. The question we should be asking, however, is whether particular policies advance our fight against terrorism, both now and over the long term. In this case, the moral argument—that potentially innocent detainees do have rights that should be protected—is in line with the appropriate strategic argument.

In the short-term, the Administration's approach fails because, as current and former military and intelligence officers have repeatedly stated, torture does not reliably produce actionable intelligence. In addition to the statements of these experts, we have hard evidence: the New York Times has reported that, according to our military, interrogators were able to obtain up to *50 percent more* actionable intelligence from detainees at Abu Ghraib prison in Iraq *after* coercive practices like hooding, stripping, and sleep deprivation were banned.

In the long-term, the Bush administration's approach is even more detrimental to our progress in the war on terrorism. First, it is already having disastrous repercussions on our effort to win the hearts and minds of those at risk of being tempted by terrorist recruiters. Let us be clear: while stopping active terrorists is a critical challenge, disrupting the development of new generations of terrorists is the single most important task in winning the war on terrorism. Every person that we can persuade to renounce violence and cast his or her lot with the forces of moderation is one fewer threat to our Nation, one fewer potential airplane hijacker or train bomber.

Winning hearts and minds is no exercise in sentimentality; it is perhaps the key strategy in protecting our Nation from another 9–11. The Administration's approach negates such efforts, as it essentially endorses indefinite imprisonment, arbitrary detention, and treatment of detainees in violation of the Geneva Conventions.

The Administration's approach further harms our progress in the war on terrorism by placing our own troops at risk. It sends a dangerous signal to other nations that the United States has endorsed these practices for foreign detainees, inviting these nations to visit the same practices upon our own troops. It is that risk that has led several top-ranking former military leaders to object to the Administration's proposal.

There is no question that a system is needed for bringing terrorists to justice. But doing it the wrong way will impede our ability to stop terrorists in the future. And the Bush administration's approach is, quite clearly, the wrong way. Victory in the war on terrorism demands, and the American people deserve, a smarter approach, consistent with the values that have made our country great.

Mr. Speaker, we can choose a smart, effective strategy for combating terrorism that makes our Nation safer, or we can opt for an irresponsible, shortsighted approach that undermines our progress. These bills represent the latter. I strongly urge my colleagues to oppose them.

COMMENDING THE MAGIC SCHOOL BUS ON ITS 20TH ANNIVERSARY

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. EHLERS. Mr. Speaker, I congratulate and recognize The Magic School Bus on the occasion of its 20th anniversary.

As many of my colleagues know, The Magic School Bus is a unique series of books, television programs and teaching materials for children that encourage a love of science and inspire positive attitudes toward math and science education.

What my colleagues may not know is that with 131 book titles and more than 58 million books in print, The Magic School Bus is one of the most successful children's science series, and it continues to grow in popularity every day. This series has earned numerous prestigious national recognition awards.

I am proud to support The Magic School Bus and its partnership with the National Science Foundation in a television series and museum exhibit, and I commend the Magic School Bus for its tireless efforts.

Congratulations to The Magic School Bus on this occasion of its 20th anniversary. May these efforts continue to spark the curiosity of millions of children and help motivate children to further pursue their interests in math and science.

RECOGNIZING THE FORTIETH ANNIVERSARY OF TRINITY BAPTIST CHURCH

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to recognize Trinity Baptist Church of Asheville, North Carolina. On October 1, 2006 Trinity Baptist will celebrate 40 years of service to the people of Western North Carolina, and I commend them for the leadership and tireless work they have contributed to the Asheville community.

With 60 members under the direction of Rev. Ralph Sexton, Sr. as the Pastor and Dr. James A. Stewart as the Honorary Pastor, a building for Trinity Baptist Church founded upon the scripture from Psalm 127:1, "Except the Lord build the house, they labor in vain that build it."

For 13 years, Dr. Ralph Sexton, Jr. served as staff evangelist and youth pastor under his father. On the first Sunday of April 1988, upon his father's resignation as senior pastor, Dr. Ralph Sexton, Jr. became the senior pastor of Trinity Baptist Church. As the church continued to grow, mission outreach was increased both at home and abroad.

To meet the needs of the growing congregation, several buildings have been erected. The Family Life Center was built in 1984 housing office space, a kitchen, fellowship room and gymnasium, to provide a space for fun, food and fellowship for the whole family. In 1992 a Baby Palace was added to meet the need of the growing families of the church.

A Bible Institute program was started in 1989 for those who wish to devote their lives to the ministry of learning to serve; this became a 4-year Bible College in 1993. Most recently the church built a 1,500-seat sanctuary which has been named the "Tabernacle of the Mountains" in honor of the life and ministry of Dr. Ralph Sexton, Sr., who served the congregation for 22 years.

In 1991, Trinity Baptist Church opened their doors to Russian immigrants many of whom came to this country because of religious persecution. Trinity Baptist Church accommodated the immigrants by providing services in their native languages, in addition to sponsoring many of the immigrants.

In 1994, the EEOC threatened religious freedom by prohibiting any expression of religious faith in the workplace. Trinity Baptist Church worked with me and other area churches to preclude these improper regulations. Pastor Sexton and members of Trinity Baptist Church met with me in acknowledgement of our success in fighting for first amendment rights.

One of the many outreach programs of Trinity Baptist Church is Hearts with Hands. Hearts with Hands is a disaster relief organization that provides humanitarian aide to worldwide victims of hurricanes, tornadoes, and tsunamis. To this day, this organization is still working with many of the victims of Hurricane Katrina.

Again, it is my privilege to recognize the great accomplishments and leadership of Trinity Baptist Church over the past 40 years, and I, along with the rest of the United States Congress, wish for their good work to continue.

TRIBUTE TO BEVERLY WILSON

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. DOOLITTLE. Mr. Speaker, whether she was called Beverly, Bev, Mom, Grandma, Dear Friend or the Mail Lady, Beverly Wilson was known by all for her compassion and generous spirit. Bev was a fifty-year resident of Lincoln, California, and served as a postal carrier for 26 years. Tragically, Bev was killed in the line of duty a mere four weeks short of retirement.

Beverly dedicated her life to bringing joy to those around her. She was an ideal co-worker. She gently guided her younger colleagues through thoughtful gestures and kind words. For no occasion at all, she would surprise her fellow workers with homemade baked goods, fresh vegetables from her garden, or jarred pomegranate jellies. The people who worked alongside Bev knew that, in her, they had a true friend.

Her customers thought the world of Bev. She took the time to know each of them, and her association with the people she serviced grew into friendships that lasted decades. While seeing them six days a week for twenty-six years, Bev shared the lives of her patrons, delighting alongside them during their joyous moments and providing warm comfort in times of sorrow. One of Bev's sons once asked, "How can one little old woman touch the lives of so many people?"

Beverly Wilson was the proud mother of five children and fifteen grandchildren. While she spent so much of her time doing good deeds for her customers, co-workers and other friends, she always had time for her family. Beverly's fifteen grandchildren could always expect a card from "Grandma Bev" on their birthdays, as she never missed even one.

Beverly Wilson remains an example of dedication and kindheartedness today. When the residents of Lincoln, CA visit the new postal facility named after her, they will be inspired by the memories of such an outstanding and considerate individual.

HUMAN RIGHTS ABUSES IN TURKMENISTAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SMITH of New Jersey. Mr. Speaker, as Co-Chairman of the U.S. Helsinki Commission and Vice Chairman of the House International Relations Committee, today I introduce this resolution on systemic human rights violations in Turkmenistan. Freedom House recently ranked Turkmenistan as one of the most repressive countries in the world. Along with cosponsors Representative JOSEPH R. PITTS and Representative MIKE MCINTYRE, we seek to put the Government of Turkmenistan on notice that these policies must change and that the Congress expects improvements in human rights observance and democratization.

The human rights situation in Turkmenistan remains abysmal. According to the State Department's Country Reports on Human Rights Practices, "Turkmenistan is an authoritarian state dominated by president-for-life Saparmurat Niyazov. . . . The government continued to commit serious abuses and its human rights record remained extremely poor."

Turkmenistan is a one-party state with all three branches of government controlled by President Niyazov, who was made "president-for-life" by the rubber-stamp People's Council in 2003. No opposition is allowed and the state promotes a cult of personality around President Niyazov, the self-proclaimed "Turkmenbashi"—the father of all Turkmen. His likeness is on every public building and the currency. Authorities require that his self-styled spiritual guidebook, the Rukhnama, be taught in all schools and places of work.

There are consistent reports of security officials physically abusing, torturing and forcing confessions from individuals involved in political opposition or human rights advocacy. The regime also continues the dreadful Soviet practice of using psychiatric hospitals to jail dissidents.

In August, Radio Free Europe/Radio Liberty correspondent Ogulsapar Muradova and two Turkmenistan Helsinki Foundation members were sentenced to 6 and 7 years of imprisonment, respectively, for their involvement in a documentary about Turkmenistan. Sadly, Muradova died while in custody just three weeks later.

The resolution therefore urges President Niyazov to, among other things, conduct a thorough investigation into the death of Muradova, free all political/religious prisoners, provide ICRC access to all Turkmen prisons, and allow peaceful political opposition parties to operate freely. The resolution also lays out recommended steps for U.S. action, should the government not improve respect for democratization, freedom of movement, human rights and religious freedoms.

The abuses don't end with repressive actions against dissidents and reporters. Niyazov is also reportedly diverting billions of dollars of state funds into his personal off-shore accounts. The "father of all Turkmen" is pillaging his country and jeopardizing the future of its citizens.

Consequently, the resolution urges the Government of Turkmenistan to "end the diversion of state funds into President Niyazov's personal offshore accounts, and adopt international best practices as laid forth by the International Monetary Fund regarding the disclosure and management of oil and gas revenues." In addition, the resolution urges the U.S. Government to encourage companies dealing in Turkmen gas to increase transparency, and to encourage the European Union and other countries not to enter into trade agreements with Turkmenistan until the "government demonstrates a commitment to implementing basic norms of fiscal transparency." To further demonstrate the level of Congressional concern regarding the misappropriation of state resources, the resolution recommends the U.S. Government issue "a report on the personal assets and wealth of President Niyazov."

In closing, Mr. Speaker, the purpose of this resolution is to bring to the attention of the Congress and the world the appalling human rights record of the Government of Turkmenistan. The resolution is timely, as the European Parliament will soon consider an enhanced trade relationship with Turkmenistan. I hope this resolution will be a catalyst for change and that President Niyazov will initiate serious and far-reaching reforms.

CELEBRATING THE IMPROVEMENTS OF CAPUCHINO HIGH SCHOOL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LANTOS. Mr. Speaker, I ask my colleagues to join me in celebrating Capuchino High School's successes since the passage of the November 2000 bond issue, Measure D, in San Mateo County. I am so proud of the foresight my neighbors and friends had when they approved the bond that has created the extraordinary facilities, so it can match its high caliber students. It will be my privilege and honor to join the Capuchino High School community to commemorate the modernization and new construction provided by the bond issue, as well as the opening of the new Electronic Arts Technology Arts Center built with the support of a $200,000 grant from Electronic Arts.

Like other high schools within my district, Capuchino has leveraged the $137.5 million bond measure into a $234.5 million capital improvement dedicated for an innovative academic and extra-curricular program designed to enhance the teaching-learning environment for students today and tomorrow.

Mr. Speaker, Capuchino is a California Distinguished School and is recognized for its extraordinary didactic methods. Academically strong, Capuchino offers the highly prestigious International Baccalaureate Program and is one of only 60 schools in the state and 400 across the country qualified to offer such a rigorous college-preparatory curriculum.

I am very proud that Electronic Arts, one of my district's largest employers, was able to contribute in building this state of the art technology arts center. Because of Capuchino High School's excellence, it was selected as one of 250 schools nationwide to receive a Carnegie Grant and was selected to share in a $450,000 grant collaborating in Entertainment and Media with five community colleges and their associated high schools.

The school's dedication to the arts includes its Honor Band's selection to participate at the inauguration of President Kennedy, the only marching band from North America to perform at the Expo '88 ceremonies in Australia, and has performed at various west coast events including the Tournament of Roses.

Mr. Speaker, Capuchino High School has had a long history of achievements and I am absolutely delighted that our community is dedicated to the success of our children. Capuchino High School is one of the real gems in my district and with the help of Measure D and Electronic Arts, Capuchino will be able to keep up with the constantly changing environment that faces our children when they leave school. I would like to thank all those who are responsible for these much needed improvements and am looking forward to seeing them for myself firsthand.

TRIBUTE TO STEPHEN ADAMINI

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. STUPAK. Mr. Speaker, I would like to pay tribute today to Stephen Adamini, a Representative in the Michigan House of Representatives from the 109th District. The 109th District is comprised of four Upper Peninsula counties: Alger, Luce, Marquette and Schoolcraft.

First elected to the House in 2000, Stephen Adamini will be concluding his service in that body at the end of this year. The people of the 109th Representative District have been well represented by Stephen and he will be missed.

Whether the issue was timber or roads, Stephen was always ready to jump into the political and legislative arena, and he was a tireless worker for the "Yoopers," those residents of Michigan that live in the state's Upper Peninsula. As Steve has recognized, while there are many common issues in communities across our state, each region also has unique needs and concerns of its own. Steve recognized the unique qualities of his district and he worked hard in our state capital to find creative solutions on both sides of the Mackinac Bridge.

Stephen was also known for his work in Lansing in the area of health care. He served as Minority Vice Chair of that Committee in addition to serving on the Judiciary and Transportation Committees. Among the bills, that he authored Steve's legislative skills helped tackle thorny issues surrounding the privacy of medical records.

Even prior to going to Lansing, Stephen dedicated much of his life to public service and community involvement. Whether it was serving on the Executive Committee of the Gwinn Area Chamber of Commerce, Chairing the Marquette County Airport Board, serving on the Marquette County Re-Apportionment Commission or his work on the Michigan Transportation Commission, Steve has always strived to improve and serve his community and the entire Upper Peninsula.

In the Michigan State House of Representatives, Stephen has represented Marquette, the largest city in the Upper Peninsula. His distinguished record in Lansing has endeared him to his constituents in Michigan. Stephen and I have always enjoyed a special relationship personally and professionally. I look forward to his continued involvement in the communities of Alger, Luce, Marquette and Schoolcraft and I applaud him for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan's 109th legislative district.

It is leaders like Stephen Adamini who make our system of democracy great at all levels—State as well as Federal. On this occasion, I offer my best wishes to Stephen's wife, Linda, his two children Corrine and Stephen Jr., and his grandchildren; Alexandra, Marki, and Ryan. All of them have a great deal to be proud of in Stephen's life and career. Mr. Speaker, I ask that you and our colleagues join me in saluting Stephen Adamini for his record of public service both in Lansing and at home in Michigan's Upper Peninsula.

HONORING THE SERVICE AND CONTRIBUTIONS OF G. LUZ A. JAMES, ESQUIRE, TO THE COMMUNITY OF THE U.S. VIRGIN ISLANDS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. CHRISTENSEN. Mr. Speaker, I rise to pay tribute to G. Luz A. James, Esquire, affectionately known as "Luz James", a Native Son of St. Croix, U.S. Virgin Islands and an individual who distinguished himself by living a life of service to the people and community of the U.S. Virgin Islands and to our Nation.

Luz James served the Virgin Islands community as an educator in the field of Mathematics and Science and was so effective that many of his students found ease in understanding the difficult subjects and some later became teachers because of exposure to his style. Among his numerous honors and recognitions was the conferring of the rank of Honorary Policeman by one of our last appointed governors, Walter A. Gordon. He worked in the Virgin Islands Public Works Department; was a Vocational Rehabilitation Counselor; the Assistant Executive Director of the Virgin Islands Urban Renewal Program, which started developing and renovating depressed areas of the islands at the beginning of the economic boom in the 1960's and the Special Assistant to Governor Ralph M. Paiewonsky in the Office of Public Relations. He was also elected as the first President of the Junior Chamber of Commerce for St. Croix.

Luz was also elected as a Senator in the 12th Legislature of the Virgin Islands, continuing a political tradition that began with his father, who served on the Municipal Council. His brother, Randall, served four terms as a Senator; his oldest son, Luz II served two terms in the Legislature before being elected Lt. Governor for the first term of our present Governor's Administration. One of his nieces ran for a seat in the Legislature and a nephew is presently seeking re-election for a second term.

Luz was also the first Scoutmaster and Founder of Boy Scout Troop 151, under the sponsorship of the Holy Cross Roman Catholic Church, the church in which he was baptized and had a long and involved relationship with throughout his life. He served the church in many positions and was the church's Sacristan at the time of his death. His education began at the school associated with the church, St. Mary's, under the tutelage of the Sisters of the Immaculate Heart of Mary. The Sisters helped kindle his love of the church, and his deep spirituality. Luz was known for his generosity and kindness and he would visit some of the Sisters that had taught him during his childhood. His family has been a member of the Holy Cross Church for more than a century.

Luz James also had a distinguished military career that began as a commissioned 2nd Lieutenant in the U.S. Army upon his graduation from Howard University in 1950 and served a tour of duty years later as an Artillery Officer at Fort Bliss, Texas. He was credited with the formation of the U.S. Army Reserve Units in the U.S. Virgin Islands and Governor Melvin H. Evans appointed him as the first Adjutant General of the Virgin Islands, which gained him the distinction of being the first African-American to serve as an Adjutant General in the in Army National Guard of the United States. At the time of his untimely passing, he and the National Guard were in the process of preparing a pinning ceremony for his promotion to the rank of Brigadier General, during a ceremony that was being planned for next month.

Luz James entered Law School in his mid forties, graduated, became a member of the Virgin Islands Bar Association and had one of the busiest practices on the island of St. Croix. He was also a member of the National and the American Bar Associations. This accomplishment, returning to get his Juris Doctorate degree, was one that inspired three other members of his family to enter the legal field and vividly impressed his youngest son, a medical doctor that an education and desire for self improvement can continue throughout a person's lifetime. In addition to helping many members of his considerable extended family, Luz assisted many Virgin Islanders to pursue and continue their formal educations.

Luz James became a disc jockey during the 1950's, which began his love affair with the broadcasting industry. He and one of his brothers, Randall, a medical doctor, had popular shows on one of the local stations. He later formed Family Broadcasting, Inc., when he acquired WSTX AM and FM, the fulfillment of a dream, which allowed him to revive the show, "Crucian Confusion", a program he originally aired during his first days on the air.

One of his greatest attributes was his willingness to help any person in need, sometimes to his detriment and he would part with his last dollar, without any hesitation, if it would benefit someone else. He served on practically every civic group formed on St. Croix and has been recognized and cited for outstanding contributions to the community from such groups as the Hospital Auxiliary, Parent Teacher Association, the A.M.E. Church, the Zeta Phi Beta Sorority, Inc., the Crucian Forty Plus Baseball Club, the V.I. Midwives Association and the V.I. PAC, a New York based group comprised of Virgin Islanders.

Born on the island of St. Croix, Luz James was the youngest of four brothers that all made significant contributions to the Virgin Islands and to the Nation. He was the last surviving of the brothers and his death on September 17, 2006, ended an illustrious chapter in Virgin Islands history of outstanding community involvement and achievement by one particular generation of a family.

On behalf of the 109th Congress of the United States of America, I salute G. Luz A. James, Esquire, for his dedicated service to his home and community of the Virgin Islands and to his country. I thank his wife Asta and children Barbara, Gerard Luz II, Emmeth and Kelsey, their children and grandchildren, for being the supporting base that permitted him to be shared with a community that is beginning to comprehend his many contributions and the extent of the community's loss.

TRIBUTE TO RICH BROWN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. STUPAK. Mr. Speaker, I rise today to honor Rich Brown, a Representative in the Michigan House of Representatives from the 110th District. The 110th District includes the counties of Gogebic, Ontonagon, Houghton, Keewenaw, Baraga, Iron and part of Marquette County.

Elected to the Michigan House of Representatives in 2000, Rich Brown has been term limited and his service in the Michigan House will therefore end this year. In this case, I believe the term limits law in my home state has deprived the people of Michigan continued service from an exemplary state Representative.

Even prior to going to Lansing, Rich dedicated much of his life to public service and to serving the Upper Peninsula (U.P.) community. Beginning as a broadcaster at WUUN Radio in Marquette before becoming news director at WUPM Radio in Ironwood, Michigan, Rich covered the local issues that matter to the local communities of the U.P. Later, he worked as a reporter for the Ironwood Daily Globe, before beginning public service as Gogebic County Clerk. It was in 1984, that Rich was elected Gogebic County Clerk and Register of Deeds. During his tenure as a County Clerk he received wide acclaim for his public service efforts. He was named Michigan County Clerk of the year in 1992. Rich served as Gogebic County Clerk for 16 years until his election to the Michigan House of Representatives.

In Lansing, Rich has been a tireless champion of "Yoopers," residents of Michigan that live in the state's Upper Peninsula. Rich served on the powerful Appropriations Committee. From that powerful committee, he ensured that the unique transportation needs of northern Michigan were met by bringing state money above the bridge.

Rich's district encompasses much of the "Copper Country," an area rich in history and natural beauty. Rich has been a worthy emissary from this area, representing the area's unique culture and values in Lansing with distinguished pride. The Upper Peninsula faces different issues than issues faced by downstate residents. Rich has recognized those differences and exhibited hard work in our state capital to find creative solutions on both sides of the Mackinac Bridge.

In the Michigan State House of Representatives, Rich has been a stalwart advocate for his constituents. I look forward to his continued involvement in the communities in the Upper Peninsula western end of the Copper Country. I applaud him for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan's 110th legislative district.

While known for his political prowess, Rich was well known throughout the Upper Peninsula as the energetic, entertaining and talented director of Marty's Goldenaires Senior Drum and Bugle Corps from Bessemer. Rich's band has delighted crowds in Michigan and Wisconsin and always draws the loudest, most sincere appreciation of all the drum and bugle corps that are participating in a parade, concert or festival. Under Rich's direction, Marty's Goldenaires are simply "The Best!"

Finally, let me offer my best wishes to Rich's wife, Ann Marie, his two children, Ryan and Emily. All of them have a great deal to be proud of in Rich's life and career. Mr. Speaker, I ask that the U.S. House of Representatives join me in saluting Rich Brown for his dedicated service to the state of Michigan, the people of the Copper Country and Michigan's 110th House District.

TRIBUTE TO PRIVATE CHARLES "BUDDY" SIZEMORE

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PENCE. Mr. Speaker, it is not every day that a fallen soldier is laid to rest 56 years after he was killed in action. But such is the case of Private Charles "Buddy" Sizemore.

As a young graduate of Rushville High School in Rushville, Indiana in 1948, Buddy was drafted into the U.S. Army where he was assigned to Headquarters Company, 2nd Battalion, 8th Regiment, 1st Cavalry Division.

Mr. Speaker, it was on October 19, 1950 that the men of the 1st Cavalry, hitching rides with the 70th Tank Division, took the North Korean capital of Pyongyang at great cost. But the advance of the 8th Army resumed despite a shortage of supplies, including winter clothing. Some riflemen had as few as 16 rounds of ammunition.

On November 1, about seventy miles north of Pyongyang, two Chinese divisions attacked and almost completely destroyed the U.S. 8th Cavalry Regiment and the 1st Cavalry Division. Soon thereafter, six Soviet-supplied armies from Manchuria attacked on all fronts. On November 2, 1950, just six weeks after he had left his Rushville home for Korea, Private Buddy Sizemore and his entire battalion were lost.

Fifty-six years later, after much negotiating between the United States and North Korea, forensic teams from the United Nations and the Pentagon have identified his remains, and on October 14th, there will be a full military funeral at the First Baptist Church in Rushville, Indiana for Private Charles "Buddy" Sizemore.

Mr. Speaker, the Bible tells us if you owe debts, pay debts; if honor, then honor; if respect, then respect. I rise humbly today to pay a debt of honor and respect to Buddy Sizemore.

Buddy is a hero whose service and sacrifice will forever be emblazoned on the hearts of a grateful Nation. I offer my deepest condolences to all of those friends and family members who loved and admired this young man.

TRIBUTE TO THE LATE DON DENNEY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MOORE of Kansas. Mr. Speaker, I rise to pay tribute to Don Denney, the long-time media relations specialist for the Unified Government of Wyandotte County, and Kansas City, KS, who died unexpectedly of a heart attack while at work on September 15.

I wholeheartedly echo the sentiments that Kansas City, KS, Mayor/CEO Joe Reardon shared with the Kansas City Kansan upon learning of Don Denney's death, "Don Denney was a wonderful and talented individual who gave 100 percent of himself to the community with his job at the Unified Government. We shall always remember Don Denney as a man who gave unselfishly as a public servant and citizen to a community that he deeply loved."

A graduate of Kansas City's Ward High School in 1970, Denney had owned a Dairy Queen restaurant and worked previously at the Kansas City Kansan, before beginning his tenure with the city of Kansas City in 1994. He remained with the Unified Government after the city and county consolidated governments in 1997. As former Kansan publisher William Epperheimer noted: "Of all his attributes, loyalty and hard work stood out. Don was a Kansas City Kansan advocate to the end and he worked his tail off for the paper and its readers, just as he was dedicated to the Unified Government and represented it to the metropolitan news media with so much honesty and dedication in his 'second career'."

Don Denney was also well known locally as the athletics announcer for Bishop Ward High School and Kansas City Kansas Community College athletic events, and was planning on announcing the Bishop Ward football game on the evening of the day of his death.

Mr. Speaker, I join with the Unified Government and the citizens of Kansas City, KS, in mourning the untimely death of a dedicated, honest public servant and I include with these remarks a moving tribute to Don Denney that was published in the Kansas City Star.

[From the Kansas City Star, Sept. 16, 2006]

KCK LOSES A FRIEND, SPOKESMAN DENNEY

(By Mark Wiebe)

Don Denney, the face and voice of Wyandotte County and Kansas City, Kan., died Friday morning after collapsing at City Hall.

Denney, 54, began working for the city in 1994 after leaving his job as a reporter for The Kansas City Kansan. He was named spokesman for the Unified Government when the city and county merged in 1997.

But as many at a grief-stricken City Hall said, Denney was much more than the Unified Government's "media specialist," the man who answered reporters' inquiries or showed up at early morning fires. He was a well-connected public figure, a person who effortlessly made friends, who loved his community and worked hard on its behalf. He considered the employees at City Hall his family.

"It's a great loss for the city," said Hal Walker, the Unified Government's chief counsel and a good friend. "He was nearly as visible as any of the mayors he served."

Mayor Joe Reardon called Denney a "wonderful and talented" man: "His love and enthusiasm for our community was infectious."

A Kansas City, Kan., native and graduate of Bishop Ward High School, Denney also was a longtime public address system announcer at the school's athletic games. Known to many as "the voice of the Cyclones," he devoted much of his free time to the school.

Unified Government Commissioner Tom Cooley was with Denney during a meeting Friday morning. He said Denney appeared to be in good spirits. "We were laughing and joking, cutting up," he said. "There was no indication that he was even uncomfortable."

But earlier this week, Denney, a diabetic who suffered a heart attack several years ago, complained of dizziness and said he had experienced a brief blackout. Wyandotte County Coroner Alan Hancock said Denney died of cardiac arrhythmia.

As news spread about Denney's death, reporters were quick to sing his praises. Steve Nicely, a former Kansas City Star reporter, recalled Denney as an honest reporter and spokesman.

"He was a conscientious guy, and I think really had a dedication to the truth," Nicely said. "Sometimes he'd get into trouble because he'd say something that was a little too true. I always thought that was a virtue."

Bob Werly, a former reporter for KMBC-TV, called him one of the best public information officials he'd ever worked with. His deep ties to the community didn't hurt.

"I would stand out in the street with him talking," Werly said. "It just seemed like every other car that came by either honked or waved."

Denney is survived by a brother, Fred Denney, and a sister, Mary Anne Denney. The funeral will be at 10 a.m. Wednesday at Cathedral of St. Peter, 431 N. 15th St.

JOHANNA'S LAW: THE GYNECOLOGIC CANCER EDUCATION AND AWARENESS ACT

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PASCRELL. Mr. Speaker, I rise today to urge the House to take up and pass H.R. 1245, Johanna's Law: The Gynecologic Cancer Education and Awareness Act. This legislation has been cosponsored by 256 Members of the House of Representatives and 40 Senators.

H.R. 1245, through an educational and awareness campaign, will help women understand the symptoms of uterine and other gynecological cancers, the importance of having an annual exam, and the need for open communication with their doctors in an attempt to save women from preventable deaths.

Johanna's Law has the potential to help more than 80,000 women who will be diagnosed with some type of gynecological cancer this year. Beneficial to all women of various ethnicities and socioeconomic backgrounds, the legislation will inform them of preventative measures and help them understand the symptoms which can lead to early detection and subsequently, save lives.

Of the women who will be diagnosed with gynecological cancer this year, 28,000 will die, primarily because they did not recognize their symptoms and the cancer detection came too late to treat the disease effectively.

The 5-year survival rates for the most common gynecologic cancers are 90 percent when diagnosed early. Survival rates drop to 50 percent or less for cancers diagnosed later.

Gynecologic cancers such as ovarian and endometrial cancer do not yet have a reliable screening test that can be used for the general population. The Pap smear reliably detects only cervical cancer. That's why knowing the symptoms of these cancers is key to early diagnosis.

Sadly, recent surveys confirm most women are unaware of the risk factors and do not recognize the early symptoms of gynecologic cancers. This lack of information and understanding is deadly.

September has been declared Ovarian Cancer Awareness Month by President Bush, and governors of all 50 States have also declared September Gynecologic Cancer Awareness Month. However, over one-third of the women diagnosed this year with a gynecologic cancer will die from the gynecologic cancer primarily due to a lack of early education and prevention, as well as effective screening.

Data suggests that with even a modest improvement in outreach and education, we can save lives and precious healthcare resources, and improve the health of our Nation's women. This legislation will accomplish that—through education of both women and their health care providers.

Mr. Speaker, there is clearly a need for Johanna's Law and the time is now. The women of this country and their families deserve no less.

HONORING THE LIFE OF BARBARA C. McENROE

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I wish to submit for the RECORD the following tribute that appeared in NE Magazine on September 17, 2006. For most, words never quite convey the poignancy of the moment. For Colin McEnroe, his craft and the life of his mother merge in beautiful sentiment. I did not know Barbara McEnroe, but I know many families who empathize with her son's article, "Banana Chair Sunset." I sometimes believe that creative and vivid writing is genetic with the Irish, but McEnroe's love of his mother and father unfolds in this article in a way that shares with the reader the unique perspective of a family gathered at the bedside of a loved one soon to be gone. I'm honored to submit this for the RECORD. Our hearts go out to him, his son Joseph, and his family.

[From NE Magazine, Sept. 17, 2006]

BANANA CHAIR SUNSET

(By Colin McEnroe)

She was a tiny person born into a big world.

She was the fourth daughter of the sonless Howard and Alma Cotton. I was told that my grandmother, knowing she would be expected to try again, was too angry to think of a name for the baby. The Cottons owned a general store in Dana, Mass. Ruth, the oldest sister, finally looked at some kind of candy display that offered a list of names. (It was a sort of game where you found out who would be your sweetheart, I believe.) She picked the name Barbara for her baby sister.

At least, that's one version. Ruth told it to me one night after making me promise never to tell my mother.

The next baby was a boy, Gaylord. I don't think my mother ever completely forgave him for being the right answer.

She was not the right answer, but she decided to know the right answers. She was a whiz in school. She was high school valedictorian. She was never quite at home.

She wasn't as tough or as solid as the rest of her family. She was pretty, chatty, restless, troublemaking. Now and then, a teacher would notice her and realize she was a little bit lost. One woman made a point of taking her places, letting her catch glimpses of the world outside rural Massachusetts.

One such place, of course, was Boston, which was a very thirsty town. Years before my mother was born, the city began to outgrow its supply of water. Bostonians cast their eyes around and noticed the Swift River Valley. It might be possible to dam the whole thing up and make a reservoir. Yes, that could be done.

And what about the people who were living right where the enormous body of water would be?

They would have to leave.

Four little towns were dis-incorporated and depopulated. The Lost Towns of the Quabbin. Dana was one of them. The Cottons left a few years early, because Howard had four daughters, and he believed that rough men would be arriving in great numbers for the huge construction projects. He didn't want that kind of trouble.

Gone, gone, gone, the four towns. And gone, gone, gone the five Cottons. Ruth, Gladys, Arlene, Gaylord. And Monday night, the last of them, Barbara.

Nothing was ever exactly home. Nowhere completely right.

"What's the best place you ever lived?" she asked me again and again from hospital beds and wheelchairs, really asking herself.

She graduated from North Brookfield High School—did she mention she was valedictorian?—and eked out a couple of years at Boston University. She came to Hartford. She was a bobby-soxer, overheated and frivolous. She and her friends followed Sinatra around after his show in the city and had a snowball fight with him.

The years went by, full of dates and parties and boyfriends and jobs. Hartford was fun. She met a man, a very peculiar man. He lived in a boarding house on Asylum Hill and worked at United Aircraft. He was handsome and brooding and mercurial. Nobody had ever heard of him. And then, on a single day, this obscure man in the boarding house sold two different plays he had written to Broadway producers.

She couldn't stay away from this man.

They married and lived for a while on Fifth Avenue next to a huge park that scared her a little. They lived for a while in Beverly Hills. Their agent was Swifty Lazar and he took them to all the swank spots; and she didn't have to throw snowballs at the big stars. They chatted away from adjoining tables at Chasen's.

But that didn't last. Nothing ever seemed to last. Nowhere was exactly home. Things were never quite right. It was hard, really, to settle down.

She had a son, and she loved him. It was hard to tell him that in the traditional ways. She wasn't at home in the world. She pushed him hard to work and achieve so that he would feel safer than she did.

She had a grandson, and she loved him. She took him to the park and showered him with presents. On New Year's Eves, she would decorate her apartment and buy hats and noisemakers for her husband and the little boy, and they'd eat shrimp and drink sparkling cider.

Her husband died, and she was alone.

And then she began to forget things. Her son took her to a neurologist, and the doctor said, "I'm going to say three words to you, and I want you to remember them because I'll ask you about them in a little while. Banana chair sunset."

He asked her quite a few other things, and, in the most charming manner possible, she revealed how little she could remember. Laid out there in the doctor's office, it was breath-taking, like the water pooling up and overspreading four whole towns.

"Now," said the doctor, "Do you remember any of those three words?"

"What three words?" she asked.

And that was the beginning of the end. Banana chair sunset.

A couple of years went by. She fell. She got sick.

On Monday evening, her hands and feet grew cold.

The light appeared. You know, the light? The soothing, comforting, all-loving light? She asked the nursing home staff to turn it off. It was bothering her. Things were not quite right. This room was not quite home.

I picture a worried angel, conferring with his peers. She wants the light turned off.

Has this ever come up before? Don't people always like the light?

A few of us sat in a room, in chairs, watching the sunset spread across the bricks of a courtyard outside the window. We talked so that she could hear our voices. And she fell asleep and was gone.

I am surprised to find my heart is broken. My son's heart is broken, too.

Banana chair sunset.

Maybe there's a place you go where finally, finally, everything is just right.

TRIBUTE TO MALLORY REALTY COMPANY

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. WESTMORELAND. Mr. Speaker, I rise today to bring a momentous occasion in my district to the attention of the House. It is not every day that any corporation in the United States reaches the milestone of 100 years in business. And Mallory Realty Company in my district has reached that milestone this year while still being operated by the same family.

LaGrange, Georgia was a very different place than it was when Arthur Eugene Mallory started his business in 1906 after graduating from business school in Atlanta. The Mallorys were not new to LaGrange. They had first come in 1827 and had been involved in the community for years.

1906 was boom time for LaGrange with the opening of new cotton mills and lots of construction of additional houses. It was the perfect time to open a realty business, and Arthur Mallory quickly became busy buying lots and managing rental properties.

As the business grew, more of the family became involved, and its influence in the community also grew. The Mallorys have served in the military, served on boards of local banks, and helped bring economic development to LaGrange.

Three generations of the Mallory family have served the community by working for Mallory Realty. Today, Mallory Realty is the oldest continuously family-owned business in LaGrange. Today they handle over 600 rental units for 52 property owners.

Mr. Speaker, I hope the entire House will join me in congratulating Mallory Realty on its 100 years of service, and wishing them all the best as they move into their second century of service to my state and our Nation.

NUCLEAR MEDICINE WEEK

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. MORAN of Virginia. Mr. Speaker, I rise today to remind my colleagues that October 1–7 is Nuclear Medicine Week. Celebrated annually during the first full week of October at hospitals, clinics, imaging centers, educational institutions, and corporations around the world, Nuclear Medicine Week encourages members of the molecular imaging and nuclear medicine community to take pride in their profession by recognizing their colleagues for their hard work and to educate the public about molecular imaging and nuclear science.

I am proud to note that the Reston, Virginia-based Society of Nuclear Medicine is in my District. The Society of Nuclear Medicine represents over 16,000 physicians, technologists, and scientists specializing in the research and practice of molecular imaging and nuclear medicine. Since the organization's founding in 1954, the Society of Nuclear Medicine has been dedicated to promoting the science, technology, and practical application of molecular imaging and nuclear medicine. I commend the Society and its members for their outstanding work to ensure that the 20 million people annually who rely on molecular imaging and nuclear medicine procedures to diagnose and manage diseases like cancer and Alzheimer's receive quality care.

Nuclear medicine is an established specialty that performs noninvasive molecular imaging procedures to diagnose and treat diseases such as cancer and to determine the effectiveness of therapeutic treatments. It contributes extensively to the management of patients with cancer, including cancer of the brain, breast, blood, bone, bone marrow, liver, lungs, pancreas, thyroid, ovaries, and prostate. Nuclear medicine treatments such as positron emission tomography (PET) scans are crucial in effectively identifying whether cancer is present or not, if it has spread, if it is responding to treatment, and the cancer is in remission.

Molecular imaging also continues to provide critical information to help doctors, technicians, and other health care personnel manage abnormalities of the heart, brain, and kidneys. In fact, recent advances in the detection and diagnosis of Alzheimer's disease can be attributed to nuclear medicine imaging procedures. These advances—which were made possible by research performed by nuclear medicine professionals—helped lead the Centers for Medicare and Medicaid Services (CMS) to extend Medicare coverage to include PET scans for some beneficiaries who suffer from Alzheimer's and other dementia-related diseases.

From advances in cancer diagnosis and treatment to recent breakthroughs in Alzheimer's and dementia research, nuclear medicine is improving lives. I applaud the Society of Nuclear Medicine and its members for their efforts to educate others on these major healthcare innovations during Nuclear Medicine Week, and I urge my Colleagues to join me in supporting policies that will keep our Nation on the cutting edge of molecular imaging and nuclear medicine research.

NEW YORK ACADEMY OF SCIENCES AWARD CEREMONY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. PAYNE. Mr. Speaker, in August 2006, I visited Professor Mesfin Wolde Mariam in Kaliti prison in Ethiopia. Though it was saddening to see him in that kind of a situation, I was nevertheless thrilled to have had the opportunity to pay my respect to a man I have known for over a decade. Professor Mesfin is one of the most dedicated and true champions of human rights. He chose to dedicate his life to studying famine and food security, writing about and promoting human rights and bringing to light issues often ignored and forgotten by many.

I first met Professor Mesfin in the early 1990s, shortly after he founded the Ethiopian Human Rights Council (EHRCO), the most effective human rights organization in Ethiopia. I was with several Members of Congress on an official visit to Ethiopia. We decided to go to EHRCO's office and hold our meeting with Professor Mesfin in order to show our support for EHRCO and to underscore the significance of their valuable work. It was a memorable meeting and the opportunity to learn of their monumental undertaking was very valuable.

Unfortunately, this is not the first time Mesfin is in prison. He has paid dearly over the decades for standing up for what he believes in and for exposing systematic abuses and sometimes neglect as the case may be over a period of several decades. What is amazing about this incredible human being is his sharpness and focus even in prison. This is a dedicated human being who chose to stay in his native Ethiopia to stand up for, and educate the helpless and the neglected, even though he had plenty of opportunity and offers to live comfortably elsewhere.

In April 2006, his three children wrote about their father stating: "Many months have passed since Mesfin Wolde Mariam, the father of all three of us, and grandfather of Semra Kristos, Kokeb, Tinsae and Oscar has been incarcerated. We miss him terribly and would love to see him home. No less important is our utmost respect, concern and commitment for the principles he has so staunchly promoted for longer than anyone of us has been around."

I was thrilled to learn that the New York Academy of Sciences decided to recognize Professor Mesfin for "his leadership in advocating for the disadvantage and in promoting human rights, civil society, and a peaceful transition to democracy." Professor Mesfin deserves this recognition and I thank the New York Academy of Science for its leadership and efforts.

INTRODUCTION OF THE CONTRACTOR ACCOUNTABILITY ACT OF 2006

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mrs. MALONEY. Mr. Speaker, today I introduce legislation that will fortify the current Federal debarment system. The United States is the largest consumer in the world and invests over $215 billion in goods and services annually.

Yet the Federal government's watchdogs, the Federal suspension and debarment officials, currently lack the information they need to protect our business interests. We have no central way of accounting for the performance of our purchases. Beyond a listing of currently debarred or suspended persons, officials are limited to their individual agency's knowledge of an entity's track record, press reports and personal contacts with other agencies. The American public's knowledge is limited even further. Often times this allows Federal contractors and assistance recipients to repeatedly violate Federal law yet still receive millions of dollars from the Federal government. In a time when corporate accounting scandals are being revealed at an unprecedented pace, isn't it wise to have a full accounting of the Federal government's investments?

The Contractors Accountability Act of 2006 establishes a centralized database on actions taken against federal contractors and assistance participants, requiring a description of each of these actions. This will provide debarring officials with the information they need to protect the business interests of the United States. It places the burden of proving responsibility and subsequent eligibility for contracts or assistance on the person seeking contracts or assistance should they have been previously convicted of two exact or similar violations that constitutes a charge for debarment. Additionally, it improves/clarifies the role of the Interagency Committee on Debarments and Suspension and provides for retention by the prosecuting Federal agency of fines paid by offender for reimbursement of costs associated with suspension and debarment activities.

IN TRIBUTE TO DOROTHY ANN WILLIS RICHARDS, CIVIC LEADER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. RANGEL. Mr. Speaker, I rise today in recognition of the life of Dorothy Ann Willis Richards, known to us all as Ann Richards, and her lifelong commitment to equal rights, education and full participation of all people in the political process. Ann Richards lost her battle to esophageal cancer, at the age of 73, on September 13, 2006 at her home in Austin, Texas—she was only diagnosed with cancer in March of this year. Following her diagnosis she underwent chemotherapy treatments and was poised to fight her illness with vigor and tenacity just as she fought her personal demons and political opponents.

Ann Richards had a zest for life that was evident and infectious. She made those of us fortunate enough to have known her, smile just at the mention of her name. She was a wonderful public speaker and found ways to intimately connect with real people by tackling difficult issues that affected their everyday lives such as the relegation of women to the home and the exclusion of minorities in the political process.

Ann was tremendously tenacious but possessed a quick wit. She was well known for her zingy one liners and warm sense of humor. She once said, "I learned early on that people liked you if you made them laugh," and throughout her lifetime she kept the jokes coming.

Born in Lakeview (now Lacy Lakeview) Texas in 1933, Ann was first introduced to politics after joining the debate team and participating in Girls State—a program where high school students are invited to the capitol to participate in a mock government. However, before entering politics in 1976, she earned her teaching certificate and taught social studies and history at Fulmore Junior High School. This was her life's passion. She once said that teaching was the hardest work she ever did and her commitment to educating youth did not dissipate with age.

Committed to issues of equity and inclusion, Ann spent much of her life championing causes related to the marginalization of women and minorities in particular. She dedicated herself to increasing the role of women in politics. Ann organized training sessions throughout Texas designed to empower women in politics and succeeded in improving the visibility of women in the National Democratic Party. Leading by example, she embarked upon her own political career in 1976 when she ran against and unseated a three term incumbent to become Travis County Commissioner. She would serve in this capacity for four years before being elected State Treasurer in 1982, becoming the first woman to hold an office at the State level since Miriam "Ma" Ferguson in the 1920s. Ann became the Governor of Texas in 1991 and continued to champion the inclusion of all people in the political process.

While in office, Ann oversaw a program of economic revitalization that grew the state's economy. As governor, Ann appointed Zan W. Holmes Jr., the first African American appointed to the University of Texas Board of Regents; she redirected revenue from the state lottery to a school fund to support public education; and launched the Robin Hood plan, an attempt to equalize funding across school districts. Through these measures, Ann was successful in changing the ways that both Texas and our country thought about and treated women, ethnic minorities, people with disabilities, and members of the Gay, Lesbian, Transgender, and Bisexual communities. Ann once remarked that she entered politics to help those who were often ignored by the Texas' male dominated establishment.

After losing the gubernatorial race to George W. Bush in 1995, Ann served in various capacities. She worked as a political strategist and labored on many democratic campaigns, often campaigning on behalf of candidates like Howard Dean. She continued to teach, introducing courses such as Women and Leadership at the University of Texas; worked diligently to establish the Ann Richards School for Young Women Leaders, which will open its doors next year; and lived as an example for all those battling substance abuse. These are but a few pieces of Ann's selfless contributions and they will never be forgotten.

We all mourn the loss of Dorothy Ann Willis Richards. Her words and her deeds, much like her striking silver hair, will long be remembered. Although she was a wonderful cook, she held that title contrary to the prevailing image of the quintessential woman, at the time, she did not want to be known for having kept a clean home rather she wanted to be remembered for having helped others.

My friend, your wish has been granted. Through your words and deeds you have left an indelible mark on both the great state of Texas and on our Nation.

[From the New York Times,
Sept. 14, 2006]

FORMER TEXAS GOV. ANN RICHARDS DIES

(By The Associated Press)

AUSTIN, TEXAS (AP)—Former Gov. Ann Richards, the witty and flamboyant Democrat who went from homemaker to national political celebrity, died Wednesday night after a battle with cancer, a family spokeswoman said. She was 73.

She died at home surrounded by her family, the spokeswoman said. Richards was found to have esophageal cancer in March and underwent chemotherapy treatments.

The silver-haired, silver-tongued Richards said she entered politics to help others—especially women and minorities who were often ignored by Texas' male-dominated establishment.

"I did not want my tombstone to read, 'She kept a really clean house.' I think I'd like them to remember me by saying, 'She opened government to everyone,'" Richards said shortly before leaving office in January 1995.

Whether or not she succeeded at that, there was no question she cracked open the door.

Her single term as governor had ended in a 1994 defeat to George W. Bush, who went from besting his father's silver-haired critic to the governor's office to the presidency.

"Texas has lost one of its great daughters," President Bush said in a statement after learning of Richards' death.

Two years before she was elected governor of Texas, Ann Richards electrified the 1988 Democratic National Convention with a keynote speech in which she joked that the Republican presidential nominee, George H.W. Bush, had been "born with a silver foot in his mouth."

A longtime champion of women and minorities in government who was serving at the time as Texas state treasurer, she won cheers when she reminded delegates that Ginger Rogers did everything Fred Astaire did, "only backwards and in high heels."

As governor, Richards appointed the first black University of Texas regent, the first crime victim on the state Criminal Justice Board, the first disabled person on the human services board and the first teacher to lead the State Board of Education. Under Richards, the fabled Texas Rangers pinned stars on their first black and female officers.

Ron Kirk, the black former mayor of Dallas, said Richards helped him get his first political internship during a state constitutional convention in 1974 and later, as governor, made him secretary of state.

"She set the table so somebody like me could become mayor of Dallas," Kirk said.

She also polished Texas' image, courted movie producers, campaigned for the North American Free Trade Agreement with Mexico, oversaw a doubling of the state prison system and presided over rising student achievement scores and plunging dropout rates.

Throughout her years in office, her popularity remained high. One poll put it at over 60 percent the year she lost her re-election bid to Bush.

Republican Texas Gov. Rick Perry described Richards as "the epitome of Texas politics: a figure larger than life who had a gift for captivating the public with her great wit."

"Ann loved Texas, and Texans loved her," President Bush said. "As a public servant, she earned respect and admiration. Ann became a national role model, and her charm, wit and candor brought a refreshing vitality to public life."

U.S. Sen. Kay Bailey Hutchison, R-Texas, said Richards never lost her zest for life.

"I wrote her a note when I heard about her cancer and she wrote me back a wonderful letter. She was upbeat and positive and I think she was going to go out with guns blazing," Hutchison said Wednesday night.

Richards was diagnosed with cancer in March and underwent chemotherapy treatments.

Her four adult children spent the day with her before she died Wednesday night at her home in Austin, said Cathy Bonner, a longtime family friend and family spokeswoman.

Born in Lakeview, Texas, in 1933, Richards grew up near Waco, married civil rights lawyer David Richards and spent her early adulthood volunteering in campaigns and raising four children. She often said the hardest job she ever had was as a public school teacher at Fulmore Junior High School in Austin.

In the early 1960s, she helped form the North Dallas Democratic Women, "basically to allow us to have something substantive to do; the regular Democratic Party and its organization was run by men who looked on women as little more than machine parts."

Richards served on the Travis County Commissioners Court in Austin for six years before jumping to a bigger arena in 1982 when her election as state treasurer made her the first woman elected statewide in nearly 50 years.

But politics took a toll. It cost her a marriage and forced her in 1980 to seek treatment for alcoholism.

"I had seen the very bottom of life," she once recalled. "I was so afraid I wouldn't be funny anymore. I just knew that I would lose my zaniness and my sense of humor. But I didn't. Recovery turned out to be a wonderful thing."

After her re-election defeat, Richards went on to give speeches, work as a commentator for Cable News Network and serve as a senior adviser in the New York office of Public Strategies.

In her last 10 years, Richards worked for many social causes and helped develop the Ann Richards School for Young Women Leaders, scheduled to open in Austin in 2007.

Richards said she never missed being in public office. She grinned when asked what she might have done differently had she known she would be a one-term governor.

"Oh," she said, "I would probably have raised more hell."

HONORING OCTOBER AS NATIONAL SPINA BIFIDA AWARENESS MONTH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to commemorate October as National Spina Bifida Awareness Month. There are an estimated 70,000 people in the United States who are affected by Spina Bifida, the most common, permanently disabling birth defect. Of particular concern is that members of the Hispanic community are disproportionately at-risk of a Spina Bifida pregnancy. The rate of Spina Bifida in the Hispanic population is almost seven in 10,000 births, nearly 40 percent higher than the non-Hispanic rate. However, fortunately there are steps that can be taken to reduce that risk.

An important goal of National Spina Bifida Awareness Month is increasing awareness and consumption of—a simple vitamin that can help reduce the risk of Spina Bifida. Recent studies have shown that if all women of childbearing age were to consume 400 micrograms of folic acid daily prior to becoming pregnant and throughout the first trimester of pregnancy, the incidence of Spina Bifida could be reduced by up to 70 percent. According to the Centers for Disease Control and Prevention (CDC) and the Spina Bifida Association (SBA), all women of child-bearing age should consume a vitamin every day which provides them with 400 micrograms of folic acid. Multi-vitamins with folic acid or folic acid supplements can be found in the local grocery, pharmacy, or discount store.

Unfortunately at the current time, imported corn flours—unlike most wheat flour and cereal products—are not enriched with folic acid. Which means a majority of the corn-based products sold in the United States and consumed by the Hispanic community does not contain this important vitamin. To address this disparity and ensure that the foods consumed by the Hispanic community in the United States are enriched with folic acid, in July of this year, CDC, SBA, the National Council of La Raza, Wal-Mart, and Gruma announced an important initiative that has the potential to reduce the incidence of Spina Bifida among all babies by 70 percent by helping increase the intake of this nutrient among women.

With proper health care and support, people affected by Spina Bifida can live productive and fulfilling lives. In addition to supporting efforts to prevent Spina Bifida, I also urge additional federal attention to—and funding of—efforts, like the National Spina Bifida Program, to improve the quality-of-life for all who are affected by this birth defect. I would like to thank the SBA and its Florida chapters for their work on Spina Bifida Awareness Month and for being steadfast in their commitment to helping prevent and reduce Spina Bifida, particularly among the Hispanic community in the United States.

HONORING CHUCK GESCHKE AND JOHN WARNOCK FOR THEIR INNOVATIVE ACHIEVEMENTS IN THE TECHNOLOGY INDUSTRY

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to honor Mr. Chuck Geschke and Mr. John Warnock, founders of Adobe Systems, Inc. Although each man is most definitely worthy of his own separate congressional accolade, it is their teamwork and their shared passion that created a company that invented new forms of communication that assists thousands if not millions of people on a day-to-day basis.

Mr. Geschke and Mr. Warnock are industry pioneers in the true spirit of Silicon Valley. Prior to co-founding Adobe, Geschke and Warnock worked at Xerox's Palo Alto Research Center, PARC. Unable to convince Xerox management of the commercial value of Mr. Warnock's Interpress graphics language for controlling printing, the two boldly left Xerox to start Adobe. At their new company, they developed an equivalent technology, PostScript, from scratch and brought it to market.

Today, their technology is ubiquitous. It assists hundreds, if not thousands of businesspeople, families, artists, entrepreneurs and dreamers in sharing their ideas across platforms and without boundaries.

Their ignition of the desktop publishing revolution through PostScript technology created new opportunities for the use, digitization and compression of ideas, images, and text. Their vision has evolved into a multi-solution approach to various challenges that include household names such as Acrobat, Illustrator and Photoshop—no longer a circus performer, an artistic occupation and a place to get film developed—but cool new ways to communicate, efficiently and clearly.

Geschke and Warnock's entrepreneurial success has been chronicled by some of the country's most influential business and computer industry publications, and they have received numerous awards for technical and managerial achievement, including their most recent, the Medal of Achievement Award from the American Electronics Association.

Innovation is rarely the effort of one person or one idea, but is rather the symbiosis of knowledge, intellect, genius, creativity, entrepreneurship, risk-taking and, in Silicon Valley, a kind of fleeting wing-and-a-prayer faith that things will turn out for the best. Mr. Geschke and Mr. Warnock have certainly filled the giant footsteps of their predecessors by taking their bold idea, based upon well-studied science and invention, moving forward with it and daring to do the impossible.

It is an honor to stand here in the shadow of their achievements and thank them for their contributions and the example they have set for the hopeful engineers, entrepreneurs and businesspeople of the coming generations.

A TRIBUTE TO BALTIMORE COUNTY STATE'S ATTORNEY, SANDRA O'CONNOR

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. RUPPERSBERGER. Mr. Speaker, it is my great honor to rise before you today to salute a woman who has spent many years working towards bettering the quality of life in the State of Maryland. Sadly, after 32 years of service the eight time elected Maryland State Attorney, Sandra O'Connor, will give up her post. She is the longest serving prosecutor in the State of Maryland.

As a former prosecutor, I had the privilege of working under Sandy during her tenure. I have great respect and admiration for the work she has done over the last 32 years. She continuously worked to support victims and witnesses. In fact, she is responsible for creating the first unit in Maryland to assist victims and witnesses. Mrs. O'Connor cracked down on criminals by establishing tough standards for people who use handguns as well as commit violent crimes in Baltimore County. As a direct result of her leadership, Baltimore County has the most offenders serving no-parole sentences in Maryland. She has also established a Child Abuse and Sexual Offense Unit, and a Repeat Offender Unit. In addition, she has established programs for Rape Awareness and "Better Safe Than Sorry".

Without a doubt, this is a woman of great caliber. Her grace, dignity, and unparalleled determination set her apart from so many in her field. She worked tirelessly through the years to remain free from partisan views and instead focused on how to better assist Maryland citizens.

Mrs. O'Connor not only devoted her time to the State's Attorney for Baltimore County office, but also to a number of other organizations. She is the Vice-President and Director of the National District Attorney's Association; a past president of the Maryland State Attorney's Association; and she was appointed to serve on the Board of Directors for the State Justice Institute and the Advisory Board for the National Information Center. Mrs. O'Connor has also been honored by a number of organizations for her outstanding service. In addition to serving on these boards, Sandy also lectures at the National College of District Attorneys and in 1991 she was a recipient of the Distinguished Faculty Award.

As a graduate of Catonsville Senior High, Indiana University, and Indiana University School of Law she has made her alma maters proud. Mrs. O'Connor has set the standard extremely high and leaves big shoes to fill. Confidently, I can say that she is the best in this field and Baltimore County was lucky to have her for so long.

Mr. Speaker, I ask that you join with me today to salute State's Attorney for Baltimore County, Sandra O'Connor, for a remarkable job. She will always be remembered for raising the bar and setting the precedent for future Baltimore County State's Attorneys.

IN HONOR OF SEYMOUR ROBINSON, MAY 24, 1916–SEPTEMBER 13, 2006

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. BECERRA. Mr. Speaker, I rise today to pay tribute to Mr. Seymour Robinson, a passionate advocate, a loving family man, and a good friend who passed away on Wednesday, September 13, 2006. Family and friends will be gathering for a memorial service on October 1 in Los Angeles to honor Seymour's long and full life, which was marked by a remarkable family, dedicated community service, and incredible friendships.

When an e-mail came through from "SEYNITA@aol.com," you always knew you were in for a treat. Seymour reached out to so many of us on so many days—with e-mails containing an interesting article, a good joke, a personal observation, or a call to action. His email distribution list included members of

Congress, community and business leaders, neighbors, friends, and just about anyone who was willing to sign up. So when the message arrived not long ago from SEYNITA@aol.com with the subject line "Seymour Robinson memorial service," everyone from our Nation's leaders to faraway friends stopped in our tracks. Even when our loved ones and friends reach the amazing age of 90, we are still unprepared and deeply struck by their deaths. We come to rely on them to always be there, so that they might bestow upon us the strength and wisdom that we both need and appreciate.

Seymour brought contagious energy and vigor to his life's activities. A tireless advocate who was always there to roll up his sleeves and fight, Seymour fought as a labor organizer for living wages, as a community organizer for racial integration and harmony, and as a political coordinator for AARP/Vote. While serving on the Mayor's Advisory Committee, he helped former Los Angeles Mayor Richard Riordan govern better. During my tenure here in this body, he has helped me serve the interests of our seniors better through his AARP/Vote advocacy.

And a special note about Seymour's service to our country during World War II.

Seymour received the Croix de Guerre for his contributions during the D–Day invasion and the liberation of Paris. Our country owes a debt of gratitude to veterans like Seymour who fought on the battlefields of yesteryear for the freedoms we hold today.

Our deepest sympathies are extended to his beloved wife of 60 years, Anita Robinson; children: David, Lorraine, and Billy Robinson; and his granddaughters: Rachel and Mara Woods-Robinson. Rarely do partnerships like Anita and Seymour's achieve the depth of commitment they had. To see Seymour light up when sharing a story about their travels was to see a man so passionately in love with his wife and so proud and content with their life together.

Mr. Speaker, it is with heart-felt sorrow, yet great pride and admiration that I ask my colleagues to join me today in saluting Seymour Robinson. And though we are all comforted knowing that Seymour rests in peace, we also know that we have marching orders and must continue fighting for social justice in his honor.

TRIBUTE TO COLUMBUS, GEORGIA

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. WESTMORELAND. Mr. Speaker, I rise to recognize one of the cities in my district, and its commitment to advancing the true ideals of the American Dream.

Columbus, Georgia, was founded on the Chattahoochee River, and was the birthplace of the Coca-Cola formula. But it achieved another vital distinction earlier this year, when Columbus was recognized as Georgia's largest city to achieve the "Entrepreneur Friendly Community" designation by the Georgia Department of Economic Development's Entrepreneur and Small Business Office.

Columbus and its Chamber of Commerce have worked closely to develop a Small Business Development Center and encourage the location of businesses in Columbus. So far, the Business One Stop Shop has helped more than 850 small businesses in the city.

Achieving this designation and involved a lot of hard work and effort. But it also demonstrates the spirit of the people of Columbus—working hard, helping their neighbors, and doing everything possible to ensure that the American Dream is encouraged.

Mr. Speaker, Columbus is an example to our entire Nation of the possibilities that can be achieved. And their work will not stop now, but will continue as Columbus continues to grow.

INTRODUCTION OF THE "CIVIL WAR ARTIFACT AUTHENTICITY ACT"

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing the "Civil War Artifact Authenticity Act" that will curb the proliferation of fraudulent Civil War artifacts and memorabilia entering the legitimate market place.

Since the last shot fired in America's Civil War, countless numbers of people across the Nation have become fascinated with this monumental conflict. From the battlefields of Virginia and Louisiana's Red River to the hallowed ground of Antietam, Gettysburg, and thousands of other places that saw brother fighting brother, this war touched virtually every part of this country and every home and hearth. More than 600,000 combatants died from battle, disease, and imprisonment.

With the war's end, soldiers who fought in that conflict returned frequently, often with families in tow, to the places of the most stirring moments of their lives. They revered the fields on which they fought and established numerous associations, North and South, commemorating those who served. These veterans created strong links to their service and sacrifice, through their memoirs and other writings and the personal items and artifacts they carried on the battlefield and brought home to rest in conspicuous places on the mantles of their homes in recognition of the soldiers' service and sacrifice.

Over the ensuing decades, as the soldiers and families who owned and cared for these artifacts died away, many of these heirlooms began to scatter, particularly as later generations forgot the importance of these historic belongings, failed to care for them, or sold the items to augment their incomes.

With the arrival of the 100th anniversary of the Civil War, and the deaths of the last Union and Confederate soldier, respectively, in 1956 and 1961, people began to consider the importance of these relics, personal items, letters, diaries, and other memorabilia that the soldiers took home. Scholars and researchers, collectors, museum curators, and others who knew the historic importance of these artifacts have renewed the connections to the conflict and have sought to protect and preserve the Civil War's tangible heritage that the soldiers cherished. From the day the guns fell silent up until this moment, these artifacts and other memorabilia have helped us define and understand our Civil War.

The personal artifacts of the Civil War have spawned a large and growing interest in the Civil War. Probably more books and articles have been written about the war than any other era in our history. Researchers, writers, curators, and many average Americans have felt the need to own, study and preserve what that long-gone generation once owned. These artifacts which now populate the homes, shops, museums, schools and any number of other venues have great meaning for many of us today. As a result, entrepreneurs have opened commercial establishments to trade these relics in honest commercial enterprise.

The fascination with the Civil War has grown a new generation of sellers and collectors. Original artifacts and memorabilia have skyrocketed in value among collectors and others. A "belt plate," which most people know as a buckle, sold for $5 in 1960, and now cost as much as $200 to a $1,000 depending on the particular item. Sadly, unscrupulous people have opened new markets in fraudulent items that never saw the Civil War.

As a result, the entry of fake items into the market for relics and artifacts not only cheats people financially, but also disrupts historical scholarship and the legitimate display in museums and other venues. Internet trade makes it easier for people to sell fake items to unschooled and unwary buyers because the con artists are unknown, many working overseas to flood the market with costly junk. To protect the true artifacts of the Civil War era, I propose new legislation designed to interfere with the manufacture and sale of fraudulent items, and increasing the awareness among sellers and buyers of the large trade in these fake items.

My bill would add a second title to existing Federal law, the "Hobby Protection Act," which requires that fake political items and memorabilia, and numismatic items must have the words "copy" or "facsimile" clearly stamped on them to ensure that they are recognized as replicas or non-authentic items. Because original Civil War artifacts and memorabilia are highly prized and can reach into the thousands of dollars depending on the particular item, those determined to make a dishonest dollar, can easily replicate an original item, or worse, produce an item that is a pure fantasy piece—an artifact that never existed during the Civil War.

While this legislation will not end the trafficking in fake Civil War items, it will provide sanctions through the Federal Trade Commission for manufacturers who purport to offer authentic Civil War relics and artifacts, when they are in fact fake junk.

I know that the House will adjourn soon, and I have little expectation this bill will be considered. It is my hope that bill will serve as a marker and a starting point for what the House may consider next session and these artifacts and memorabilia of the Civil War era will retain their historic importance for generations to come.

TRIBUTE TO JOHNSON & JOHNSON AND TIBOTEC THERAPEUTICS FOR THE DEVELOPMENT OF A NEW DRUG FOR HIV/AIDS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. PAYNE. Mr. Speaker, I rise today to congratulate Johnson & Johnson and Tibotec Therapeutics on its entry into the HIV/AIDS market with the launch of Prezista. On June 23, 2006 the U.S. Food and Drug Administration (FDA) granted accelerated approval to the anti-HIV medication Prezista™ (darunavir) tablets. Prezista, a protease inhibitor previously known as TMC114, was developed by Tibotec Pharmaceuticals Ltd. and will be marketed in the U.S. by Tibotec Therapeutics. Prezista is indicated for treatment-experienced adult patients, such as those with HIV–1 strains resistant to more than one protease inhibitor.

I am pleased that a company in my home state of New Jersey has responded to the HIV/AIDS crisis in a time when new innovations are essential in order to provide life saving medications to HIV/AIDS patients.

Mr. Speaker, as you may know, the U.S. Food and Drug Administration, FDA, has granted accelerated approval to the anti-HIV medication Prezista™ (darunavir) tablets. Prezista, which is a protease inhibitor previously known as TMC114 was developed, by Tibotec Pharmaceuticals Ltd.

The FDA accelerated approval procedures allow for earlier approval of drugs that provide a meaningful therapeutic advantage over existing treatment for serious or life-threatening diseases. This approval is based on the 24-week analysis of HIV viral load and CD4+ cell counts from the pooled analysis of the TMC114–C213, POWER 1, and TMC114–C202, POWER 2, studies.

One of the most challenging obstacles in the care for HIV is finding proper therapies for treatment-experienced patients. Prezista is an important new option for the thousands of people with HIV in the United States who are resistant to more than one protease inhibitor.

Additionally, the Fair Pricing Coalition believes that Tibotec Therapeutics has priced Prezista responsibly. This is a particularly thoughtful move on the company's part since it recognizes the crisis of federal funding constraints faced by payers in and out of government and the health care system. I am pleased to see that the spirit of philanthropy has not eluded the makers of this much needed drug by putting the needs of patients first.

Johnson & Johnson recognizes the unparalleled global challenge posed by the AIDS epidemic and our response to collaborate in the international response to HIV, particularly through providing access to our HIV medications. For sub-Saharan Africa and Least Developed countries, Johnson & Johnson is actively pursuing licensing and technology agreements in order to enhance the affordability of Prezista. They are in negotiations with generic manufacturers and anticipate that by working with generic manufacturers, Prezista/darunavir can be offered at substantially reduced prices.

Mr. Speaker, I congratulate the makers of this drug and encourage more companies to follow in their footsteps.

200TH ANNIVERSARY OF THE ANTI-SLAVE TRADE ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. RANGEL. Mr. Speaker, next year will be the 200th anniversary of the ending of the trans-atlantic trade by Great Britain, the beginning of the end of what was perhaps the greatest human tragedy in history.

I join the members of the British Parliament and the African Diaspora across the globe in anticipation of the 200th anniversary of the passage of the Anti-Slave Trade Act by the British Parliament in 1807.

For four and a half decades, hundreds of millions of Africans were bought and sold into slavery as part of the transatlantic slave trade while many others lost their lives during the Middle Passage. I believe this anniversary presents America with an opportunity to reflect on this dark part of our history and speak out against the continued conditions of slavery that millions still face across the globe.

Indeed, as America continues to mourn and regret its involvement in the human rights violations of that time, we must not forget the wonderful legacy of African-American abolitionists such as Frederick Douglas, Harriet Tubman, Sojourner Truth, and many others. It was through their courage and determination that slavery ended in the United States.

We must continue to meet the challenge of repairing the harm done to black Americans by the legacy of slavery in this Nation. By so doing, let us remember the connection between policymaking and the need for a more equitable society. Congress must continue to pass legislation which allows for broader access to education, health care, and jobs for minority groups across the country. Much like the fight against slavery, we must strengthen our resolve to fight poverty, crime, and other conditions that many face in the U.S.

This is also a time for us to show a renewed commitment to the African continent, recognizing it as the ancestral home to the Diaspora across the globe. We must remember that millions of people were ripped from their homes, taken on a perilous journey across the Atlantic, and stripped of their culture and language. As a result, the loss of life and potential that Africa endured was a contributing factor to the under-development the continent faces today. We must show our commitment through trade, education, the fight against HIV/AIDS, and poverty in general.

It is my hope that this 200th anniversary will be a way of bringing education and awareness about the rich heritage and culture of Africa embedded in America and the Caribbean through the Diaspora. I look forward to next year's anniversary. It is my hope that in remembering slavery we are reminded that we must never allow that dark history to repeat itself.

FURTHER THANKS TO SUBHASRI RAMANATHAN

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Ms. ZOE LOFGREN of California. Mr. Speaker, years before Sue Ramanathan became Democratic Chief Counsel and Deputy Staff Director on the Committee on Homeland Security, I had the pleasure of having due on my personal staff for 5 years as Counsel and Senior Policy Advisor on immigration, trade, tax, and many other issues.

On my staff, Sue was always ready and willing to use her keen understanding of immigration policy to work with me on several pieces of immigration related legislation, knowledge and experience she used so well in her tenure on the Homeland Security Committee. In fact, Sue became known as one of a select few staff members in the House of Representatives with a deep knowledge of immigration policy. In other words, Sue was the "go-to" staff member on immigration.

While Sue demonstrated a strong expertise in immigration policy both on my staff and as Chief Counsel on Homeland Security, Sue also had a passion and interest in other policy areas. From technology and trade to tax and foreign policy, Sue always had a powerful grasp of the issues.

After almost 10 years as a staff member in the House of Representatives, Sue has now moved onto the General Accountability Office. Congress has lost a valuable staff member, but the GAO has gained a tremendous asset. I am proud that Sue was once a member of my staff, and grateful that she served the Congress as a whole on the staff of the Homeland Security Committee. I wish her the best in her new position at the GAO.

RECOGNIZING THE 80TH WEDDING ANNIVERSARY OF DONALD AND MARGARET MERGLER

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to recognize a very significant occasion. I am proud to represent two people who have lived a full life of love and happiness. Donald and Margaret Mergler celebrated their 80th wedding anniversary on September 4, 2006.

The Merglers are believed to be the oldest living married couple in the United States. In the world we live in today, marriages sometimes don't last more than a year let alone 80. This couple is truly worthy of recognition for such a joyous occasion.

The 98-year-olds have known each other since grade school. They were both born and raised in Havre de Grace, Maryland. As children in grade school the couple knew each other, but it wasn't until Donald offered Margaret a ride home from their church's Christmas pageant, the two became a couple.

After the Merglers were married, Mr. Mergler's career took them on a tour of Maryland's neighboring States. Mr. Mergler was a jockey at the race tracks for many years. After he hung up his reins, Mr. Mergler relocated the family back to the Havre de Grace area where he worked as an assemblyman for the company now referred to as Lockheed Martin. The couple remained here for the rest of their working years. While Mr. Mergler put together helicopters for Boeing, Mrs. Mergler chauffeured military persons and supervised mail distribution at Aberdeen Proving Ground.

Mr. Speaker, I ask that you join with me to commemorate the union of Donald and Margaret Mergler. Much can be learned from the 98-year-old couple about love, life, and happiness. I extend my heartfelt congratulations to them for reaching their 80th wedding anniversary.

IN HONOR OF SISTER DIANE DONOGHUE ON THE OCCASION OF HER RETIREMENT

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to pay tribute to Sister Diane Donoghue, a uniquely committed individual who has contributed over 50 years of her talents and passion toward helping others. On October 5, 2006, community members and leaders throughout Los Angeles will be honoring Sister Diane at a "Legacy Celebration" in recognition of her retirement from the Esperanza Community Housing Corporation.

"Esperanza"—a Spanish word that rolls off the tongue with a powerful vibration—in English means "hope." Throughout the scope of her public service career, Sister Diane has looked into the eyes of those losing hope—teenagers struggling with mental health issues, heroin-addicted women, ailing garment workers without health insurance, and parents with housing eviction notices—and offered the gift of hope. But, as Sister Diane personally knows, offering the gift of hope is not an easy or simple task—it's a grave and serious responsibility that demands the hard work of collaboratively developing real, feasible solutions and tools for success.

Diane Catherine Donoghue entered the Sisters of Social Service in 1955 and began her journey of challenging unjust social and economic forces that has now spanned over 50 years. Her journey led her to the heart of my congressional district and in 1985 Sister Diane became the community organizer for St. Vincent de Paul Catholic Church at Adams Boulevard and Figueroa Street in South Central Los Angeles. When she heard the plea of a family who was about to be evicted to make room for another garment factory, and she listened to other families' troubles finding safe and affordable housing, she took action. Sister Diane worked with the local community to form the Esperanza Community Housing Corporation and within 9 years they completed a $6.5 million project, Villa Esperanza Apartments, which offers 33 units of affordable housing for large families, a community center, and an onsite Head Start program. Nine additional housing projects, now totaling 165 units of safe, affordable housing, followed as a result of the work of Sister Diane and the Esperanza Community Housing Corporation.

Building on its success, the Esperanza Community Housing Corporation expanded its mission to become a multipurpose social service agency featuring five program areas that address the neighborhood's most pressing needs: affordable housing, community health, education, arts and science, and economic development.

As an economic development project, Sister Diane and Esperanza undertook the task of creating the Mercado la Paloma in South Los Angeles. This dynamic neighborhood-based public market site allows close to 20 low-income entrepreneurs to realize the dream of owning their own business, gives 110 individuals jobs, and provides community gathering space and offices for local non-profits. The Mercado today functions as a vibrant neighborhood center and marketplace because of the leadership and efforts of Sister Diane. The Mercado provides a fitting location to hold her Legacy Celebration.

Not surprisingly, Sister Diane's 50-year public service career has been marked by numerous awards: the Lifetime Achievement Award from the Southern California Association of Non-Profit Housing, the UCLA Alumni Award for Community Service, the Empowerment Award from the Los Angeles Archdiocese, an Honorary Doctorate from Occidental College, and the Courage in Community A ward from the McAuley Institute. I would argue though that her greatest achievements are not marked by awards, but by the vastly improved living conditions of those she has served in the community. Her greatest awards are not plaques, but the faces you see entering the Villa Esperanza apartment complex or behind the counter at a shop within the Mercado.

Mr. Speaker, it is with great admiration and pride that I ask my colleagues to join me today to salute this exceptional woman. Romans iv.18 states, "Who against hope believed in hope." Sister Diane Donoghue and her legacy embody this New Testament scripture. Throughout her 50-year public service career, when faced with the needs of the destitute and downtrodden, she believed in hope, helped others believe in hope, and created a path toward positive change in countless lives.

TRIBUTE TO LARRY SANDERS

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. WESTMORELAND. Mr. Speaker, I rise to offer a tribute to a great Georgian and a great American. Larry Sanders has been a fixture of the Columbus community for more than 20 years.

Larry moved to Columbus 22 years ago and began to work with the Columbus Regional Healthcare System and eventually moved to the CEO and board chairman positions. Throughout his service, Larry has been involved in a wide spectrum of community activities, including serving as chairman of the Columbus Chamber of Commerce, and serving on the boards of the Boy Scouts, Columbus Rotary, and Leadership Columbus.

He was recently recognized as a recipient of the Chattahoochee Council of the Boy Scouts of America Distinguished Citizen Award. In receiving that award, he joins the ranks of such luminaries as former Senator Sam Nunn. The Chattahoochee Council gives the award to recognize an individual or group that undertakes outstanding service to our Nation, the state, or the local community. By presenting the award, the Chattahoochee Council calls attention to the honors, contributions, and good works of individuals.

Mr. Speaker, Larry's service to our State and Nation definitely sets an example for young people across the country. As the Distinguished Citizen this year, I call the House to remember his accomplishments and service as we all continue serving our States and this country.

A SPECIAL TRIBUTE TO LINDA FREED ON THE OCCASION OF HER RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to Mrs. Linda Freed, upon her retirement from her position as editor of the Bryan Times newspaper in Bryan, Ohio.

Linda Freed grew up in the small community of Bryan, Ohio, in Williams County where the journalistic skills which have served her well over the years were instilled at an early age. It is said, that as early as junior high, Linda began expressing her desire to write for a newspaper. Staying true to her dreams, Linda began her career at the Bryan Times newspaper on her 30th birthday as a secretary to the advertising manager on September 22, 1966. After only 1 year in that capacity, Linda quickly jumped at an opportunity to move to the news side of the paper by becoming their society editor.

Over the next 10 years, Linda served as the paper's society editor, where she quickly garnered a following of avid readers who enjoyed her weekly column entitled; "Thoughts from Under the Dryer." Linda's "Thoughts from Under the Dryer" became an opportunity to share her thoughts about being a mother, being a wife, and everyday life experiences. Then in 1977, Linda's experience and devotion to the community of Bryan, Ohio, propelled her to the position of editor of the Bryan Times where her journalistic integrity has served the community well for over 19 years. With more than 2,000 columns and 40 years of service, Linda can indeed be proud of her career at the Bryan Times.

Like many in northwest Ohio, I too have had the privilege of meeting with Linda to discuss the issues that affect the residents of Bryan, Ohio. And, each time I was interviewed by

Linda, I found her to be fair and knowledgeable of not only the issues we were discussing, but also of the political climate both here in northwest Ohio and in Washington, DC.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Mrs. Linda Freed. Our communities are served well by having such honorable and giving citizens, like Linda, who care about their citizens' well being and stability. We wish Linda, her husband, Lyle, and their two sons, David and Douglas all the best as we pay tribute to one of the Fifth District's finest citizens.

IN RECOGNITION OF RUFUS JOHNSON

HON. K. MICHAEL CONAWAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. CONAWAY. Mr. Speaker, I rise tonight to speak in recognition of the accomplishments of Rufus Johnson of Kerrville, Texas. Of African-American and Cherokee descent, Mr. Johnson was born in Maryland in May 1911 and faced adversity at a very early age. Having lost his mother when he was 4 years old, he never allowed any situation to dictate his path.

After his mother passed away, Mr. Johnson was sent to live with his aunt and uncle in Pennsylvania. As a boy in Pennsylvania, he was forbidden to swim in the city pool. This cost him his much coveted Boy Scouts of America Eagle rank because he could not earn the swimming merit badge. Mr. Johnson never forgot this missed opportunity, and ironically, it was this missed opportunity that led him on his path to historical significance.

Among his many life achievements, Mr. Johnson worked in the White House of President Franklin Delano Roosevelt, served in the U.S. Army during World War II, and became a successful attorney.

Immediately after enrolling at Howard University in Washington, DC, he joined the Reserve Officers' Training Corps, took swimming lessons and became a certified lifeguard.

Mr. Johnson's certification won him a job as the White House Pool Lifeguard during FDR's Presidency. Having earned the respect and admiration of FDR, Mr. Johnson became his butler as well, a position that often including lifting the President from his chair. Mr. Johnson recalls with great respect the pride and independence of President Roosevelt.

Mr. Johnson earned a place in White House history when a bowl of soup on a tray he was carrying tipped over and spilled on the President's lap. According to Mr. Johnson, it was Roosevelt who intentionally, but secretly, tipped the tray and caused the bowl to land on himself during a meeting. Mr. Johnson said FDR continued the conversation without pause and earned the respect of his adversary sitting at the dinner table with him.

When First Lady Roosevelt learned that Mr. Johnson was preparing to take the bar exam, she had a desk set up in the White House to allow him to study for 2 hours every day.

In October 1942, he was called to active duty as a captain in the 92nd Infantry Division of African-American soldiers. Mr. Johnson earned the admiration and respect of all who served with him and was awarded the Bronze Star, the Purple Heart, and the Combat Infantry Badge and received a special regimental citation for bravery. He was called to duty and served again during the Korean war, where he attained the rank of lieutenant colonel.

After his service in the military, Mr. Johnson set up a law practice in California and also performed pro bono work. He argued successfully before the California Supreme Court in defense of the First Amendment rights of American Indians. He won the decision and it still stands today.

Mr. Johnson relocated to Kerrville in 1994 where he still resides with his step-daughter, Yvonne Smith. He turned 95 last May, and the Texas State Legislature and the White House paid tribute to him on his birthday. Tonight I pay tribute to Rufus Johnson for his years of service to our Nation. He is a respected member of his community, and he has a life-story that deserves to be remembered.

TRIBUTE TO THE PIO DECIMO CENTER

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. GRIJALVA. Mr. Speaker, I rise today to congratulate the Pio Decimo Center in Tucson, Arizona on their 60th Anniversary.

Pio Decimo began in Barrio Santa Rosa, in order to address the needs of the poor and hungry of the community. Over the years, it has expanded to provide individuals and families with comprehensive and supportive services throughout Tucson and Pima County. A not-for-profit organization, Pio Decimo provides health and human services that promote education, health family relationships, self-sufficiency and positive and sustainable life change.

The Pio Decimo staff is at the heart of the organization's success. They work diligently to create an environment that promotes respect and dignity for each individual. In addition they are relentless in their work to empower the community and improve the lives of the region.

Pio Decimo has received many accolades, in official recognitions and community victories. Yet the success of Pio Decimo is hard to measure, given they touch the lives of so many. From the single working parent struggling to find day care and make ends meet, to the child in tutoring to help make their future even brighter to improving financial literacy of the community and the day to day assistance, the benefits to our community are endless.

In a society where the gap between the have and have-nots is increasing and resources are limited to assist the less fortunate, Pio Decimo continues to provide resources and hope. I congratulate Pio Decimo on its 60 years and look forward to many more years of success.

IN RECOGNITION OF ROBERT D. AND MARY ANNE BAILEY

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I would like to pay tribute to a very special occasion today—the 50th wedding anniversary of Robert D. and Mary Anne Bailey. This event took place on July 15, 2006.

Robert D. Bailey is originally from Mystic, Connecticut. His wife, Mary Anne Williamson Bailey, is originally from Clayton, Alabama. The couple met in April of 1956 at the Seale Road Baptist Church in Phoenix City, Alabama. The next month on Mary Anne's birthday, May 26th, Robert asked her to marry him. On June 15, 1956, the couple was united in marriage at Seale Road Baptist Church where they are still members today. Together they raised four children. They have three daughters, one son, twelve grandchildren, and three great-grandchildren.

Mr. Bailey was also recently selected for the Audie Murphy Award, which is the highest award one can receive from the Society of the Third Infantry Division. He was selected out of over 3,900 applicants and will receive the award at Fort Benning, Georgia on Veterans Day.

I salute this lovely couple on the 50th year of their life together and join their family in honoring them on this special occasion.

IN MEMORY OF CONSERVATIONISTS TRAGICALLY KILLED IN NEPAL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to Mingma Norbu Sherpa and Matthew Preece, two outstanding conservationists at World Wildlife Fund, WWF, in the United States, and others who were killed in a tragic helicopter crash in Nepal on Saturday, September 23. The accident claimed 24 lives, including other WWF conservation leaders and senior government officials from the United States, United Kingdom, Finland and Nepal and four crew members. Ms. Margaret Alexander and Dr. Bijnan Acharya of the USAID mission in Nepal are among the deceased. The cause of the crash is unknown. Bad weather in the area may have been a contributing factor.

The group was returning from a celebration of a conservation success story that took place in the rugged, far-east mountains of Nepal. The Nepali government hosted the event in Ghunsa to turn over conservation stewardship of wildlife and habitats on the slopes of Kanchenjunga—the world's third highest mountain—to a coalition of local communities. The park, which is home to globally endangered species such as the snow leopard, now will be managed by the Kanchenjunga Conservation Area Management Council. WWF was instrumental in the decision and will work on its implementation for the next five years. USAID provides funding for the project.

Mingma Sherpa directed WWF's work in the Eastern Himalayas. Born and raised in the foothills of Mt. Everest, Mr. Sherpa represented the best of a new breed of conservationist. As an early pioneer of conservation efforts in his native Nepal, and for more than 15 years at WWF in the United States, Mingma Sherpa dedicated his life to the practice of what he called "conservation with a human face."

A protégé of Sir Edmund Hillary, who mentored him after his father died in a mountaineering accident on Mt. Everest in 1971, Mingma was the first Sherpa to become chief warden of Mt. Everest National Park. He was also one of the founders of the WWF-funded Annapurna Conservation Area Project—then a new experiment in community-based conservation that has since become a model for conservation around the world.

Carter Roberts, President and CEO of WWF–US said this week, "Mingma Sherpa's quiet, unassuming modesty made it easy to forget that he helped to point the way for the rest of us to follow. He was a hero to me and to many others in the conservation field. He dedicated his life to the idea people and nature could, and should, co-exist. His death is a tremendous loss."

Born on October 31, 1955, in the small mountain village of Kunde, Mingma was one of the first students to graduate from the village school system created by Hillary, who had scaled Everest two years earlier. Hillary took an immediate interest in the boy and in 1972, a year after Mingma's father died, invited him to participate in a school-building project. It was to be a transformative experience—and one that led to a close, life-long friendship with "Sir Ed," as Hillary was known among the Sherpas.

Attending Lincoln College in Christchurch, New Zealand, on a scholarship received with Hillary's help, Mingma obtained a B.A. in forestry and park management and returned to Nepal as a junior ranger at Mt. Everest's Sagarmatha National Park.

Tensions between park management and the sherpas living in the area were running high at the time because of community resentment over what were seen as arbitrary restrictions on tree cutting and other traditional activities. So successful was Mingma in resolving these disputes, through solutions that gave the community incentives to conserve the park, that he was named chief warden six months later.

It turned into one of the earliest experiments in what later would become known as "community-based conservation" and it worked so well that in 1985, after another sojourn abroad to obtain a Masters degree in resource management from the University of Manitoba, Mingma was picked to help create the Annapurna project that would later become the textbook model for community-based conservation.

He joined WWF in 1989, first as director of WWF Nepal's Himalayan Program and later as chief country representative in Nepal and Bhutan. In 1998, he moved to the Washington, DC headquarters of WWF–US to oversee all of the organization's conservation work in the Eastern Himalayas.

In "Sir Edmund Hillary and the People of Everest," author Cynthia Russ Ramsay would later write that, of all of "Hillary's students"—many of whom went on to become doctors, lawyers, teachers and businessmen—Mingma "more than anyone else embodies the virtues of doing things the Hillary way," having taken his mentor's compassionate vision applied it to many "other remote areas of the world."

Although he received international recognition for his work—the Gorkha Dhaksin Bhahu medal from the King of Nepal and the Order of the Golden Ark Award from Prince Bernard of the Netherlands—Mingma was forever self-effacing about his accomplishments, preferring to give credit to others. He could not escape fame in his native Nepal, however, where villagers would line the streets to applaud and cheer him whenever he returned for a visit.

He is survived by his wife Phurba Sona Sherpa, his daughter Dawa Phuti Sherpa and son Tenzing Norbu Sherpa, all of Falls Church, Virginia.

Mingma was one of seven WWF staff killed in the helicopter crash. Mathew Preece, a very promising young conservation professional from Utah, also died in the accident. Mr. Preece was a new Program Officer at WWF headquarters in Washington. He only joined WWF's Eastern Himalayas team four months ago and was thrilled to be making his first trip to the region. Matt spent five years working on domestic and international issues for other non-profit organizations and lived in India, Chile, Costa Rica, Peru, Ecuador, Mexico, and the Dominican Republic. He obtained graduate degrees in 2004 from Brandeis University in Sustainable International Development and in 1999 from Vanderbilt University in Environmental Science. While in school, Matt helped build houses with Habitat for Humanity in California and spent a month in Washington, DC as an advisor to the National Youth Leadership Forum.

Matthew Preece fit more into his 31 years than most people do in an entire lifetime. He is an inspiration to young people around the world, and our hearts go out to his parents, three sisters, and a brother.

The five other WWF staffers who were tragically killed are: Dr. Jill Bowling, Conservation Director for WWF–UK; Jennifer Headley, WWF–UK's Coordinator for Nepal/South Asia Program; Dr. Chandra Prasad Gurung, Country Representative for WWF Nepal; Dr. Harka Gurung, Advisor to WWF Nepal; and Yeshi Choden Lama, Senior Program Officer for WWF Nepal.

Several senior Nepali government officials also perished in the crash. They are: Mr. Gopal Rai, Nepal Minister of State Forests and Soil Conservation; Dr. Damodar Parajuli, the Acting Secretary, Ministry of State of Forests and Soil Conservation; Mr. Narayan Poudel, Director General of Department of National Parks and Wildlife Conservation; and Mr. Sharad Rai, Director General of Department of Forests.

On behalf of the 125 members of the International Conservation Caucus, I want to express our deepest sympathies to the families, friends, and colleagues of the conservationists and public servants who were lost to us. They were on a noble mission. All of them will be missed by people who care deeply as I do about protecting wildlife and wild places.

TRIBUTE TO THE GREAT SWAMP WATERSHED ASSOCIATION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Great Swamp Watershed Association, based in Harding Township, Morris County, New Jersey, a vibrant community which I am proud to represent. On November 17, 2006, the Great Swamp Watershed Association will be celebrating 25 years of preserving land and water resources in over forty municipalities throughout New Jersey.

In 1981, the Great Swamp Watershed Association was formed to protect land and water and encourage good management policies and practices in the 36,000 acres in the watershed. The Association was formed by a group of citizens concerned about the potential development of a jet port where the refuge is currently located. Starting as a small grassroots organization, the Great Swamp Watershed Association has today grown to cover 55 square miles and serves thousands of households in over forty municipalities in New Jersey. Five streams in the watershed form the Passaic River, which provides drinking water for over a million New Jersey residents!

In 2002 the Great Swamp Watershed Association produced "Doing Water Right," a video and instruction manual to demonstrate the benefits and application of "blue-water" technologies in support of proposed state storm water regulations. The Association's programs have received local, regional and national awards.

The Great Swamp Watershed Association has preserved local streams, protected environmentally sensitive land threatened by development, and promoted environmental education for all age groups. The Association also is responsible for land advocacy and water quality testing within the watershed. Most of this work is done by a dedicated and devoted group of volunteers from across the area.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the members of the Great Swamp Watershed Association on its 25th Anniversary.

INTRODUCTION OF "LET'S ALL PLAY DAY" RESOLUTION

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. LANGEVIN. Mr. Speaker, I am proud to introduce a resolution expressing the sense of Congress that there should be established a "Let's All Play Day."

I introduce this bill in support of the goals and ideals of Boundless Playgrounds. I would like to take this opportunity to share these goals and ideals with my colleagues in the House.

An estimated six million children in the United States have some type of chronic condition or disability that makes it hard or impossible for them to fully enjoy traditional playgrounds. Those who work with children with disabilities stress the importance of play in their development. Boundless Playgrounds differ from traditional playgrounds in the sense that these playgrounds, and the equipment within the playgrounds, are accessible to all children. They are barrier-free, inclusive and configured to support children's development. Perhaps most importantly, by encouraging children with and without disabilities to play together, these playgrounds provide a space to celebrate similarities and differences and develop essential life skills. I can think of no better way to combat stereotypes than to expose our children to others with disabilities at a young age.

Currently, there are more than 100 Boundless Playgrounds in twenty-one states, with more in development. In my own district, a Boundless Playground in Providence, Rhode Island provides many Rhode Island children and their family members the ability to interact and play together. I have been amazed and inspired by how the community has come together in support of this park—most notably the contributions of Hasbro, Inc. Such cooperation is a tremendous testament to Rhode Island's commitment to supporting children who struggle to overcome obstacles.

Mr. Speaker, we could all take a lesson from the forethought put into the design of Boundless Playgrounds. In the spirit of the Americans with Disabilities Act and other initiatives that have encouraged the inclusion of people with disabilities in their communities, I am proud to recognize Boundless Playgrounds for their dedication to all children and families. I hope my colleagues will join me in the effort to acknowledge these extraordinary playgrounds by cosponsoring this resolution.

PERSONAL EXPLANATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. TOM DAVIS of Virginia. Mr. Speaker, I was recorded as having missed the vote on final passage of H.R. 6166, the Military Commissions Act. I was present during the vote and intended to support this measure; however, my vote was not recorded.

I would like the record to reflect that I would have voted "aye" on this measure.

THANKS TO SUBHASRI RAMANATHAN

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. THOMPSON of Mississippi. Mr. Speaker, today, I would like to give thanks to Sue Ramanathan, Democratic deputy staff director and chief counsel of the United States House of Representatives Committee on Homeland Security.

Sue was one of the original staff members of the Select Committee on Homeland Security from the 108th Congress, and has been a dedicated public servant whose leadership on border security and immigration issues has helped us proficiently tackle those hard issues and whose counsel has been a vital element of our homeland security efforts.

Sue began her tenure on Capitol Hill as a legislative fellow for Senator JOSEPH I. LIEBERMAN and as a member of the Washington, DC, staff of the American Bar Association before joining my colleague ZOE LOFGREN as her senior policy advisor and counsel. While working for Congresswoman LOFGREN, Sue earned an LL.M in international and comparative law from Georgetown University Law Center. It was on behalf of Congresswoman LOFGREN that Sue was able to contribute to the conversation surrounding our Nation's immigration policies, the same policies that she and her family were first subject to as immigrants to our great Nation. The Congresswoman joins me in commending Sue today, as demonstrated by her comments to follow.

She left the Hill for a brief period to work on a Presidential campaign, before returning in 2004 to join the Select Committee of Homeland Security under Ranking Member Jim Turner of Texas. At the beginning of this Congress, when I became ranking member, I named Sue chief counsel and deputy staff director. In addition to helping develop the legislative and oversight activities of the Democratic Committee staff, Sue also led our immigration and border security team efforts. In this capacity, Sue played a critical role in implementing the committee's legislative agenda. Mr. Speaker, this was no small task.

One particular debate that I will not soon forget pertained to the House's consideration of comprehensive border security legislation this past year. Committee staff spent countless sleepless nights and early mornings working on behalf of the American people to mitigate the risk posed by this Nation's porous borders. Sue coordinated the committee's floor time on H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. In particular, she worked closely with my colleague SILVESTRE REYES on the Democratic motion to recommit. Mr. REYES had this to say about Sue, "as a member of Congress representing a district on the U.S.-Mexico border, my staff and I had the pleasure of working with Sue Ramanathan on several pieces of homeland security legislation in recent years. In every instance, I was impressed by her knowledge, professionalism, and dedication. Though we are sorry to see her leave the staff of the Homeland Security Committee, we are fortunate that she will continue to work on the many homeland security issues facing our country in her new position. We wish her all the best."

In addition, she was one of the committee's key staffers on the committee's first two authorization bills, as well as on legislation to correct and restructure the Federal Emergency Management Agency, FEMA, in the wake of Hurricanes Katrina and Rita.

Sue's expertise and dedication will be deeply missed in the House. I am comforted, however, by the fact that Sue's insight and expertise will not be lost to the Members of this House. Unlike so many others who turn in their congressional ID cards for large paychecks in the private sector, Sue has maintained her commitment to public service. Thankfully, she will remain a public servant, dedicating this new chapter in her career in the Homeland Security and Justice Division at the U.S. Government Accountability Office, GAO, and helping to ensure Congress's critical check and balance on the executive branch of Government. Mr. Speaker, I wish Sue, the committee's favorite Cherry Hill native and Rutgers graduate, the best in her new venture. I look forward to seeing great things from Sue and her new family at GAO as they, undoubtedly, work to ensure that America gets homeland security right once and for all.

15TH ANNIVERSARY OF AZERBAIJAN'S INDEPENDENCE

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. WEXLER. Mr. Speaker, on October 18, 2006 Azerbaijan will celebrate the 15th Anniversary of its re-independence. As members of Congress recognize this important occasion, I think it is essential to point out the remarkable strength, determination and ingenuity of Azerbaijanis who have taken difficult steps to transform their country over the last 15 years.

One of the most significant developments contributing to Azerbaijan's transformation is its ever-evolving relationship with the United States. While U.S.-Azerbaijani relations date back to Azerbaijan's independence from the former Soviet Union in 1991, our relations were elevated to the level of strategic partnership after September 11, 2001. Given the myriad of global challenges facing the United States, Azerbaijan, which is geostrategically located, has become an invaluable ally of America and a partner in the war against terrorism.

The US-Azerbaijani relationship is mutually beneficial and multifaceted, particularly as it relates to defense and security cooperation. Azerbaijan was the first Muslim majority nation to send troops to Iraq, and Azerbaijani soldiers currently serve shoulder-to-shoulder with American forces in Kosovo and Afghanistan. Azerbaijan is also working with the U.S. multilaterally, within the framework of the Organization for Democracy and Development—GUAM (Georgia, Ukraine, Azerbaijan and Moldova) to fight against terrorism, prevent trans-national and cross-border crimes, and to secure borders, thus contributing to international counterterrorism and non-proliferation efforts.

One of Azerbaijan's main foreign policy priorities, which I fully support, is its integration into the European and Euro-Atlantic political, security and economic institutions, a journey that began with the signing of the NATO's Partnership for Peace Framework document in

1994. Now Azerbaijan is completing the implementation process of NATO's Individual Partnership Action Plan (IPAP) and actively participates in Partnership Action Plan against Terrorism (PAP–T). The country enjoys full membership in OSCE and Council of Europe. Azerbaijan also closely cooperates with the European Union (EU) and is looking to successfully move forward on the EU-Azerbaijan Action Plan and its New Neighborhood initiatives.

Azerbaijan is aggressively moving to diversify its economy to achieve sustainable growth and meet the social and development needs of its population. A key partner in developing and transporting Caspian Sea resources to the West, Azerbaijan encourages western and especially American investments and involvement in the region.

Since 1991, Azerbaijan has taken steps to change its legal and legislative structure to foster a democratic society based on rule of law, respect for political and civil rights. While Azerbaijan has made progress, I stand with the Bush administration in urging President Ilham Aliyev's government to take additional steps to expand political pluralism, strengthen democratic institutions and continue to reform its electoral system. As a friend of Azerbaijan, I believe that further democratic progress would only serve to strengthen this partnership and the ties that have been forged over the past 15 years.

Once again, I want to congratulate the people and government of Azerbaijan on this historic milestone and look forward to working with President Aliyev and my counterparts in Baku to strengthen the relationship between our two nations.

TRIBUTE TO JAMES BRUCE

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. WHITFIELD. Mr. Speaker, I rise to bring to the attention of this House the end of an era in the Kentucky General Assembly. In January, 2007, the longest serving member of the Kentucky General Assembly, Representative James Bruce will retire after having 42 years in the Kentucky House of Representatives.

I have known Representative Bruce for most of my life, and he taught me the ropes of government and politics early on when I served with him for one term in the Kentucky House from 1974–1975. Upon arriving in Frankfort, I learned quickly that Representative Bruce was one of the most effective legislators in Kentucky. He had the respect and admiration of his colleagues both Democrat and Republican, and when he told you something you could count on it. Many Governors have relied on Representative Bruce to get their agendas through the legislature.

Back home in the 9th District, he was legendary as someone who seldom if ever had an opponent during an election year, and who was faithful in delivering to his district. Much of the progress in agriculture, infrastructure, and economic development in Representative Bruce's district is in large part attributable to his skill, seniority, and effectiveness in Frankfort. I am confident that if you asked Representative Bruce about his success he would attribute it to his lovely wife Janie who has been at his side for nearly every trip between Hopkinsville and Frankfort and whom many have said that with Jim and Janie we had two for one.

Mr. Speaker, 2007 will mark the end of an era in the Kentucky General Assembly and the 9th House District will miss the presence of Representative James E. Bruce. He leaves large shoes behind to fill.

CELEBRATING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE UNIVERSITY OF REDLANDS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. LEWIS of California. Mr. Speaker, it is with great pleasure that I ask my colleagues to join me in congratulating the University of Redlands on the centennial of its founding. From its first graduating class of three students to the present-day student body of 4,100, this school has developed a reputation as a top-quality small university.

At the turn of the last century, Redlands and the surrounding communities were home to the booming navel orange industry. The lure of agricultural wealth and the beautiful climate of the San Bernardino Valley attracted hundreds of sophisticated families from the East Coast and Midwest. Many of these "colonists" brought a tradition of fostering civic good works to their new home, and by the early 1900s they were seeking a new college to serve the community.

City residents subscribed more than $50,000 and convinced the American Baptists to locate a new university in Redlands rather than Los Angeles. Chartered in 1907, the university admitted its first students in 1909 and graduated its first class—of three students—in 1910. It now boasts more than 45,000 alumni from around the world. More than 35 percent of its students are from historically under-represented groups.

The University of Redlands today has more than 200 professors teaching in 46 majors and programs, and an additional 200 adjunct faculty providing expertise to its School of Business and School of Education. Graduate programs include music, communicative disorders and geographic information systems, and a Doctorate of Leadership for Educational Justice. The university has been ranked among the top liberal-arts colleges in the West in a number of surveys.

I am proud to say that the relationship between the university and the community remains strong. The university was one of the first educational institutions in the country to require community service as a condition of graduation. Today, over 80,000 community service hours are provided annually by students to local, regional, national and international agencies and organizations. The innovative School of Education has prepared thousands of new teachers to serve our youth.

Mr. Speaker, the University of Redlands will soon begin a year-long celebration of its centennial, which will be highlighted by the entry of a university float in the 2007 Tournament of Roses Parade, and will continue with a series of events commemorating 100 years of excellence and community involvement. Please join me in congratulating the trustees, faculty, staff and students on their achievement; and wish them well in their next 100 years.

INTRODUCTION OF THE INTELLIGENCE COMMUNITY AUDIT ACT OF 2006

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. THOMPSON of Mississippi. Mr. Speaker, today I am introducing the Intelligence Community Audit Act of 2006.

Representative ZOE LOFGREN (D–CA) has joined me in introducing this important measure. I am also pleased to report that a companion bill will be introduced in the Senate by DANIEL K. AKAKA (D–HI), FRANK LAUTENBERG (D–NJ).

This bill, the Intelligence Community Audit Act of 2006, reaffirms the authority of the Comptroller General of the United States and head of the Government Accountability Office (GAO) to conduct for Congress audits and evaluations of the intelligence community—including audits and evaluations pertaining to financial transactions, programs, and information sharing and other activities. It also prescribes the security procedures that GAO must follow in conducting audits for congressional intelligence oversight committees of intelligence sources and methods, or covert actions.

There is a pressing need for this legislation. With the passage of the Intelligence Reform and Terrorism Prevention Act of 2004, the federal government now encompasses 19 distinct components that have intelligence responsibilities. Ensuring that these components—which range from the Office of the Director of National Intelligence to the Department of Homeland Security to the Department of Treasury—are cooperating and performing their missions effectively is critical to our national security and winning the war on terrorism.

But it is not just federal coordination and cooperation which is at issue. There is also a pressing need for state and local law enforcement officials to get the information they need to protect our constituents. Unfortunately, this has not happened. In a recent survey, the National Governor's Association noted that fully 70 percent of state homeland security directors are dissatisfied with the specificity of homeland security information they receive from federal sources, and the fully 55 percent who are disappointed with its actionable quality. Our state law enforcement officials need information to protect our constituents.

And we in Congress need information to conduct our oversight functions. The availability of information to appropriate congressional committees is a paramount concern for this nation's system of checks and balances. The ability of the GAO to conduct thorough and nonpartisan reviews is well known. But what is not well known is the hurdles they sometimes face in conducting oversight. Earlier this year, shortly after GAO released a report on federal government policies relating to the sharing of terrorism-related and sensitive but unclassified (SBU) information (GAO–06–385). Specifically, the DNI declined to comment on a draft version of the report because it considered GAO's work in this non-sensitive area a "review of intelligence activities" that was "beyond GAO's purview." But this bill makes it clear that the DNI cannot evade Congressional oversight by lumping the sharing of unclassified information and other non-sensitive matters together with the kinds of intelligence activities that understandably must be held to a stricter standard.

This bill makes it clear that Congress has a real and continuing interest in reviews of the basic functions of the intelligence community, such as sharing of information with state and local law enforcement officials and transportation security. The events of 911 made it clear that systemic weaknesses in these areas can cost lives.

I urge my colleagues to co-sponsor this bill.

TRIBUTE TO THE NELSON TENNIS FOUNDATION

HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. CARTER. Mr. Speaker, I would like to take this opportunity to recognize the efforts and accomplishments of the Nelson Tennis Foundation and support the eighth annual Nelson Scholarship Tennis Classic which will be held in Georgetown, Texas, on October 20–22, 2006. This nonprofit foundation, named in honor of Jane and Charles "Coach" Nelson was established to support the game of tennis in the community of Georgetown, Texas. Charles and Jane exemplify a love for the game of tennis and a dedication to education. Combining these two passions, the Nelson Foundation has helped eligible high school seniors in the Georgetown Independent School District pursue their dreams for a college education. Since 1999, the Nelson Foundation has been able to award scholarships to 17 deserving student athletes through the proceeds from the tennis classic.

The Nelsons are retired educators with over 35 years of teaching and coaching experience in public schools. Both Charles and Jane began playing the game of tennis as teenagers in Huntsville, Texas. After several years of teaching and coaching in both Texas and New York, the Nelsons returned home to central Texas where Charles took over as head tennis coach at Round Rock High School for 4 years. This was followed by 3 years as the head tennis coach at Westwood High School in Round Rock and 7 years working with the Southwestern University tennis program. Both Jane and Charles are active in playing tournament tennis and remain outstanding contributors to their community. Through the years, they have been teammates, tennis partners, and friends to so many in the Georgetown and Williamson County area.

The Nelsons have been members of the Berry Creek Racquet Club in Georgetown where they have been involved in the club's Pro-Am Annual Tennis Tournaments. After several years, this tournament was renamed the Nelson Tennis Scholarship Classic for which the Nelson Tennis Foundation was established.

The Nelson Foundation embodies community, fellowship, and a love for the game of tennis. All of these are at the heart of Charles and Jane Nelson and typify the generosity and character of Georgetown, Texas.

HONORING THE LIFE OF LEO DIEHL

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. DELAHUNT. Mr. Speaker, it's been said that the world goes on because a few people in every generation believe in it utterly, accept it unquestionably, underwrite it with their lives. Leo Diehl was one such man.

A community is gathering together in Harwich today to celebrate Leo's remarkable life that took him from Beacon Hill to the Halls of Congress. Those who remember him recall his wit, tenacity, dignity, compassion, irascibility, loyalty, and most importantly, his lust for life.

Diagnosed with polio at the age of 6, Leo never let his infirmity get in the way of living. Never one for sitting on the sidelines, he was determined to do all the things the other kids in Charlestown were doing. He was a formidable athlete—pitching 27 innings in a sandlot baseball game or playing goalie for the neighborhood hockey team. He refused confinement in a wheelchair and the pity of others.

In later life, he would say the experience of losing his legs and learning to use crutches to walk gave him the grace to understand the struggles that so many poor and working-class families endure on a daily basis. He reminded people that his brain, eyes, ears and, most importantly, his mouth still worked. Leo used them all to right wrongs where he saw them and to speak up, even stand-up, for those who didn't have a voice, who weren't as strong or as brave as he was.

Elected to the Massachusetts House of Representatives in the same year as Tip O'Neill, the two men became fast friends and allies. Later, when Leo would lose his seat, he would begin a storied career in the Commonwealth's tax department, eventually rising to tax commissioner.

Then, the call came. Newly elected Majority Whip, and his old friend, Tip O'Neill, wanted him to come to Washington, DC. He needed a good right-hand, a conscience and a confidant. The rest, they say, is history.

He dined with kings and queens, prime ministers and cardinals, but never forgot his working class roots. He was a constant presence in this House; a role-model of character and integrity for Members and staff alike. Many called him the "watch-dog"; lots of other people called him other things—usually behind his back. Regardless, at the end of the day, everyone had the greatest respect for Leo—a man who served this institution well and faithfully.

In later years, he would raise hundreds of thousands of dollars for charity with his good friend and with the help of those he inspired.

St. Luke reminds us that to those to whom much is given, much is required—and should be expected. In the case of Leo Diehl, he gave as good as he got. Now he's in a place, joined with his wife Grace, family and friends; made whole and perfect in His sight—and most likely still helping his friend, his Speakah, Tom make the streets of heaven a better place.

PERSONAL EXPLANATION

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. PLATTS. Mr. Speaker, on rollcall No. 178 which occurred on May 22, 2006, regarding H.R. 3858, the Pets Evacuation and Transportation Standards Act, had I been present, I would have voted "yea."

TRIBUTE TO THE 2006 RETIREES OF THE STERLING HEIGHTS FIRE DEPARTMENT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. LEVIN. Mr. Speaker, on Friday, September 29, 2006, the Sterling Heights' Fire Fighters Union will host their Annual Dinner-Dance, honoring their 2006 retirees. This yearly event honors Sterling Heights firefighters for their dedication to their community and recognizes their commendable contributions to the city. I am pleased to be associated with this fine organization and to call many of them my friends.

I rise today to pay tribute to the careers of four retiring firefighters.

Kenneth Hall was appointed as a Sterling Heights firefighter on January 21, 1980. In November of that year, he received his Certificate of Completion for the Extrication and Rescue Training Program. On May 25, 2000, he was presented with the certificate of Special U.S. Senate Recognition to commemorate his 20 years of service. In August of 2002 he added to his list of accomplishments by becoming a HazMat Team Member. Ken has been promoted two times in his career: Lieutenant on March 31, 1995, and Captain on September 17, 2001. He retired on January 30 of this year after 26 years of dedicated service.

Tom Lindeman was appointed as a Sterling Heights Firefighter on July 2, 1981. As part of his service, he counseled and taught young aspiring firefighters in the department's Explorer's Program. In 1989 he received a Certificate of Appreciation from Utica Community Schools for his efforts in the community. In 2001 he received an associate's degree in Fire Science. During his career, Tom was promoted four times: FEO on April 20, 1992;

Lieutenant on January 4, 1996; Training Instructor on August 22, 1996, and Chief of Training on January 11, 2003. He was honored by his peers, being named Firefighter of the Year twice, in 1999 and in 2004. Tom retired last month on August 19, after 25 years of dedicated service.

Dave Poterek was appointed as a Sterling Heights Firefighter on May 21, 1979 after attending Western Michigan University. On May 4, 1981, he received a Police Department Citizen Citation for resuscitating a drowning victim. In 1984 he earned his Associates Degree in Nursing, and in 2004 he obtained his EMS Instructor Coordinator certificate. During his career he was promoted several times: Firefighter–ALS (Advanced Life Support) on April 18, 1992; Fire Lieutenant–ALS on July 5, 1994; Captain in 1996, and Battalion Chief on October 31, 2003. He retired on June 19 of this year, after 27 years of dedicated service.

William Riddock was appointed to the position of Probationary Firefighter with the Sterling Heights Fire Department on October 12, 1981. In 1989 he received the Meritorious Unit Citation for assistance at a house fire, rescuing a family from their balcony. He was a member of the Uniform Committee and participated in numerous of the department's Open Houses. In addition to receiving numerous Perfect Attendance Awards throughout his career, Captain Riddock was promoted twice: Lieutenant on July 22, 1996, and Captain on January 11, 2003. Captain Riddock is retiring next month on October 19, after 25 years of dedicated service.

Mr. Speaker, I ask my colleagues to join me in recognizing these four heros, who have dedicated themselves to the community with valor, commitment and honor.

TRIBUTE TO MAIN STREET BAPTIST CHURCH

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mrs. CAPITO. Mr. Speaker, today we congratulate the Main Street Baptist Church in Point Pleasant, WV. On October 28, 2006, the Main Street Baptist Church will celebrate its 100th anniversary.

This church has helped change the lives of many in the Point Pleasant area and in the state. This is a wonderful time for the congregants of Main Street Baptist Church to celebrate with loved ones and take time to reflect on the many accomplishments and improvements this church has made in the community.

I want to thank Main Street Baptist Church for their service to the community of Point Pleasant and all of their contributions to our great state. May your next 100 years be just as fruitful.

HONORING THE LUVERNIA FULLER FOUNDATION AND RECOGNIZING MAY 18TH, 2007, AS "ANSWER MY PRAYER" DAY

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mrs. BIGGERT. Mr. Speaker, I rise today to honor the Luvernia Fuller Foundation for the invaluable support it provides to cancer patients. In doing so, I join two local governments in the 13th District of Illinois in recognizing the Luvernia Fuller Foundation for its generosity. Both the Village of Romeoville and the City of Joliet in my district have declared May 18, 2007, Luvernia Fuller Foundation "Answer My Prayer" day.

This not-for-profit organization was established on January 20, 2004 by the son of cancer patient, Luvernia Fuller. Unfortunately, like too many people stricken with cancer, Luvernia Fuller lost her battle. Inspired by his mother, Brian Fuller established the Foundation to provide emotional and monetary assistance to cancer patients and their families.

"Answer My Prayer" day was created to raise awareness and support for cancer patients. The Luvernia Fuller Foundation's goal of "Answer My Prayer" day is not only to raise money to help provide necessary medical treatment and medicine for cancer patients, but also to educate the public about cancer and to celebrate the dignity of cancer patients.

As representative of the 13th District of Illinois, I am extremely pleased that such a fine foundation is based in my district and is providing life-saving assistance to the people of Illinois, I wish the Luvernia Fuller Foundation continued success in its mission and hope that we all set aside May 18th as "Answer My Prayer" day to help and remember those who have been or are currently afflicted with cancer.

IN MEMORY OF FORT WORTH FIRE CHIEF CHARLES GAINES

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Ms. GRANGER. Mr. Speaker, I rise today to honor one of the most dedicated public servants of District 12 and the Fort Worth community that I represent, Fort Worth Fire Chief Charles Gaines. On September 23, 2006, Fire Chief Gaines died at his home at the age of 49. Through hard work and commitment in his chosen profession, Chief Gaines was known nationally as an outstanding fire chief.

While Chief Gaines' tenure in Fort Worth was a short four years, his impact on the community, on the men and women of the Fort Worth Fire Department and on his Fort Worth friends was enormous. Chief Gaines undertook with vigor the task of implementing a 4-man company staffing plan for the Fort Worth Fire Department to ensure that citizens enjoyed the best fire protection possible, while also undertaking a review of the Fire Department to abolish inefficient practices.

Chief Gaines was born in Oklahoma City, Oklahoma, and graduated from Oklahoma City Northwest Classen High School before enlisting in the U.S. Air Force in 1975 where he entered the Air Force fire protection services as a crash rescue firefighter. He was stationed at various Air Force bases and rose to the rank of assistant fire chief when he was honorably discharged in 1980. Chief Gaines joined the Oklahoma City Fire Department and became a firefighter in 1981 where he continued as a frontline firefighter and supervisor until 1985 when he became a fire services instructor. Beginning in 1990, Chief Gaines served the Oklahoma City community in various capacities as deputy chief, including deputy chief for personnel, training and safety operations. When the bombing of the Alfred P. Murrah Federal Building occurred in 1995, Chief Gaines was one of the first rescuers to reach the scene and served as the operations safety officer during the first 36 hours after the bombing, providing critical leadership that ensured the safety of firefighters and others who had rushed to the rescue of the victims of the bombing.

Chief Gaines was named Fort Worth fire chief in 2002 in a nationwide search and had the distinction of being the city's first African American fire chief. His fellow firefighters say his analytical ability, dedication to safety and determination made him "a consummate professional." Nothing signifies his dedication and hard work more than his personal development efforts. While serving as a full time firefighter, Chief Gaines earned a Southern Nazarene University Bachelor of Science degree, an Oklahoma City University Masters of Business Administration degree and graduated from the National Fire Academy's Executive Officers Program.

At the same time, Chief Gaines was fiercely dedicated to his family and friends, always there with a bright smile and wit.

Chief Gaines' outstanding professional abilities have indeed made Fort Worth a better place in which to live and work. It is with humility that I honor Fort Worth Fire Chief Charles Gaines as a great American who used his skills and talents wisely. Chief Gaines will be missed but not forgotten.

TRIBUTE TO BYRON NELSON—AMERICAN GOLFER

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. POE. Mr. Speaker, ask 100 people on the street who is the best golfer in history, I bet a majority of them would reply "Tiger Woods." Ask that same question to 100 professional golfers, and their answer would be "Byron Nelson."

Byron Nelson was born February 4, 1912 in Waxahachie, Texas. He did not grow up with the ambition to ever be a professional golfer; he just enjoyed playing it in his spare time. The onslaught of the Great Depression, and his subsequent unemployment, led Nelson to professionally pursue golf in 1932.

Known to golfers as the game's "Ultimate Gentleman," Nelson impressed audiences and fellow players alike with his good nature, his graceful swing, and his ability to win. In 1937, Nelson won The Masters, his first major tournament win. He would go on to win four more major tournaments over the years: the 1939 U.S. Open, the 1940 and 1945 PGA Championship, and the 1942 Masters. The accomplishment that he is the most well known for, however, did not come until 1945—13 years after he turned professional.

As America was winning World War II, Byron Nelson was winning golf tournaments. In 1945, Nelson did the unimaginable, winning 11 consecutive golf tournaments. By the end of 1945, Nelson had a won a record 18 total tournaments—a record that still remains intact today. The closest anyone has come to challenging Nelson's record was Tiger Woods, who impressively won 6 consecutive tournaments in 2001; however, failed to catch the record by five tournaments. His last professional tour ended in 1946, when at the age of 34, he decided to live the simple life of a rancher.

Although Nelson had retired, his love and dedication for the game continued. For years later, he was a frequent ceremonial starter at The Masters tournament. Nelson was also always amazed at how the game of golf was evolving, from the "rising new stars" to the change in club material to the amounts of money involved. In a 1997 interview, Nelson stated, "I did not even dream in my wildest imagination there would be as much money. . . . I only won $182,000 in my whole life." Mr. Speaker, nowadays winning a professional tournament yields millions of dollars, so one can understand Nelson's amazement at the winnings now.

Bryon Nelson was the recipient of the 1974 Bob Jones Award for distinguished sportsmanship in golf. It is considered the highest honor awarded by the U.S. Golf Association. He has also been inducted into the World Golf Hall of Fame, and is the only professional golfer to have a stop on the PGA tour named after him—EDS Bryon Nelson Championship played in Dallas, Texas.

Golf was not the only passion in Nelson's life. He was also a devout Christian, who gave his time, energy, and money to Abilene Christian University (ACU)—my alma mater. Nelson had a long family history with ACU. In his family lineage were the fourth and seventh Presidents of the University. Nelson's brother is currently a professor at ACU and his sister is an alumna.

Nelson was a member of the University's Board of Trustees and National Development Council. In 1984 Nelson and his wife of 50 years, Louise, established the Byron and Louise Nelson Golf Endowment, to raise funds for ACU. A dinner was held in his honor and the results netted enough funding to permanently institute the men's golf program at ACU. Nelson also continued to lend not only his name, but his person, each year to ACU's Byron Nelson Golf Tournament. His dedication and devotion to ACU allowed the men's golf program to flourish, winning eight Lone Star Conference golf championships and one NCAA Division II championship.

For 94 years, Bryon Nelson was a man among men, always a gentleman, always a leader, always a Christian. On Tuesday, September 26, this great man passed away at his home in Roanoke, Texas. Bryon Nelson is not only mourned throughout the professional golf community, but throughout Abilene Christian University, where he gave so much of himself and asked for nothing in return. So his life will be remembered by all, as a great person and a great golfer.

RECOGNIZING THE DEDICATION OF MR. C. LARRY RHODES TO OUR TROOPS

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. HOSTETTLER. Mr. Speaker, I would like to take this opportunity to recognize the personal dedication of one of my constituents from Southern Indiana, Mr. Larry Rhodes, to our troops in the field, and their families here at home. Mr. Rhodes, a Vietnam Veteran, recognized the need for his community to step in and volunteer their time, energy, and resources to the families of our troops preparing to deploy to Iraq. Rather than wait for an opportunity to do his part, Mr. Rhodes took the initiative and formed the support organization "Operation: Support on the Homefront."

In the Summer of 2005, Mr. Rhodes began holding events for families of soldiers in the National Guards 163rd Field Artillery unit, and the Army Reserves 406th Corps Support Battalion, both of which have units in my congressional district—the 8th District of Indiana.

Mr. Rhodes has organized numerous fundraising events, including concerts, dinners, silent auctions, and of course a joyous Christmas party for the families, where a huge dinner was served and all of the children received donated gifts. In addition to his fundraising efforts, Mr. Rhodes has worked with the business community in Evansville and surrounding communities to encourage them to provide discounted products and services to the families of the deployed soldiers.

This August, after months of negotiating with the U.S. government, Mr. Rhodes and his producer Steve Olglesby, were given permission to travel to Iraq to spend time with troops from the 163rd and 406th, conduct interviews, and film a short documentary of their experiences in Iraq. Underscoring the hazardous nature of this trip, the day Mr. Rhodes and Mr. Olglesby left Al Diwaniyah, the base where they were staying came under mortar attack. Luckily, no one was injured.

This dedication to our troops, commitment to our country, and selfless sacrifice deserves the praise and recognition of a grateful community and country. I commend Mr. Larry Rhodes for his personal service to his country and his ongoing efforts to support our men and women in uniform that proudly serve today.

PERSONAL EXPLANATION

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. DOYLE. Mr. Speaker, had I been present on September 7, 2006, I would have voted "nay" on rollcall 431 and "yea" on rollcall 433 as pertaining to my support for the Horse Slaughter Prohibition Act, of which I am a cosponsor.

HONORING LT. COL. CURT EDWARD STOVER ON HIS RETIREMENT FROM THE U.S. ARMY

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize and honor Lt. Col. Curt Edward Stover, a soldier who has served his county with honor and distinction. Lt. Col. Stover is retiring this week following 22 years in the United States military.

First commissioned in the U.S. Army July 6, 1984, Lt. Colonel Curt Edward Stover received his B.S. degree from Texas A&M University. Upon his entry into the Army, he was commissioned Air Defense Artillery.

Traveling around the world during his 22 years of dedicated service, Lt. Col. Stover has served in the Korean demilitarized zone, as well as two tours in Dhahran, Saudi Arabia. One of the first soldiers to transfer into the Space Operations Command after it was created, Lt. Col. Stover is Airborne and Air Assault qualified. He has also attended Command General Staff College and held two joint assignments with the Air Force.

During his career, Lt. Col. Stover was a Platoon leader, a Motor officer, a Battalion S–4, a Task Force S–4, a Patriot Battery Commander, a Squad Tactical Officer USMA, a Patriot Battalion Executive Officer, and on the Architecture Branch Chief Space Command.

Retiring with numerous decorations for his years of service, Lt. Col. Stover has earned the Defense Meritorious Service medal, the Meritorious Service Medal, the National Defense Service Medal, the Air Force Outstanding Unit Award, and the Korean Defense Service Medal. It is clear that during his decades in the armed forces that he has served with both honor and distinction.

Mr. Speaker, it is soldiers like Lt. Col. Stover that help make our military the finest fighting force in the world. This Congress congratulates Lt. Col. Stover on his retirement and wishes him the best in his future endeavors.

TRIBUTE TO STAFF SERGEANT KEVIN L. ZEIGLER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. GRAVES. Mr. Speaker, I proudly rise in tribute to Staff Sergeant Kevin L. Zeigler of Braymer, Missouri. Sgt. Zeigler made the ultimate sacrifice for his country on August 12, 2006. As a tribute to his courage, valor, and patriotism, I would like to read a very moving poem that Sgt. Zeigler's uncle, G. Lamar Wilkie, Chief Petty Officer, United States Navy (Retired), wrote for his fallen nephew.

FINAL TRIP HOME

Staff Sergeant Kevin Zeigler
Friend of Liberty
Hero of an oppressed people Defender of faith in humanity
Who helped liberate a nation

He comes back a hero
Having given his life for
The noblest cause of all
Not of sickness or meek old age
But in defense of freedom

No more torture chambers
Or professional rape rooms
No poisoned villagers
Filling mass graves
At the hands of their own dictator

Brutally taken from us
By vicious cowards
Who attack from shadows and
Dare not show their faces
They live to die for death's sake

But the barbarians
Though they claim victory
With fear and destruction
Suffer terrible loss within
A defeat of the heart

Let the bells of liberty
Toll the passing of a champion
His race is won, his battle over
Let eternal love and gratitude guide
His final trip home.

Dedicated to my nephew, Army Staff Sergeant Kevin L. Zeigler, of the 10th Cavalry Regiment, 2nd Brigade Combat Team of the 4th Infantry Division at Fort Hood. He was killed August 12, 2006 when an improvised explosive device detonated near their dismounted patrol during combat operations near Baghdad.

G. LAMAR WILKIE,
Chief Petty Officer, USN (Ret).

Mr. Speaker, a grateful Nation will never forget the heroism, patriotism, and devotion of Sgt. Zeigler. He sacrificed his life in the line of duty to protect the United States of America, and we as a nation will be eternally indebted to him for his service. I am truly humbled to have had the privilege to represent Staff Sergeant Kevin L. Zeigler—a genuine American hero—in the United States Congress.

NATO SUMMIT IN RIGA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. RADANOVICH. Mr. Speaker, I rise today as a cochair of the Congressional Croatian Caucus to draw attention to the upcoming NATO summit in Riga. One of the focuses of this summit will be the next round of possible NATO enlargement, scheduled to occur in 2008. Croatia should be at the top of the candidate list for membership into NATO and deserves an invitation for membership in 2008.

Since achieving independence over a decade ago, Croatia has taken huge strides with democratic, economic and human rights reforms. They have been a key partner in the international community's efforts to build long-term support and stability in the Southeastern European region, and have been an active supporter of the global war against terrorism. Croatia fully recognizes the fundamental importance of sharing its visions of Euro-Atlantic integration with other countries in the region, and is prepared to be an example for developing democracies.

Croatia has benefited greatly from the substantial investment already made by the United States in the region. This investment illustrates our belief that Croatia is a viable partner in promoting democratic ideals and peace-keeping efforts internationally. I was proud to help further solidify this support last year, with the passage of House Resolution 529, which recommended Croatia's integration into NATO.

At the upcoming summit, NATO officials should be encouraged to definitively express their intentions to issue invitations for membership to qualified aspirant countries at the next summit in 2008, of which Croatia is at the top of the list. I wish to convey my strong support for the reform efforts being made in Croatia, and for an invitation to join NATO in the 2008 enlargement round. My congressional Croatian Caucus cochair, Congressman PETER VISCLOSKY, and I have also sent letters to the Secretary of State and Secretary of Defense encouraging the administration to express support for this goal.

Finally, many individuals have worked very hard to see that this important invitation comes to fruition. I would like to especially thank Congressman VISCLOSKY, the Embassy of Croatia, and the multitude of Croatian nationals and Croatian Americans who have been so committed to this cause. I would also like to enter into the RECORD a letter in support of Croatia's membership into NATO.

NATIONAL FEDERATION
OF CROATIAN AMERICANS,
September 20, 2006.

Hon. CONDOLEEZZA RICE,
Secretary, Department of State,
Washington, DC.

DEAR MADAM SECRETARY: The problems in our world today are many and the issues you are currently addressing as the leader of our diplomatic efforts, while on the right course, are extremely challenging. However, I am pleased to point out that one emerging bright spot in the problematic region of Southeast Europe is The Republic of Croatia. Since winning her independence ten years ago, Croatia has made great strides along the path to full North Atlantic Treaty Organization (NATO) membership by implementing democratic processes, upholding the rule of law, partnering with her neighbors on human rights, remaining a consistent supporter of the global war on terrorism, and demonstrating stable leadership among the countries in that region. In addition, Croatia has diligently pursued her responsibilities under NATO's Membership Action Plan in adapting her military to the interoperable and readily available needs of future NATO strategies.

The upcoming NATO meeting in Riga, Latvia, in November 2006 causes us to remember the great successes of this Alliance. For almost sixty years no member of NATO has ever been attacked, and all member nation-states have been blessed with economic prosperity. This is a group to which The Republic of Croatia aspires and to which she has earned the right to belong. While the NATO meeting in Riga is scheduled to discuss 2007 as a year of transformation, we must also continue to focus on 2008, which is planned as the next year for possible NATO enlargement. Croatia deserves to be at the top of the list of countries qualifying as ready candidates in the 2008 enlargement round. I write to you today to request that Croatia's membership progress be discussed and properly reviewed with regard to early full NATO membership during the November Summit in Riga.

Croatia's democratic, economic, and defensive progress was recognized by the United States Congress late last year with passage of H. Res. 529 and S. Res. 342, both of which commended her and recommended that she be invited to join NATO as a full member at the earliest possible date. In addition, a delegation from the National Federation of Croatian Americans (NFCA) recently met with key representatives from both the U.S. State Department and the National Security Council and received very positive reports on Croatia's progress toward NATO membership and further integration into other western-oriented multilateral organizations. The NFCA will ensure that the Croatian American community in the U.S. continues to support all of these Congressional and Administration efforts, and we will rally our ethnic community as required.

The NFCA is very pleased with President Bush's recent appointment of Mr. Robert A. Bradtke as the new U. S. Ambassador to The Republic of Croatia. Mr. Bradtke's years of service, particularly with his experiences in the last NATO Enlargement, will serve him and the Croatian people well in these history making years for the country. The NFCA will also carry on its communication with Ambassador Bradtke to assist in any way we can towards greater enhancement of the relationship between the United States and The Republic of Croatia. He understands the importance of NATO for Croatia and is committed to reaching out to the Croatian people to continue building enthusiasm for full NATO membership. Your own support, in promoting the international progress of Croatia, is critically important. The NFCA sincerely appreciates your contributions and achievements in these difficult times for our country, and we ask that you support inviting the friendly country of Croatia to join the NATO Alliance in 2008.

If I may be of personal assistance to you on this important request regarding The Republic of Croatia's goal of full NATO membership, please do not hesitate to contact me at your first convenience. If our Government Relations Office may be of direct assistance to you or your staff, Mr. Joe Foley may also be contacted at the number below.

Sincerely,

EDWARD A. ANDRUS,
President.

HONORING THE ALEXANDRIA CONVENTION AND VISITORS ASSOCIATION ON THEIR 10TH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor and congratulate the Alexandria Convention and Visitors Association for its 10 years of outstanding and dedicated service to the Alexandria community. The Association was established as, and remains, the City of Alexandria's official marketing agency for tourism on what is known as "The Fun Side of the Potomac."

Since ACVA's founding in 1996, annual tourism spending in Alexandria has more than doubled to over $600 million, and the city's annual revenue from tourism has increased similarly. The direct marketing program created by ACVA has yielded a 58–to–1 return for the city, a number that continues to grow today.

Alexandria's tourism industry employs over 9,000 people who work in the city's hotels, restaurants, attractions, retail shops and related tourism businesses. The tourism industry has helped improve the overall quality of life of all citizens of Alexandria, who enjoy the same amenities enjoyed by visitors to the city.

I am proud of the accomplishments of the Alexandria Convention and Visitors Association and the contributions it has made over the last 10 years making the City of Alexandria one of the most desirable places in America to visit. I ask that my colleagues join me in congratulating the ACVA on its anniversary and to wish the organization all the best in its future endeavors.

COMMEMORATING THE 50TH ANNIVERSARY OF THE FIRST AIRCRAFT LANDING AT THE SOUTH POLE BY LCDR "GUS" SHINN

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. MILLER of Florida. Mr. Speaker, I rise today to commemorate the 50th anniversary of the first aircraft landing at the South Pole by Lieutenant Commander Conrad "Gus" Shinn.

Over 60 years ago, Gus became a pilot with the United States Navy and several years later began testing landing "skis" for aircraft to facilitate polar exploration. It was development of these skis through his testing and evaluation that not only allowed the establishment and support of large field stations in the interiors of Greenland and Antarctica but also the aerial mapping of over 200,000 square miles of unexplored polar territory. Gus's leadership was instrumental in developing a system to maintain these field stations and their research efforts.

No one had set foot at the South Pole since 1912, so it was even more remarkable that the next person to set foot in that unforgiving climate would do so by airplane. When Gus completed the first successful landing at the South Pole, he established his position not only as one of the foremost polar explorers but also one of the foremost pilots. His knowledge of polar exploration was considered to be on par with other famous figures such as Admiral Byrd and Lincoln Ellsworth. So highly regarded was his expertise in both aviation and polar exploration that he led the next four "Deep Freeze" missions that also landed at the South Pole. It was these missions, along with two other flights, that Gus participated in that allowed the materials and manpower to be flown in to build the United States base that remains at the South Pole today.

LCDR Shinn retired from the Navy in 1963, a legend in his field. National Geographic highlighted his party's efforts in 1957, but it is difficult at best to fully do justice to the headway he made in exploring unknown parts of the world. Today, both he and the original plane he flew reside in my district in Northwest Florida, and I am proud to have him as a contributor to the area's rich heritage of aviation history.

Mr. Speaker, it is an honor for me to commemorate the vast contribution of LCDR Conrad "Gus" Shinn to polar exploration and the 50th anniversary of his successful landing at the South Pole.

McGOVERN-DOLE INTERNATIONAL FOOD AND EDUCATION AND CHILD NUTRITION PROGRAM

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mrs. EMERSON. Mr. Speaker, I want to join with the gentleman from Massachusetts, my good friend, in introducing this bill to reauthorize the McGovern-Dole International Food for Education and Child Nutrition Program. I first want to thank the gentleman for doing such a tremendous job in leading the charge on this particular program today and for spearheading efforts to increase discretionary funding for the Program year after year. This is a very important program for all of the children in the world who do not have access to nutritional meals.

This legislation, quite frankly, is a win-win for the American people, and it is a win-win for children all over the world who desperately need food assistance and who need an education. We all know, so very well, that our country is currently engaged in daily battles with individuals who want to harm Americans. However, we are also engaged in the daily battle for the hearts and minds of the "man on the street" in under-developed countries. It is in this battle that the McGovern-Dole International Food for Education and Child Nutrition Program holds great potential.

Mr. Speaker, it is a fact that we should know well: 120 million children worldwide are not enrolled in school. This fact is attributable in large part to hunger and lack of access to a nutritious meal. We share a common desire to try to help as many people as we can all over the world. The McGovern-Dole International Food for Education and Child Nutrition Program provides these needed meals using American commodities, but it can do more. The McGovern-Dole International Food for Education currently feeds millions while increasing school enrollment, particularly for girls. The legislation we introduce today would provide a more reliable source of funding, allowing USDA to reliably implement the program in countries for multiple years. Making multiple-year commitments is important. During a school feeding program's first year, average enrollment increases by 28 percent for girls and 22 percent for boys. In schools with feeding programs operating for more than one year, attendance for boys and girls increased to 93 percent.

I cannot think of anything more important for us to do as a nation. Senator McGovern stated it best when he said we had a moral responsibility as a country with rich and valuable natural resources and an abundant, safe food supply to help people who cannot help themselves. Increased funding for the program, which is included in this bill, would not only allow our partner organizations to reach more students, but would also allow the McGovern-Dole International Food for Education and Child Nutrition Program to expand and to begin providing resources for organizations which provide assistance to mothers with children under the age of 5 years. America needs friends, not just in the capital cities around the world, but on the streets in the poorest areas of the countries. This is one program that lets the world's poor observe our values first hand.

Mr. Speaker, it is also important to note that food aid provided through the McGovern-Dole program also spurs economic activity in the United States. The domestic beneficiaries of U.S. food aid exports include our agricultural producers and suppliers, our processors, our millers, edible oil refiners, packaging, manufacturing, rail and motor transportation lines; I could go on and on and on. Most every State in the Nation benefits from food aid exports.

I would be particularly remiss if I did not acknowledge the vision of former Senators George McGovern and Senator Bob Dole who really led the charge early in this fight against hunger, many years ago when they were both serving in the Senate. This issue is also a very important issue for me, because my late husband Bill was so very instrumental in bringing the issue of hunger, both domestic and international, into the Congress where he worked so closely with his friend, the late Congressman Mickey Leland. I think that we must do everything possible to help the world's hungry children. When my late husband Bill came back from a trip to the Sudan, when he came back from various trips to Ethiopia and other countries, it was a very, very sad experience. He would hold dying children in his arms, children who were 12 years old and 13 years old, who were about the size of a 3-year-old or 4-year-old, who did not weigh anything, who had no opportunity to go to school.

Mr. Speaker, in closing, the McGovern-Dole International Food for Education and Child Nutrition Program reflects the humanitarian values Americans share, it reflects the value Americans place on an education—regardless of sex or race, the program utilizes American resources, benefiting the American economy and it makes us safer. The McGovern-Dole

Program deserves not only to be reauthorized but expanded.

TRIBUTE TO THE 20TH ANNIVERSARY OF THE FAMILY EMERGENCY SHELTER COALITION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the 20th anniversary of the Family Emergency Shelter Coalition (FESCO) in Hayward, California. In 1986 a group of Eden Area churches and businesses came together, through their mutual concern for homeless families, to form FESCO.

FESCO incorporated in 1986 and in 1987 purchased and rehabilitated a 2,200 square foot two-story house (built in 1917) near downtown Hayward and began serving homeless families in 1998. The shelter, later named Les Marquis House, accommodates eight to ten families at a time, with most staying an average of forty-two days before moving into permanent housing.

Over time programs have been developed at FESCO to compliment their provision of basic food, shelter and clothing. FESCO's professional counseling, life skills training, children's programs, resettlement, employment and housing services have all been structured to meet the needs of homeless families to enable them to become self-sufficient.

Volunteers also play a vital role in providing services to families at FESCO. They provide moral support, and donate their time and resources for fundraising activities and assistance with programs, such as Aftercare.

Aftercare programs include Back-to-School backpack distribution, Thanksgiving food boxes, and a Holiday Adopt-a-Family program. Many in-kind donations from individuals and corporate donors support the Aftercare program.

In 1999, 3rd Street Transitional Housing, a four-unit apartment next door to the Shelter, opened to serve 4 families for longer-term stays of eighteen to twenty-four months. This facility provides independent living with a professional counseling safety net.

In 2002, FESCO purchased, rebuilt and opened an 8 unit transitional co-housing facility. Banyan House provides food, shelter and services for eight families with stays from six to ten months while they prepare for self-sufficiency.

Today, 29 churches and a host of businesses are part of a community partnership contributing to FESCO's successful delivery of services. Eighty-five to one hundred families receive services from FESCO each year and approximately two hundred families are active in their Aftercare program.

As FESCO celebrates twenty years of exemplary service, they continue to plan for the future. They are committed to providing encouragement, hope and a belief in the future for homeless families.

Congratulations FESCO on your milestone anniversary and thank you for making a positive difference in our community.

TRIBUTE TO ELIZABETH GHELETA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 28, 2006

Mr. LANTOS. Mr. Speaker, I rise today to congratulate Ms. Elizabeth Gheleta on her tireless devotion to assisting jail inmates and their families in San Mateo County, located in my Congressional District. For 38 years, and for the past 28 years as Executive Director of the San Mateo Service League, Ms. Gheleta has committed herself to ensuring that San Mateo County provide opportunities for positive change to county jail inmates, former inmates and their families. Under her direction, the Service League has made San Mateo County a safer place to live by offering inmates the skills and support necessary to successfully reintegrate into the community.

Over the years, Ms. Gheleta has built the San Mateo Service League into a well-established, non-profit community organization with 25 staff members and over 500 volunteers. Equally important has been her effectiveness in winning the trust and support of the San Mateo County Sheriff's Office, which has cooperated and helped finance many of the Service League's innovative programs. Among these are the Windows of Opportunity to find effective alternatives to incarceration, Hope Houses and Project Hope for alcohol and drug treatment, and the Children's Waiting Room at the County Jail. With the support of San Mateo County Sheriff Don Horsley, the Service League has promoted the expansion of in-jail services, including education, religious services, substance abuse counseling, and reentry to society life skills. Ms. Gheleta and her staff also developed four residential facilities for former inmates and started programs to assist the children and families of inmates.

Mr. Speaker, I invite my colleagues to join me in thanking Elizabeth Gheleta for her contribution to the improvement of our community in San Mateo County. Ms. Gheleta's vision and dogged determination has resulted in model programs that have addressed important social issues such as chemical dependency, personal responsibility, education, permanent housing and family life skills. The reality of this vision has truly given hundreds of former inmates and their families a second chance in life. I am truly delighted and inspired by Ms. Gheleta's commitment to our community.